

ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

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CAP. LXVI.

An Act for punishing Mutiny and Desertion of Officers and Soldiers in the Service of the *East India* Company, and for regulating in such Service the Payment of Regimental Debts and the Distribution of the Effects of Officers and Soldiers dying in the Service.

[25th *August* 1857.]

WHEREAS an Act was passed in the Twelfth and Thirteenth Years of Her present Majesty, intituled *An Act for punishing Mutiny and Desertion of Officers and Soldiers in the Service of the* East India *Company, and for regulating in such Service the Payment of Regimental Debts and the Distribution of the Effects of Officers and Soldiers dying in the Service:* And whereas it is expedient that the said Act be amended; and it being requisite for retaining the Forces of the *East India* Company in their Duty that an exact Discipline be observed, and that Soldiers who shall mutiny or stir up Sedition, or shall desert the said Company's Service, or be guilty of Crimes and Offences to the Prejudice of good Order and Military Discipline, be brought to a more exemplary and speedy Punishment than the usual Forms of the 12 & 13 Vict. c. 43.

Law will allow: Be it therefore 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, That—

Power to Her Majesty to make Articles of War, of which all Courts shall take Judicial Notice, and Copies to be transmitted to Judges and Governors.

I. It shall be lawful for Her Majesty to make Articles of War for the better Government of the *East India* Company's Forces, and from Time to Time to renew, alter, add to, or amend the same, as to Her Majesty shall appear fit; and all Articles of War to be so made shall be judicially taken notice of by all Judges and in all Courts whatsoever, and Copies of the same, printed by the Queen's Printer, shall, as soon as conveniently may be after the same shall have been made and established by Her Majesty, be transmitted by Her Majesty's Secretary of War to the Judges of Her Majesty's Superior Courts at *Westminster*, *Dublin*, *Edinburgh*, and in *India* respectively, and also to the Governors of Her Majesty's Dominions abroad, and of the Territories under the Government of the said Company; provided that no Person within the Territories which are or may be under the Government of the said Company, and within One hundred and twenty Miles Distance from the Presidencies of *Fort William*, *Fort Saint George*, and *Bombay* respectively, shall by such Articles of War be subject to be transported as a Felon, or to be kept in Penal Servitude, or to suffer any Punishment extending to Life or Limb, except for Crimes or Offences which are by this Act expressly made liable to Transportation or Penal Servitude, or to such Punishment as aforesaid, or shall be subject, with reference to any Crimes made punishable by this Act, to be punished in any Manner which shall not accord with the Provisions of this Act: Provided also, that nothing in this Act contained shall in any Manner prejudice or affect any Articles of War or other Matters made, enacted, or in force, or which hereafter may be made or enacted or in force, under the Authority of the Government of *India*, respecting Officers or Soldiers or Followers being Natives of the *East Indies* or other Places within the Limits of the said Company's Charter, and that on the Trial of all Offences committed by any Native Officer or Soldier or Follower Reference shall be had to the Articles of War framed by the Government of *India* for such Native Officers, Soldiers, or Followers, and to the established Usages of the Service.

Trial of Native Officers or Soldiers.

Persons subject to this Act.

II. All the Provisions of this Act shall apply to all Persons belonging to the Forces of the *East India* Company who are or shall be commissioned or in Pay as Officers, or who are or shall be listed or in Pay as Non-commissioned Officers or Soldiers, or who are or shall be serving or hired to be employed in the Artillery or any of the

the Trains of Artillery, or as Master Gunners or Gunners, or as Conductors of Stores, or who are or shall be serving in the Department of Engineers, or in the Corps of Sappers and Miners or Pioneers, or as Military Surveyors or Draughtsmen, or in the Ordnance or Public Works or Commissariat Departments, and to all Storekeepers and other Civil Officers employed under the Ordnance, and to all Veterinary Surgeons, Medical Storekeepers, Apothecaries, Hospital Stewards, and others serving in the Medical Department of the said Forces, and to all licensed Suttlers, and all Followers in or of any of the said Forces, and that all such Persons shall be at all Times subject to all the Penalties and Punishments mentioned in this Act, and shall in all respects whatsoever be holden to be within the Intent and Meaning of every Part of this Act.

For the Purposes of this Act, the Presidency of Fort William to comprise that of Agra.

III. For the Purposes of this Act and of any Articles of War to be made under the same, the Presidency of *Fort William* in *Bengal* shall be deemed and taken to comprise under and within it all the Territories which by Law are divisible between the Presidencies of *Fort William* in *Bengal* and *Agra* respectively, and such Territories shall for all the Purposes aforesaid be taken to be the Presidency of *Fort William* in *Bengal*.

Officers, &c. raised or serving in Places occupied by Persons subject to the Government of the Company liable to Martial Law as other Forces.

IV. All Officers and Soldiers of any Troops, being mustered and in Pay, which shall be raised and serving in any of the Possessions or Territories which are or may be under the Government of the said Company, or in Places in possession of or occupied by Persons subject to the Government of the said Company, or by any Forces of the said Company under the Command of any Officer having a Commission immediately from the Government of any of the Presidencies of the said Company, shall be liable to Martial Law in like Manner as the Company's other Forces are.

After Embarkation all Officers and Soldiers subject to Provisions of this Act.

V. All Officers and Soldiers who shall be enlisted in or transferred to the Service of the said Company, and all Officers in the said Company's Service who may proceed in charge of or be appointed to do Duty with such enlisted or transferred Officers and Soldiers, shall, from and after their Embarkation to go abroad to such Place whereto they shall be sent in the Service of the said Company, be during their Passage subject to all the Provisions and Regulations of this Act, and to all such Provisions and Regulations as Officers and Soldiers in the Pay of the said Company shall from Time to Time be subject to at the Garrison or Place to which such Officers and Soldiers shall be sent; and in all Cases in which it may happen that Offences shall be committed by the said Officers and Soldiers after their Embarkation, and before their Arrival at their Place of Destination abroad, which cannot be tried and punished during their Passage

Offences committed during Passage cognizable after Arrival.

Passage in such Manner as such Offences ought to be tried and punished, every such Officer or Soldier may, after his Arrival at his Place of Destination abroad, be tried and punished for every Offence committed after his Embarkation and before his Arrival, in the same Manner as he would have been liable to be tried and punished if such Offence had been committed in any Place where the Offender might have been tried by Court-martial held under the Authority of this Act.

Power to the Commanders-in-Chief at the several Presidencies to convene Courts-martial for Trial of Offences.

VI. For the Purpose of bringing Offenders to Justice it shall be lawful for the General or other Officer commanding in chief the Forces in *India*, or the Forces of the Presidency of *Fort William*, and also for each of the Generals or other Officers respectively commanding in chief the Forces of the Presidencies of *Fort Saint George* and *Bombay* respectively, from Time to Time, as Occasion may require, to convene Courts-martial for the Trial of any Officer or Soldier under his Command who is or shall be charged with any Offence liable to be tried by Court-martial, whether such Offence shall have been committed before or after such Officer shall have taken upon himself such Command; and it shall also be lawful for each of the said Officers commanding in chief respectively to direct his Warrant to any Officer having the Command of any Body of Forces, authorizing him to convene Courts-martial for the Trial of Offences committed by any Officer or Soldier under his Command, whether the same shall have been committed before or after such Officer shall have taken upon himself such Command; provided that the Officer so authorized be not below the Degree of a Field Officer, save and except that in detached Situations beyond Seas, where a Field Officer is not in Command, a Captain may be authorized to convene District or Garrison Courts-martial; and it shall also be lawful for each of the said Officers commanding in chief respectively, when and as often as any Sentence is given and passed by a Court-martial legally constituted upon any Officer or Soldier under his Command, to confirm such Sentence, and to cause the same to be put into execution, or to suspend, mitigate, or remit the same; and it shall also be lawful for each of the said Officers commanding in chief respectively to give his Warrant to any Officer having the Command of any Body of Forces, authorizing such Officer to confirm Sentences of Courts-martial passed upon Officers or Soldiers under his Command (always excepting in any such Warrant the Confirmation of any Sentence of Death, Transportation, Penal Servitude, or Cashiering upon any Commissioned Officer), and to cause the same to be put into execution, or to suspend, mitigate, or remit the same; provided that the Officer so authorized be not below the Degree of a Field Officer, save and except that in detached Situations beyond Seas,

Seas, where a Field Officer is not in Command, a Captain may be so authorized with reference to the Sentences of District or Garrison Courts-martial; and the said Officers commanding in chief respectively may (where they shall think fit) authorize any such Officer as aforesaid to confirm any such Classes of Sentences only, or Sentences passed for any such Class of Offences only, or on any such Classes of Persons only, as they may think fit; and it shall also be lawful for Her Majesty to grant Commissions or Warrants under the Royal Sign Manual to any General or other Officer having the Command of any Body of Forces, as well in the Possessions or Territories which are or may be under the Government of the *East India* Company as elsewhere, for convening Courts-martial and for authorizing any Officer under their respective Commands to convene Courts-martial, as Occasion may require, for the Trial of Offences committed by any of the Forces under their several Commands, whether the same shall have been committed before or after such Officer shall have taken upon himself such Command, the Officer so authorized not being, however, below the Degree of a Field Officer, except as aforesaid; and any Person subject to the Provisions of this Act who shall, in any Part of Her Majesty's Dominions or the Territories under the Government of the *East India* Company, or elsewhere, commit any Offence for which he may be liable to be tried by Court-martial, may be tried and punished for the same in any Part of the Territories which are or may be under the Government of the said Company, or in any other Place whereto he may have come, or where he may be after the Commission of the Offence, in the same Manner as if the Offence had been committed where such Trial shall take place.

Power to Her Majesty to grant Commissions or Warrants for convening of Courts-martial for trying Offences against Articles of War.

VII. All General Courts-martial held under the Authority of this Act shall consist of not less than Thirteen Commissioned Officers, (except in Cases where the same shall be holden in any Place out of Her Majesty's Dominions and of the Territories which are or may be under the Government of the said Company, or where the same shall be holden in any *African* Colony, *New Zealand*, the *Australian* Colonies, *Hong Kong*, the Settlements on the Coast of *China*, *Prince of Wales Island*, *Singapore*, or *Malacca*, in which Cases such General Courts-martial may consist of any Number not less than Five, save only in the Case of the *Cape of Good Hope* and other Settlements in *Southern Africa*, in which Case they may consist of any Number not less than Seven,) and such General Courts-martial shall have Power to sentence any Officer or Soldier to suffer Death, Transportation, Penal Servitude, or any other Punishment which shall accord with the Provisions of this Act.

Composition and Constitution of General Courts-martial.

Composition and Powers of District or Garrison Courts-martial.

VIII. A District or Garrison Court-martial shall consist of not less than Five Commissioned Officers; and such Court-martial shall have the same Power as a General Court-martial to sentence any Soldier to such Punishments as shall accord with the Provisions of this Act, provided that such Court-martial shall not have Power to try a Commissioned Officer, nor to pass any Sentence of Death, or Transportation, or Penal Servitude.

Regimental or Detachment Courts-martial.

IX. A Regimental or Detachment Court-martial shall consist of not less than Five Officers, unless it is found impracticable to assemble that Number, when Three may be sufficient, and shall have Power to sentence any Soldier to Corporal Punishment, or to Imprisonment and to Forfeiture of Pay, in such Manner as shall accord with the Provisions of this Act.

Courts-martial on Line of March or in Troop Ships.

X. In Cases of Mutiny and gross Insubordination or other Offences committed on the Line of March or on board any Ship or Vessel, the Offender may be tried by a Regimental or Detachment Court-martial, and the Sentence may be confirmed and carried into execution on the Spot by the Officer in the immediate Command of the Troops, provided the Sentence shall not exceed that which a Regimental Court-martial is competent to award.

Power to Officers in Command of Troops in Foreign Countries to convene Detachment Courts-martial.

XI. It shall be lawful for any Officer commanding any Detachment or Portion of the said Company's Troops serving in any Place out of Her Majesty's Dominions and of the Possessions or Territories which are or may be under the Government of the said Company, upon Complaint made to him of any Offence committed against the Property or Person of any Inhabitant of or Resident in any Country in which such Troops are so serving, by any Person serving with or belonging to the Company's Army, being under the immediate Command of any such Officer, to convene a Detachment General Court-martial, which shall consist of not less than Three Officers, for the Purpose of trying any such Person; and every such Court-martial shall have the same Powers in regard to Sentence upon Offenders as are granted by this Act to General Courts-martial: Provided always, that no Sentence of any such Court-martial shall be executed until the General commanding the Army to which the Division, Brigade, Detachment, or Party to which any Person so tried, convicted, and adjudged to suffer Punishment shall belong shall have approved and confirmed the same.

No Sentence to be executed until approved.

Proceedings on mixed Courts-mar-

XII. Where necessary or expedient, Officers of Her Majesty's Land Forces or Officers of Her Majesty's Royal Marines, or Officers of

of both such Services, may sit on Courts-martial together with Officers in the Service of the *East India* Company; and where the Person to be tried belongs to Her Majesty's Land Forces, then the Proceedings of the Court shall be regulated to all Intents and Purposes as if the Court was composed of Officers of Her Majesty's Land Forces only, and the Provisions of the Act which shall exist at the Time for the Punishment of Mutiny and Desertion in Her Majesty's Forces shall be applicable to the Proceedings of such Court; and where the Person to be tried shall be in the Service of the *East India* Company, the Provisions of this Act shall be applicable, notwithstanding any Officer, though in the actual Service of the said Company, may hold a Commission from Her Majesty or any of Her Royal Predecessors; and where it shall happen that Officers in the Service of the said Company cannot conveniently be had to compose the whole or Part of a Court-martial, then any Officer or Soldier or Person subject to the Provisions of this Act may be tried by a Court-martial composed of Officers in Her Majesty's Service alone: Provided always, that the Officer convening such Court-martial shall specify in his Warrant or Order convening the Court that no Officer in the Service of the said Company could be conveniently had.

tial how to be regulated.

Courts-martial in some Cases may be wholly composed of Queen's Officers.

XIII. The President of every Court-martial shall be appointed by the Authority convening such Court, and shall in no Case be the confirming Officer or the Officer whose Duty it has been to investigate the Charges on which the Prisoner is to be arraigned, nor in the Case of a General Court-martial under the Degree of a Field Officer, unless a Field Officer cannot be had, nor in any Case whatever under the Degree of a Captain, save in the Case of a Detachment General Court-martial holden in the Countries of Foreign Powers, or of a Regimental or Detachment Court-martial holden on the Line of March or on board any Ship or Vessel, or on any Station where a Captain cannot be had; and it shall be lawful for any Officer by whom any Court-martial shall be convened (where it may be necessary so to do) to authorize some fit Person to execute the Office of Judge Advocate at and for the Purpose of such Court-martial: Provided always, that in the Case of a Detachment General Court-martial holden in the Countries of Foreign Powers the Officer convening such Court may be the President thereof.

President of Court-martial.

XIV. In all Trials by Courts-martial to be held by virtue of this Act, as soon as the President and other Officers appointed to serve thereon shall be assembled, their Names shall be read over in the Hearing of the Prisoner, who shall thereupon be asked if he objects to be tried by the President or by any of such Officers, and if the Prisoner shall then object to the President, such Objection shall be referred

Proceedings at Trial.

referred to the Decision of the Authority by whom such President shall have been appointed; but if he object to any Officer other than the President, such Objection shall be decided by the President and the other Officers appointed to form the Court; and when the Place of the President, or of any other Officer in respect of whom any Challenge shall have been made and allowed, shall be supplied by some Officer in respect of whom no Challenge shall have been made and allowed, or if no Challenge shall have been made, or, if made, not allowed, the President and the other Officers composing a General Court-martial shall take the Oath in the Schedule to this Act annexed before the Judge Advocate General or his Deputy, or Person officiating as Judge Advocate, and on Trials by other Courts-martial before the President of such Court, who are hereby respectively authorized to administer the same; and any sworn Member may administer the Oath to the President; and as soon as the said Oaths shall have been administered to the respective Members, the President of the Court is hereby authorized and required to administer to the Judge Advocate, or the Person officiating as such, the Oath in the Schedule to this Act annexed; and no Proceeding or Trial shall be had upon any Offence but during seasonable and convenient Hours of the Day, to be appointed by the Officer commanding where the Court-martial is held, except in Cases which require an immediate Example.

As to swearing and summoning Witnesses.

XV. All General and other Courts-martial shall have Power and Authority and are hereby required to administer an Oath to every Witness or other Person who shall be examined before such Court in any Matter relating to any Proceeding before the same; and every Person, as well Civil as Military, who may be required to give or produce Evidence before a Court-martial, shall, in the Case of General Courts-martial, be summoned by the Judge Advocate General or his Deputy, or the Person officiating as Judge Advocate, and in the Case of all other Courts-martial by the President of the Court; and all Persons so summoned and attending as Witnesses before any Court-martial shall during their necessary Attendance in or on such Courts, and in going to and returning from the same, be privileged from Arrest, and shall if unduly arrested be discharged by such Court-martial or by any Court of Justice or Judge of any such Court, according as the Case shall require, upon its being made to appear to such Court-martial, Court of Justice, or Judge, by Affidavit in a summary Way, that such Witness was arrested in going to or attending upon or returning from such Court-martial; and all Witnesses so duly summoned as aforesaid, who shall not attend on such Courts, or attending shall refuse to be sworn, or being sworn shall refuse to give Evidence, or not produce the Documents under their Power or Control required to be produced by them, or refuse to answer all such Questions

Questions as the Court may legally demand of them, shall be liable to be attached in any Court of Justice, upon Complaint made, in like Manner as if such Witness, after having been duly summoned or subpœnaed, had neglected to attend on a Trial in any Proceeding in the Court in which Complaint shall be made: Provided always, that nothing in this Act contained shall be construed to render an Oath necessary in any Case where by Law an Affirmation may be made instead thereof.

Previous Convictions may be put in Evidence before passing Sentence.

XVI. After any Person subject to this Act has been found guilty of any Charge or Charges, the Court before which any such Person shall have been tried may, before passing Sentence on such Person, and for the Purpose only of awarding Punishment, receive in Evidence against him any previous Convictions by Courts-martial, and in like Manner and for the like Purpose the Court may receive in Evidence any previous Conviction of any such Person, not being a Commissioned Officer, by a Court of ordinary Criminal Jurisdiction, where the Offence charged in the Indictment was of a felonious, fraudulent, or unnatural Nature; and in the Case of Convictions by Courts-martial duly confirmed, the Court-martial Book or the Defaulters Book of the Regiment, Corps, Troop, or Company, and when none of those Books can conveniently be produced, a Certificate which shall purport to contain a Copy of the Entry of such Convictions in any of such Books, and which shall be signed by the Adjutant or other Officer having the Custody of the Court-martial Book or of the Defaulters Book of the Regiment, Corps, Troop, or Company to which the Prisoner belongs, shall be sufficient Evidence of such Conviction, and it shall not be necessary to prove the Signature or official Character of the Person appearing to have signed such Certificate, nor, if the Court be satisfied from all the Circumstances of the Case that the Person under Trial is the Person mentioned in any such Certificate, shall it be necessary to give other Proof of the Identity of the Person of the Offender; and in the Case of a Conviction by a Court of ordinary Criminal Jurisdiction, any Certificate transmitted to the Officer commanding a Regiment or other Corps by the Clerk of any such Court or other Officer having Custody of the Records of such Court, or the Deputy of such Clerk or other Officer, containing the Substance and Effect of the Indictment, omitting the formal Part, together with the Judgment of the Court thereon, and purporting to be signed by such Clerk or other Officer, or by the Deputy of such Clerk or other Officer, or if such Certificate cannot conveniently be obtained a Copy thereof duly certified by the Officer producing it, shall be sufficient Evidence of such last-mentioned Conviction, and it shall not be necessary to prove the Signature or official Character of the Person appearing to have signed such last-mentioned Certificate, nor, if the Court be satisfied,

from all the Circumstances of the Case, that the Person under Trial is the Person mentioned in such Certificate, shall it be necessary to give other Proof of the Identity of the Person of the Offender: Provided always, that before any such Evidence shall be received it shall be proved to the Satisfaction of the Court that the said Prisoner had previously to his Trial received Notice of the Intention to produce such Evidence against him; and provided also, that the Court shall in no Case award to him any other Punishment or Punishments than may by this Act and by the Articles of War for the Government of the *East India* Company's Forces be awarded for the Offence of which he may be found guilty.

Report of Proceedings of General and District Courts-martial to be transmitted to Judge Advocate General.

XVII. Every Judge Advocate or Person officiating as such at a General Court-martial, and the President of every District or Garrison Court-martial, shall transmit, with as much Expedition as may be, the original Proceedings and the Sentence of such Court-martial to the Judge Advocate General of the Army in which such Court-martial shall be held, in whose Office they are to be carefully preserved; and any Person tried by a General Court-martial, or any Person on his Behalf, shall be entitled, on Demand, to a Copy of such Proceedings and Sentence (paying for the same at the Rate of Fourpence or Thirty-two Pies *per* Folio of Seventy-two Words), whether such Sentence shall be approved or not, at any Time not sooner than Three Months after the Trial, if the same took place on the Continent of *India*, or Six Months if beyond Seas; provided that such Demand as aforesaid shall have been made within the Space of Three Years from the Date of the Approval or other final Decision upon the Proceedings before such General Court-martial.

No Second Trial to be had for the same Offence, and no Revision more than once.

XVIII. No Officer or Soldier who shall be acquitted or convicted of any Offence shall be liable to be tried a Second Time by the same or any other Court-martial for the same Offence; and no Finding, Opinion, or Sentence given by any Court-martial, and signed by the President thereof, shall be liable to be revised more than once, nor shall any additional Evidence as to the Guilt or Innocence of the Accused be received by the Court on any Revision.

Crimes punishable with Death.

XIX. If any Person subject to this Act shall at any Time during the Continuance of this Act begin, excite, cause, or join in any Mutiny or Sedition in the Land or Marine Forces of Her Majesty or of the said Company, or shall not use his utmost Endeavours to suppress the same, or coming to the Knowledge of any Mutiny or intended Mutiny shall not without Delay give Information thereof to his Commanding Officer, or shall hold Correspondence with or give

Advice

Advice or Intelligence to any Rebel or Enemy of Her Majesty or of the *East India* Company, either by Letters, Messages, Signs, or Tokens, in any Manner or Way whatsoever, or shall relieve with Money, Victuals, or Ammunition, or knowingly harbour or protect, any such Rebel or Enemy, or shall treat or enter into any Terms with any such Rebel or Enemy, without the Licence of the said Company, or of the Governor General in Council, or of the Governor in Council at One of the Presidencies, or of the General or Chief Commander, or shall cast away his Arms or Ammunition or otherwise misbehave himself before the Enemy, or shall shamefully abandon or deliver up any Garrison, Fortress, Post, or Guard committed to his Charge or which he shall have been commanded to defend, or shall compel the Governor or Commanding Officer of any Garrison, Fortress, Post, or Guard to deliver up to the Enemy or to abandon the same, or shall speak Words or use any other Means to induce such Governor or Commanding Officer or others to misbehave before the Enemy, or shamefully to abandon or deliver up any Garrison, Fortress, Post, or Guard committed to their respective Charge, or which he or they shall be commanded to defend, or shall desert the said Company's Service, or shall leave his Commanding Officer, or his Post or Colours, to go in search of Plunder, or shall leave his Post before being regularly relieved, or shall sleep on his Post, or shall treacherously make known the Watchword, or shall intentionally occasion false Alarm in Action, Camp, Garrison, or Quarters, or shall do Violence to any Person bringing Provisions or other Necessaries to the Quarters of the Forces, or shall force a Safeguard or enter into any House or Store or Cellar, or other Place, for Plunder, or shall strike, or shall draw or offer to draw or lift up any Weapon, or use or offer any Violence, against his Superior Officer, being in the Execution of his Office, or shall disobey any lawful Command of his Superior Officer, or who, being confined in a Military Prison, shall offer any Violence against a Visitor or other his Superior Military Officer being in the Execution of his Office, all and every Person and Persons so offending in any of the Matters before mentioned, whether such Offence shall be committed within the Dominions of Her Majesty or the Territories which are or may be under the Government of the said Company, or in Foreign Parts, and whether upon Land or upon the Sea, shall suffer Death, or such other Punishment as by a Court-martial shall be awarded: Provided also, that any Non-commissioned Officer or Soldier enlisted or in Pay in any Regiment, Corps, Troop, or Company, who shall, without having first obtained a regular Discharge therefrom, enlist himself in any other Regiment, Corps, Troop, or Company, may be deemed to have deserted the said Company's Service, and shall be liable to be punished accordingly.

Judgment of Death.

XX. No Judgment of Death by a Court-martial shall pass unless Two Thirds at least of the Officers present shall concur therein.

Judgment of Death may be commuted for Transportation or other Punishments.

XXI. Whensoever any Court-martial by which any Soldier shall have been tried and convicted of any Offence punishable with Death shall not think the Offence deserving of Capital Punishment, such Court-martial may adjudge the Offender, according to the Degree of the Offence, to be transported as a Felon for Life or for any Term of Years not less than Fourteen, or may sentence him to be kept in Penal Servitude for any Term not less than Four Years; and in all Cases where the Punishment of Death shall have been awarded by a Court-martial it shall be lawful for the Commanding Officer having Authority to confirm the Sentence, instead of causing such Sentence to be carried into execution, to order the Offender to be transported as a Felon either for Life, or for any Term of Years not less than Fourteen, or to be kept to Penal Servitude for any Term not less than Four Years, or to suffer such Term of Imprisonment, either with or without Hard Labour, as shall seem meet to such Officer.

Embezzlement punished by Transportation or Penal Servitude.

XXII. Any Paymaster or other Commissioned Officer, or any Person employed in the Ordnance, Public Works, or Commissariat Department, or in any way concerned in the Care or Distribution of any Money, Provisions, Forage, or Stores, who shall embezzle or fraudulently misapply, wilfully damage, steal, or be concerned in or connive at the Embezzlement, fraudulent Misapplication, wilful Damage, or Theft of any Money, Provisions, Forage, Arms, Clothing, Ammunition, or other Stores belonging to the *East India* Company, or for the Use of the *East India* Company's Forces or Her Majesty's Forces, may be tried for the same by a General Court-martial, which may adjudge any such Offender to be transported as a Felon for Life or for any certain Term of Years not less than Fourteen, or to be kept in Penal Servitude for any Term not less than Four Years, or to suffer such Punishment of Fine, Imprisonment, Dismissal from the *East India* Company's Service, Reduction to the Ranks if a Warrant or Non-commissioned Officer, and Incapacity of serving the *East India* Company or Her Majesty in any Office, Civil or Military, as such Court shall think fit, according to the Nature or Degree of the Offence; and every such Offender shall, in addition to any other Punishment, make good at his own Expense the Loss and Damage sustained, which shall have been ascertained by such Court-martial; and in every such Case the Court is required to ascertain by Evidence the Amount of the Loss or Damage incurred, and to declare by their Sentence that such Amount shall be made good by such Offender; and the Loss and Damage so ascertained as aforesaid shall be a Debt to the *East India* Company, who shall

shall be entitled to enter up Judgment for and recover the same accordingly in any of the Courts of Law in the *East Indies*, or any of Her Majesty's Courts at *Westminster* or in *Dublin*, or the Court of Exchequer in *Scotland*, or in any Court in Her Majesty's Colonies, as Occasion may require; or the Offender, if he shall remain in the Service, may be put under Stoppages, not exceeding One Half of his Pay and Allowances, until the Amount so ascertained shall be recovered; and every Commissioned Officer sentenced to be transported as a Felon or to be kept in Penal Servitude, when such Sentence shall be duly confirmed, shall thereupon cease to belong to the *East India* Company's Service, and forfeit any Commission held from Her Majesty, and for ever be incapable of serving the said Company or Her Majesty in any Military Capacity.

As to Execution of Sentences of Transportation or Penal Servitude.

XXIII. Her Majesty may, by any Order or Orders to be by Her from Time to Time made, with the Advice of Her Privy Council, appoint, or by any such Order or Orders in Council authorize the Governor General of *India* in Council and the Governor in Council of Fort *Saint George* and *Bombay* respectively to appoint, any Place or Places beyond the Seas within Her Majesty's Dominions to which Felons and other Offenders may be conveyed.

Transports to be subject to the Convict Laws of the Place of Transportation or Penal Servitude.

XXIV. Whenever any Sentence of Transportation or Penal Servitude heretofore passed or hereafter to be passed upon any Offender, under the Provisions of the said recited Act or of this Act, is to be carried into execution, whether the same be an original or commuted Sentence, the same shall be notified by the Officer commanding in chief at the Presidency or Station where the Offender may come or be, or in his Absence by the Adjutant General for the Time being, or Officer acting as such, to some Judge of One of the Supreme Courts of Judicature in the *East Indies*, or to the Chief Justice or other Judge, as the Case may be, of the Colony or Place, who shall make Order for the Transportation or Penal Servitude or intermediate Custody of such Offender, in like Manner as for the Transportation, Penal Servitude, or intermediate Custody of any other Convict; and upon any such Order being made it shall be duly notified to the Governor of the Presidency, if in any of the Presidencies of the *East Indies*, or if elsewhere to the Governor of the Colony or Place, or to the Person who shall for the Time being be exercising the Office of Governor of such Presidency, Colony, or Place, who, on Receipt of such Notification, shall cause such Offender to be removed or sent to some Place, or to undergo his Sentence within the Presidency or Colony where the Offender was so sentenced, or where he may come or be as aforesaid, in obedience to the Directions for the Removal and Treatment of Convicts which from Time to Time shall be in force in

such Presidency, Colony, or Place, and such Offender shall undergo the Sentence of Transportation or of Penal Servitude which has been passed upon him in the Place to which he shall have been removed or sent, and whilst such Sentence shall remain in force shall be liable to be there imprisoned and kept to Hard Labour, and otherwise dealt with under such Sentence, in the same Manner as if he had been sentenced to be imprisoned with Hard Labour during the Term of his Transportation or of his Penal Servitude by the Judgment of a Court of competent Jurisdiction in the Place to which he has been so removed or sent: Provided always, that in any Case where a Sentence of Transportation or of Penal Servitude shall have been awarded by a General or Detachment General Court-martial, it shall be lawful for the Commanding Officer having Authority to confirm the Sentence, instead of causing such Sentence to be carried into execution, to order that the Offender be imprisoned for a Term not exceeding Two Years, either with or without Hard Labour and Solitary Confinement, not exceeding the Period herein-after prescribed.

Power to inflict Corporal Punishment.

XXV. Any Court-martial may sentence any Soldier to Corporal Punishment, not extending to Life or Limb, for disgraceful Conduct, as herein-after mentioned, Misbehaviour or Neglect of Duty, provided that no such Sentence of Corporal Punishment exceed Fifty Lashes.

Power to inflict Corporal Punishment and Imprisonment.

XXVI. It shall be lawful for any General, District, or Garrison Court-martial, in addition to any Sentence of Corporal Punishment, to award Imprisonment, with or without Hard Labour, and with or without Solitary Confinement, such Confinement not exceeding the Periods herein-after prescribed.

Power to commute Corporal Punishment for Imprisonment.

XXVII. In all Cases in which Corporal Punishment shall form the whole or Part of the Sentence awarded by any Court martial, it shall be lawful for the General or other Officer authorized to confirm the Sentence to commute such Corporal Punishment to Imprisonment for any Period not exceeding Forty-two Days, with or without Hard Labour, and with or without Solitary Confinement, such Confinement not exceeding the Periods herein-after prescribed, or to mitigate such Sentence, or instead of such Sentence to award Imprisonment for any Period not exceeding Twenty Days, with or without Hard Labour, and with or without Solitary Confinement, such Confinement not exceeding the Periods herein-after prescribed, and Corporal Punishment to be inflicted in the Prison, not exceeding Twenty-five Lashes.

Courts-martial may, in addition to other Pu-

XXVIII. Any General Court-martial may, in addition to any other Punishment whatsoever which it may be competent to award, sentence any Offender to Forfeiture of all Advantage as to additional Pay,

Pay, Good-conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the Length of his former Service, or to Forfeiture of such Advantage absolutely, whether it might have accrued from past Service or might accrue from future Service, or to Forfeiture of the Annuity, and Medal or Decoration, which may have been granted for former meritorious Service, or of the Gratuity, and Medal or Decoration, awarded for former good Conduct, according to the Nature of the Case; and any District or Garrison Court-martial may also, in addition to any Sentence which such Court may award, sentence any Offender to such Forfeiture for Desertion, or for disgraceful Conduct— nishment, order Forfeiture of Pay and Pension.

In wilfully maiming or injuring himself or any other Soldier, whether at the Instance of such other Soldier or not, or of causing himself to be maimed or injured by any other Person, with Intent thereby to render himself or such other Soldier unfit for Service:

In tampering with his Eyes, with Intent thereby to render himself unfit for Service:

In wilfully doing any Act, or wilfully disobeying any Orders, whether in Hospital or otherwise, thereby producing or aggravating any Disease or Infirmity, or delaying his Cure:

In malingering or feigning Disease:

In stealing or embezzling Stores or other Property of the *East India* Company or of the Crown, or in receiving the same knowing the same to have been stolen:

In stealing any Money or Goods the Property of a Comrade, of a Military Officer, or of any Military or Regimental Mess or Band, or in receiving any such Money or Goods knowing the same to have been stolen:

In making any false or fraudulent Accounts, Returns, Matters, or Entries, or assisting or conniving at the same being made, or producing the same as true knowing the same to be false or fraudulent:

In stealing or embezzling or fraudulently misapplying Public Money intrusted to him, or in committing any other Offence of a felonious or fraudulent Nature, to the Injury of or with Intent to injure any Person, Civil or Military, or for any other disgraceful Conduct, being of a cruel, indecent, or unnatural Kind.

XXIX. Every Soldier who shall be found guilty by a Court-martial of Desertion, of wilfully maiming or injuring himself or any other Soldier, whether at the Instance of such other Soldier or not, or of causing himself to be maimed or injured by any other Person, with Intent thereby to render himself or such other Soldier unfit for Service, Forfeiture of Pay on being found guilty of Desertion, and to or on Conviction for Felony.

Service, or of tampering with his Eyes, with Intent thereby to render himself unfit for Service, such Finding having been confirmed, or of Felony by any Court of ordinary Criminal Jurisdiction, or of any Crime or Offence by any Court of Criminal Jurisdiction in the United Kingdom, or in any Dominion, Territory, Colony, Settlement, or Island belonging to or occupied by Her Majesty or the *East India* Company, which would, if committed in the United Kingdom, amount to Felony, shall thereupon forfeit all Advantage as to additional Pay, Good-conduct Pay, and Pension on Discharge, which might have otherwise accrued from the Length of his former Service, in addition to any Punishment which such Court may award.

Forfeiture of Pay when in Confinement under Sentence of Court-martial or for Debt, &c.;

XXX. If any Non-commissioned Officer or Soldier, by reason of his Imprisonment, whether under Sentence of a Court-martial or of any other Court duly authorized to pass such Sentence, or by reason of his Confinement for Debt, or by reason of his Desertion, or being an Apprentice by reason of his being allowed to serve out his Time with his Master, shall have been absent from his Duty during any Portion of the Time limited by his Enlistment or Re-engagement or Prolongation of Service, such Portion of his Time shall not be reckoned as a Part of the limited Service for which such Non-commissioned Officer or Soldier was enlisted or re-engaged, or for which his Term of Service may have been prolonged; and no Soldier shall be entitled to Pay, or to reckon Service towards Pay or Pension, when in Confinement under a Sentence of any Court, or during any Absence from Duty by Commitment or Confinement under any Charge of which he shall be afterwards convicted, either by Court-martial or by any Court of ordinary Criminal Jurisdiction, or whilst in Confinement for Debt; and when any Soldier shall be absent as a Prisoner of War he shall not be entitled to Pay, or to reckon Service towards Pay or Pension, for the Period of such Absence, but upon rejoining the Service due Inquiry shall be made by a Court-martial, and unless it shall be proved to the Satisfaction of such Court that the said Soldier was taken Prisoner through wilful Neglect of Duty on his Part, or that he had served with or under or in some Manner aided the Enemy, or that he had not returned as soon as possible to the Service, he may thereupon be recommended by such Court to receive either the whole of such Arrears of Pay or a Proportion thereof, and to reckon Service during his Absence; and any Soldier who shall be convicted of Desertion or of Absence without Leave shall, in addition to any Punishment awarded by the Court, forfeit his Pay for the Day or Days during which he was in a State of Desertion or during his Absence without Leave; and if any Soldier shall absent himself without Leave for any Period not exceeding Five Days, and shall not account for the same to the Satisfaction of the Commanding Officer,

or during Absence on Commitment under a Charge;

or in Confinement for Debt; or when Prisoner of War, until Inquiries shall be made;

or when convicted of Desertion or of Absence without Leave, or when absent without Leave not exceeding Five Days.

or

or if any Soldier shall be guilty of any other Offence which the Commanding Officer may not think necessary to bring before a Court-martial, the Commanding Officer may, in addition to any minor Punishment he is authorized to award, order that such Soldier shall be imprisoned for such Period not exceeding One hundred and sixty-eight Hours, with or without Hard Labour, and with or without Solitary Confinement, as the said Commanding Officer may think fit, and such Soldier shall forfeit his Pay for any Day or Days on which he may be so imprisoned, and the said Commanding Officer may moreover order that, in addition to or instead of such Imprisonment and Forfeiture or any other Punishment which he has any Authority to inflict, any Soldier who shall have so absented himself as aforesaid shall forfeit his Pay for the Day or Days during which he shall have so absented himself, and in pursuance of any such Order as aforesaid the Pay of the Soldier shall be accordingly forfeited: Provided always, that such Soldier shall not be liable to be afterwards tried by a Court-martial for any Offence for which he shall have been so punished or ordered to suffer Imprisonment, Punishment, or Forfeiture as aforesaid: Provided also, that any Soldier who shall be so ordered to suffer Imprisonment or Forfeiture of Pay shall, if he so request, have a Right to be tried by a Court-martial for his Offence, instead of submitting to such Imprisonment or Forfeiture: Provided also, that it shall be lawful for the Government under which any Soldier is serving to order or withhold the Payment of the whole or any Part of the Pay of any such Soldier during the Period of Absence by any of the Causes aforesaid.

Forfeiture of Pay for Drunkenness on Duty.

XXXI. Any Court-martial may sentence any Soldier for being drunk on Duty under Arms to be deprived of One Penny or Eight Pies a Day of his Pay for any Period not exceeding Sixty Days, and for being drunk when on any Duty not under Arms, or for Duty, or on Parade, or on the Line of March, to be deprived of One Penny or Eight Pies a Day of his Pay for any Period not exceeding Thirty Days, and such Deprivation may in either Case be in addition to any other Punishment which such Court may award.

Forfeiture of Pay and Liquor for for habitual Drunkenness.

XXXII. Any General, Garrison, or District Court-martial before which any Soldier shall be convicted of habitual Drunkenness shall deprive such Soldier of such Portion of his Pay for such Period not exceeding Two Years, and under such Restrictions and Regulations, as may accord with Her Majesty's Articles of War for the *East India* Company's Troops, subject to Restoration on subsequent good Conduct; and every Regimental or Detachment Court-martial shall deprive a Soldier convicted of a Charge of habitual Drunkenness of such Portion of his additional or regular Pay or Allowance for such Period not exceeding Six Months, and under such Restrictions and Regulations, as may accord with Her Majesty's Articles of War for

the *East India* Company's Troops, subject to Restoration on subsequent good Conduct, and in addition to such Deprivation of Pay the Court may, if it shall think fit, sentence such Offender to any other Punishment whatsoever which the Court may be competent to award: Provided always, that a Soldier so sentenced to the Forfeiture of Pay who shall be quartered at or removed to a Station where Liquor forms Part of his Ration and is issued in Kind, shall be deprived of his Liquor in Kind instead of being deprived of One Penny or Eight Pies of his Pay daily for so long a Time as he shall remain at such Station and such Sentence of Forfeiture of Pay shall remain in force.

Stoppages.

XXXIII. In addition to any other Punishment which the Court may award, a Court-martial may further direct that any Offender may be put under Stoppages until he shall have made good any Bounty fraudulently obtained by him by Desertion from his Corps and enlisting in some other Corps:

Any Loss or Damage occasioned by him in any of the Instances of disgraceful Conduct herein-before specified:

Any Loss or Destruction of or Damage or Injury to any Property whatsoever occasioned by his wilful or negligent Misconduct:

Any Loss or Destruction of or Damage or Injury to his Horse, or to any Beast used in Warfare, or any Loss or Destruction of or Damage or Injury to his Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries, or any extra Article of Clothing or Equipment that he may have been put in possession of, and ordered to wear, on the Recommendation of the Surgeon, for the Benefit of his Health, or the Amount or Value obtained by making away with or pawning any Medal or Decoration for Service in the Field or for general good Conduct, which may have been granted him by Order of Her Majesty, or by Order of the *East India* Company or their Government, or any Loss or Destruction of or Damage or Injury to the Arms, Horse Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries of any Officer or Soldier occasioned by his wilful or negligent Misconduct:

Any Expense necessarily incurred by his Drunkenness or other Misconduct:

Provided always, that, except in the Case of the Loss or Destruction of any Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries, in which Case the Court may by its Sentence direct that the said Stoppages shall continue till the Cost of replacing the same be made good, the Amount of any Loss, Destruction, Damage, or Injury, or Expense, shall be ascertained by Evidence, and the Offender shall be placed under Stoppages for such an Amount only as shall be proved to the Satisfaction of the Court: Provided also,

also, that after satisfying the Charges for his Messing and Washing, so much only of the Pay of the Soldier may be stopped and applied as shall leave him a Residue at the least of One Penny or Eight Pies a Day.

Power to discharge Soldier with Ignominy.

XXXIV. Whenever any Soldier shall have been convicted of Desertion or of any such disgraceful Conduct as is herein-before described, and the Court in respect of such disgraceful Conduct shall have made the Forfeiture of all Claim to Pension on Discharge a Part of the Sentence passed on such Soldier, such Court may further recommend that he be discharged with Ignominy from the Service: Provided always, that where an Award of any of the Forfeitures herein-before mentioned, or of Deprivation of Pay or of Stoppages of Pay, shall have been added to a Sentence of Transportation or Penal Servitude, it shall be lawful for the General or other Officer having Authority to confirm the Sentence, in the event of the Sentence of Transportation or Penal Servitude being commuted for Imprisonment, to order such Award of Forfeiture, Deprivation of Pay, or Stoppages of Pay to be enforced, mitigated, or remitted, as may be deemed expedient.

Marking Deserters.

XXXV. On the First and on every subsequent Conviction for Desertion, the Court-martial, in addition to any other Punishment, may order the Offender to be marked on the Left Side, Two Inches below the Armpit, with the Letter D, such Letter not to be less than an Inch long, and to be marked upon the Skin with some Ink or Gunpowder or other Preparation, so as to be visible and conspicuous, and not liable to be obliterated.

Power of Imprisonment by different Kinds of Courts-martial.

XXXVI. A General, Garrison, or District Court-martial may sentence any Soldier to Imprisonment, with or without Hard Labour, and may also direct that such Offender shall be kept in solitary Confinement for any Portion or Portions of such Imprisonment, in no Case exceeding Fourteen Days at a Time, nor Eighty-four Days in any One Year, with Intervals between the Periods of Solitary Confinement of not less Duration than such Periods, and when the Imprisonment awarded shall exceed Three Months the Court-martial shall imperatively order that the solitary Confinement shall not exceed Seven Days in any One Month of the whole Imprisonment awarded, with Intervals between the Periods of Solitary Confinement of not less Duration than such Periods; and any Regimental or Detachment Court-martial may sentence any Soldier to Imprisonment, with or without Hard Labour, for any Period not exceeding Forty-two Days, and may also direct that such Soldier be kept in Solitary Confinement for any Portion or Portions of such Imprisonment, not exceeding Fourteen Days at a Time, with an Interval between them of not less Duration than such Periods of Solitary Confinement; provided that when any Court-martial, whether General, Garrison, or District, or Regimental

Regimental or Detachment, shall direct that the Imprisonment shall be solitary only, or when any Sentence of Corporal Punishment shall have been commuted to such Imprisonment only, the Period shall in no Case exceed Fourteen Days.

As to Imprisonment of Offenders already under Sentence for previous Offence.

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

Terms of Imprisonment under Sentence of Courts-martial.

XXXVIII. Save as herein-before specially provided, every Term of Penal Servitude, Transportation, or of Imprisonment under the Sentence of a Court-martial, whether original or revised, shall be reckoned as commencing on the Day on which the original Sentence and Proceedings shall be signed by the President.

Place of Imprisonment.

XXXIX. The Place of Imprisonment under the Sentence of General Courts-martial shall be appointed by the Officer commanding in the District, Garrison, or Place, and, under the Sentence of any other Court-martial, shall be appointed by the Officer confirming the Proceedings of such Court-martial, and in default of such Appointment then the Place of Imprisonment shall be appointed by the Officer commanding the Regiment or Corps to which the Offender belongs or is attached.

Keepers of Prisons to receive Military Offenders.

XL. Every Governor, Provost Marshal, Gaoler, or Keeper of any public Prison, Gaol, House of Correction, or other Place of Confinement in any Part of the Territories under the Government of the *East India* Company or of Her Majesty's Dominions, shall receive into his Custody any Military Offender under Sentence of Imprisonment by a Court-martial, upon Delivery to him of an Order in Writing in that Behalf from the Officer commanding the Regiment or Corps to which the Offender belongs or is attached, which Order shall specify the Period of Imprisonment which the Offender is to undergo, and the Day and the Hour of the Day on which he is to be released; and such Governor, Provost Marshal, Gaoler, or Keeper shall keep such Offender in a proper Place of Confinement, with or without Hard Labour, and with or without Solitary Confinement, according to the Sentence of the Court, and during the Time specified in the said Order, or until he shall be discharged

discharged or delivered over to Military Custody before the Expiration of that Time, under an Order duly made for that Purpose.

Orders as to Removal of Prisoners to be obeyed.

XLI. In the Case of a Prisoner undergoing Imprisonment under the Sentence of a Court-martial in any public Prison or Gaol or House of Correction, or other Place of Confinement, it shall be lawful for the Officer who confirmed the Proceedings of the Court, or for the Officer commanding in the District or Garrison or Place, to give, as often as Occasion may arise, an Order in Writing directing that the Prisoner be discharged, or be delivered over to Military Custody, whether for the Purpose of being removed to some other Prison or Place, there to undergo the Remainder or any Part of his Sentence, or for the Purpose of being brought before a Court-martial, either as a Witness or for Trial, or other Purpose, and such Prisoner shall accordingly, on the Production of such Order, be discharged, or be delivered over, as the Case may be: Provided always, that the Time during which any Prisoner under Sentence of Imprisonment by a Court-martial shall be detained in Military Custody shall be reckoned as Imprisonment under the Sentence, for whatever Purpose such Detention shall take place.

Diet of Prisoners.

XLII. The Gaoler or Keeper of any Prison, Gaol, House of Correction, or other Place of Confinement, shall diet and provide every Soldier imprisoned by the Sentence of a Court-martial or as a Deserter with Fuel and other Necessaries, according to the Regulations of such Place of Confinement, the Expense of which shall be paid in the same Manner as the other Expenses of such Prison, or as may be provided by any Laws or Regulations to be made in that Behalf.

Notice to be given of the Expiration of Imprisonment.

XLIII. Every Gaoler or Keeper of any public Prison, Gaol, House of Correction, or other Place of Confinement to whom any Notice shall have been given, or who shall have Reason to know or believe, that any Person in his Custody for any Offence, Civil or Military, is a Soldier liable to serve the *East India* Company on the Expiration of his Imprisonment, shall give One Month's Notice of the Period of such Expiration of Imprisonment, or, if there shall not be sufficient Time for a Month's Notice, then the longest practicable Notice thereof to the Adjutant General of the Army, or to the nearest Military Authority to whom such Notice may conveniently be given.

Musters and Punishments for false Musters.

XLIV. Musters shall be taken of every Regiment, Corps, Troop, or Company in the *East India* Company's Service at such Times as shall be appointed, and no Officer or Soldier, or other Person liable to be mustered, shall be absent from such Musters, unless properly certified to be employed on some other Duty of the Regiment, or to be sick, or in Prison, or on Furlough; and every Officer who shall

make any false or untrue Muster of Man or Beast, or shall wittingly or willingly allow or sign the Muster Roll wherein such false Muster is contained, or any Duplicate thereof, or who shall directly or indirectly take or cause to be taken any Money or Gratuity for mustering any Officers, Soldiers, or other Persons, or for signing any Muster Rolls, or Duplicates thereof, or shall knowingly muster any Person by a wrong Name, or shall give or procure to be given any untrue Certificate whereby to excuse any Officer, Soldier, or other Person for his Absence from any Muster or any other Service which he ought to attend or perform, upon Proof thereof upon Oath made by Two Witnesses before a General Court-martial shall for such Offence be sentenced to be cashiered; provided that it shall be lawful for the Governor General in Council, or Governor in Council of the Presidency to which the Offender shall belong, in all Cases whatsoever, instead of causing a Sentence of cashiering to be put in execution, to order the Offender to be reprimanded, or, in addition thereto, to suffer such Loss of Army or Regimental Rank, or both, as may be deemed expedient.

Trials for Desertion after subsequent Enlistment.

XLV. Every Soldier shall be liable to be tried and punished for Desertion from any Corps into which he may have unlawfully enlisted, although he may of Right belong to another Corps, and be a Deserter therefrom; and whether such Soldier shall be tried for deserting from the Corps to which he may of Right belong, or for deserting from the Corps into which he may have unlawfully enlisted, or for any other Desertion, every Desertion previous or subsequent to that for which he may at the Time be taking his Trial may, if duly stated in the Charges, be given in Evidence against him on such Trial.

As to fraudulent Confession of Desertion.

XLVI. Any Soldier who while serving in any of the *East India* Company's Forces shall to any Officer or Non-commissioned Officer fraudulently confess himself to be a Deserter shall be liable to be tried by Court-martial; and any Person who shall voluntarily deliver himself up and confess himself to be a Deserter from the *East India* Company's Forces, or who, upon being apprehended for any Offence, shall, in the Presence of the Magistrate or of the Commanding Officer of the Place, confess himself to be a Deserter as aforesaid, shall be deemed to have been duly enlisted, and to be a Soldier, and shall be liable to serve in any such Corps of the said Company's Forces as the Officer commanding in chief at any of the said Presidencies shall appoint, whether such Person shall have been actually enlisted as a Soldier or not, and he shall be liable to Punishment in the same Manner as if he had actually enlisted, and had afterwards deserted.

Punishment for inducing or assisting in Desertion.

XLVII. Any Person who shall, by Words or by any other Means whatsoever, directly or indirectly procure any Soldier to desert, or attempt

attempt to procure or persuade any Soldier to desert, and any Person who, knowing that any Soldier is about to desert, shall aid or assist him in deserting, or knowing any Soldier to be a Deserter shall conceal such Deserter, or aid or assist such Deserter in concealing himself, or aid or assist in his Rescue, shall be deemed guilty of a Misdemeanor, and shall, on Conviction thereof in any Court of Criminal Jurisdiction in the Dominions of Her Majesty or in the Territories under the Government of the *East India* Company, be liable to be punished by Fine or Imprisonment, or both, as the Court before which such Conviction shall take place may adjudge.

Enlisting and attesting Recruits.

XLVIII. It shall be lawful for any Justice of the Peace or Magistrate, or Person exercising the Office of a Magistrate, within the Territories under the Government of the *East India* Company, or within any of Her Majesty's Dominions abroad, and for any Person holding the Office of *British* Resident or performing the Duties of such Office within the Territories of any Foreign State, to enlist and attest any Persons desirous of enlisting or any Soldiers or others desirous of re-enlisting into the Service of the said Company, and all such Persons shall have the same Powers in that Behalf as by the Mutiny Act passed in the present Year for Her Majesty's Forces are given to Justices in the United Kingdom for the Purposes of Enlistment and Attestation; and any Person so enlisted or re-enlisted shall be deemed to be an attested Soldier in the Service of the said Company; and if any Person so enlisted shall designedly make any false Representation at the Time of his Attestation, and shall obtain any enlisting Money or Bounty for entering into the Service of the *East India* Company, he shall be liable to be tried by Court-martial and punished in the same Manner as a Soldier guilty of disgraceful Conduct in fraudulently misapplying Public Money intrusted to him.

Recruits concealing Infirmities punishable.

XLIX. Any Person who shall have enlisted into and been attested for the *East India* Company's Forces, and who shall be discovered to be incapable of active Service, or unfit for the Service for which he shall have been enlisted, by reason of any Infirmity which shall have been concealed by such Person or not declared at the Time of his Attestation, and mentioned at the Foot thereof, may be transferred into any Garrison or Veteran or Invalid Battalion or Company, or into any of the said Company's *European* Forces, or into Her Majesty's Land Forces or Marine Forces, notwithstanding he shall have enlisted for any particular Regiment or any particular Service, and every such Person shall be entitled to receive such Proportion or Residue of Bounty only as shall be allowed by the *East India* Company in that Behalf, in lieu and stead of the Bounty upon which such Man shall have been enlisted, anything in any Act or Acts

or

or any Rules or Regulations relating to Soldiers to the contrary notwithstanding.

Penalty on Militia Men enrolled under 15 & 16 Vict. c. 50. enlisting wrongfully.

L. Any Man, having been enrolled as a Volunteer under the Act Fifteenth and Sixteenth *Victoria*, Chapter Fifty, or any subsequent Acts, to serve in the Militia of the United Kingdom, who shall deny to the Justice or other Person before whom he shall be attested for the Forces of the *East India* Company that he belongs to the Militia, shall, upon Conviction thereof before any Justice of the Peace or Magistrate, or Person exercising the Office of a Magistrate, within the Territories under the Government of the *East India* Company, or before a Regimental Court of Inquiry, either upon his own Confession or upon Evidence, forfeit all Militia Bounty which would have become payable to him during the Period of his belonging to the Forces of the *East India* Company if he had not therein enlisted, and be subjected to a Stoppage of One Penny or Eight Pies a Day from his Pay for Eighteen Calendar Months, to be applied as the Military Secretary to the Government of the Presidency to which the Offender shall belong shall in that Behalf direct, or if enrolled in the Militia as a balloted Man or Substitute shall, if convicted before any Justice, Magistrate, or Person as aforesaid, be committed to the Common Gaol or House of Correction, there to remain, without Bail or Mainprise, for and during any Time not exceeding Six Calendar Months, over and above any Penalty or Punishment to which such Person so offending may be otherwise liable; and every such Person shall be liable to all the Provisions of this Act in the same Manner as if he had regularly joined the Corps in which he shall have so enlisted.

No Paymaster to receive Fees, or to make unusual Deductions out of Pay, or to detain Pay.

Penalty on Paymasters for so doing.

LI. No Paymaster or other Person shall receive any Fees or make any Deductions whatsoever, out of the Pay or Allowance of any Officer or Soldier in the *East India* Company's Service, or from their Agents, other than the usual Deductions, or such other necessary Deductions as shall from Time to Time be required to be made according to the Regulations of the Service; and every Paymaster or other Person who, having received any Officer's or Soldier's Pay and Allowances, shall unlawfully detain the same for the Space of One Month, or refuse to pay the same when it shall become due, according to the several Rates and agreeably to the Regulations established by the Rules of the Service, shall, upon Proof thereof before a Court-martial, be discharged from his Employment, and shall forfeit One thousand Company's Rupees, and the Informer if a Soldier shall, if he demand it, be discharged from any further Service: Provided always, that it shall be lawful for the Governor General in Council, or the Governor in Council at the said Presidencies respectively, to give Orders for withholding the Pay of any Officer or Soldier for any Period during which

which such Officer or Soldier shall be absent without Leave or improperly absent from his Corps and from his Duty.

Penalty for procuring false Musters.

LII. Every Person, not having a Military Commission, who shall give or procure to be given any untrue Certificate whereby to excuse any Soldier for his Absence from any Muster or any other Service which he ought to attend or perform, or who shall directly or indirectly take or cause to be taken any Money or Gratuity for mustering any Soldiers, or for signing any Muster Rolls or Duplicates thereof, shall forfeit for every such Offence the Sum of Five hundred Company's Rupees; and any Person who shall falsely be mustered or offer himself to be mustered, or lend or furnish any Horse or other Beast to be falsely mustered, shall, upon Conviction before some Magistrate residing near the Place where such Muster shall be made, forfeit the Sum of Two hundred Company's Rupees, and the Informer, if he belong to the Company's Service, shall, if he demand it, be forthwith discharged the said Service.

Penalty on purchasing Soldiers Necessaries, Stores, &c.

LIII. Any Person who shall knowingly detain, buy, exchange, or receive from any Soldier or Deserter or any other Person, on any Pretence whatsoever, or shall solicit or entice any Soldier, or shall be employed by any Soldier, knowing him to be such, to sell any Arms, Ammunition, Medals or Decorations for good Conduct or for distinguished or other Service, Clothes or Military Furniture, or any Provisions, or any Sheets or other Articles used in Barracks provided under Barrack Regulations, or Regimental Necessaries, or any Article of Forage provided for any Horses or other Beasts belonging to or used in the *East India* Company's Service, or who shall have in his or her Possession or Keeping any such Arms, Ammunition, Medals, Decorations, Clothes, Furniture, Provisions, Spirits, Articles, Necessaries, or Forage, and shall not give a satisfactory Account how he or she came by the same, or shall change the Colour of any Clothes as aforesaid, shall forfeit for every such Offence any Sum not exceeding Two hundred Company's Rupees, together with the Treble Value of all or any of the several Articles of which such Offender shall so become or be possessed; and if any Person, having been so convicted, shall afterwards be guilty of any such Offence, he shall for every such Offence forfeit any Sum not exceeding Two hundred Company's Rupees but not less than Fifty Company's Rupees, and the Treble Value of all or any of the several Articles of which such Offender shall have so become possessed, and shall, in addition to such Forfeiture, be liable to be imprisoned only, or imprisoned and kept to Hard Labour, for any Term not exceeding Six Calendar Months, as the convicting Justice or Magistrate, or Person exercising the Office of a Magistrate, shall think fit; and upon any Information

against any Person for a Second or any subsequent Offence, a Copy of the former Conviction, certified by the proper Officer having the Care or Custody of such Conviction, or any Copy of the same proved to be a true Copy, shall be sufficient Evidence to prove such former Conviction; and if any credible Person shall prove on Oath or solemn Declaration before a Justice of the Peace or Magistrate, or Person exercising the Office of a Magistrate, a reasonable Cause to suspect that any Person has in his or her Possession or on his or her Premises any Property of the Description herein-before mentioned, with respect to which any such Offence shall have been committed, such Justice, Magistrate, or Person aforesaid may grant a Warrant to search for such Property as in the Case of stolen Goods, and if upon such Search any such Property shall be found the same shall and may be seized by the Officer charged with the Execution of such Warrant, who shall bring the Offender in whose Possession the same shall be found before the same or any other Justice, Magistrate, or Person exercising the Office of a Magistrate, to be dealt with according to Law.

Soldiers entitled to Discharge may claim to be sent home free of Expense.

LIV. Every Soldier entitled to his Discharge, either upon the Expiration of any Period for which he shall have engaged to serve or otherwise, shall be entitled to be sent to *Great Britain* or *Ireland* free of Expense, and shall be entitled on his Arrival to have and receive Marching Money from the Place of his being landed to the Parish or Place in which he shall have been originally enlisted, or at which he shall at the Time of his Arrival in *Great Britain* or *Ireland* decide to take up his Residence, such Place not being at a greater Distance from the Place of his landing than the Place of his original Enlistment, such Marching Money being at the Rate and Reckoning *per Diem* fixed for victualling Soldiers in Her Majesty's Service on the March: Provided always, that every such Soldier entitled to and claiming his Discharge, and to be sent to *Great Britain* or *Ireland* as aforesaid, as also any other Soldier in the Service of the *East India* Company entitled to be sent to *Great Britain* or *Ireland*, shall, until his Arrival and Debarkation in *Great Britain* or *Ireland*, be subject to the Provisions of this Act, and the Articles of War framed or to be framed by Her Majesty for the better Government of the Company's Forces, and Her Majesty may by such Articles of War provide for the Punishment of any such Soldier who on the Passage shall be guilty of Drunkenness, or of any dishonest, disorderly, cruel, indecent, or disgraceful Conduct, by Sentence of a Court-martial to be held under the Mutiny Act and Articles of War for the Time being in force for Her Majesty's Forces, and may direct that for the Purposes of such Court-martial and Punishment he shall be considered as belonging to any Regiment in Her Majesty's Service, and be punish-

Punishment of Offences on the Voyage.

able

able in the same or the like Manner as if the Offence had been committed whilst serving with such Regiment and as if any Advantages he may be entitled to by Service were Advantages arising from Service in Her Majesty's Forces.

Power to appoint General Courts-martial anywhere beyond 120 Miles from the Presidencies (except Prince of Wales Island, Singapore, and Malacca,) for the Trial of Capital and other Offences.

LV. Any Officer or Soldier who shall be serving in the Territories of any Foreign State, or in any Country under the Protection of Her Majesty or the said Company, or at any Place (other than *Prince of Wales Island*, *Singapore*, and *Malacca*,) in the Territories under the Government of the said Company, and situated above One hundred and twenty Miles from the Presidencies of *Fort William*, *Fort Saint George*, and *Bombay* respectively, and who shall be accused of having committed Treason, or of any other Crime which if committed in *England* would be Felony, or of having committed any Offence against the Person or Property of any Subject of Her Majesty, or any other Person entitled to the Protection of Her Majesty or of the Government of the *East India* Company, or of any State in Alliance with the said Company, may be tried by a General Court-martial to be appointed by the General or other Officer commanding in chief in such Place for the Time being, and if found guilty shall suffer Death, or be liable to be kept in Penal Servitude or to Transportation for Life or for a Term of Years, or other Punishment, according to the Nature and Degree of the Offence, as by the Sentence of any such General Court-martial shall be awarded: Provided always, that no Sentence of a General Court-martial for any such Offence shall be carried into execution until the same shall have been confirmed by the General or other Officer commanding in chief as aforesaid; and such Officer may, if he shall think fit, suspend, mitigate, or remit the Sentence, or in the Case of a Sentence of Death commute the same to a Sentence of Penal Servitude or Transportation for Life or for any certain Term of Years not less than Fourteen, or to Imprisonment, with or without Hard Labour, for such Period of Time as to him shall seem fit; provided also, that any Person who may have been so tried as aforesaid shall not be tried for the same Offence by any other Court whatsoever.

Proviso for Confirmation by the Governor in Council in certain Cases.

LVI. Provided always, That where any Officer or Soldier shall, under the Clause lastly herein-before contained, have been found guilty of any such Offence as therein mentioned, committed at any Place within the Territories under the Government of the said Company, situated above One hundred and twenty Miles from the Presidencies of *Fort William*, *Fort Saint George*, and *Bombay* respectively, and the Offender shall have been tried within such Territories, no Sentence of Death or Penal Servitude or Transportation in respect of such Offence, whether original, revised, or commuted, shall

shall be carried into execution until such Sentence shall have been approved by the Governor General in Council or Governor in Council of the Presidency in the Territories subordinate to which the Offender shall have been tried.

Government of Presidencies may suspend Proceedings.

LVII. The Government of any of the said Presidencies in *India* may suspend the Proceedings of any Court-martial which may at any Time be holden within such Presidencies respectively.

Certain Offenders, if apprehended by Civil Authorities, to be delivered over for Trial by Court-martial.

LVIII. If any Person liable, under the Provisions herein-before contained, to be tried by a Court-martial for any Crime or Offence alleged to have been committed within the Territories of any Foreign State, or in any Country under the Protection of Her Majesty or the said Company, or at any Place (other than *Prince of Wales Island*, *Singapore*, or *Malacca*,) in the Territories under the Government of the said Company, situate above One hundred and twenty Miles from the said Presidencies of *Fort William*, *Fort Saint George*, and *Bombay* respectively, and for which no Proceeding shall have been commenced in any Court of competent Jurisdiction, shall be apprehended by the Authority of or brought before any Magistrate for any such Offence, such Magistrate shall deliver over such accused Person to the Commanding Officer of the Regiment, Corps, or Detachment to which such accused Person shall belong, or to the Commanding Officer of the nearest Military Station, for the Purpose of his being tried by a Court-martial for such Offence as is herein-before provided in that Behalf.

The ordinary Course of Law not to be interfered with.

LIX. Nothing in this Act contained shall be construed to exempt any Officer or Soldier from being proceeded against by the ordinary Course of Law when accused of Felony or of Misdemeanor (other than the Misdemeanor of refusing to comply with any Order of Justices or Magistrates for the Payment of Money); and if any Commanding Officer shall neglect or refuse, when Application is made to him for that Purpose, to deliver over to the Civil Magistrate any Officer or Soldier under his Command or shall wilfully obstruct, neglect, or refuse to assist the Officers of Justice in apprehending any Officer or Soldier under his Command so accused as aforesaid, such Commanding Officer shall, upon Conviction thereof in any of Her Majesty's Courts of Record in the United Kingdom or in *India*, be deemed to be *ipso facto* cashiered, and shall be utterly disabled to have or hold any Civil or Military Office or Employment in the said Company's Service in the *East Indies;* and a Certificate of such Conviction, containing the Substance and Effect of the Indictment only, omitting the formal Part, with the Copy of the Entry of the Judgment of the Court thereon, shall within Two Months from the Time of such

such Conviction be transmitted to the Judge Advocate General of the Army to which such Offender shall belong: Provided that nothing herein contained shall extend to require the Delivery over to the Civil Magistrate of any such Person accused of any Offence who shall have been tried for such Offence by any Court-martial under the Provisions herein-before in that Behalf contained, or against whom any Proceeding shall have been taken or ordered to be taken for the Purpose of bringing such Person to Trial by Court-martial under the Provisions herein-before in that Behalf contained; provided also, that no Person or Persons, having been acquitted or convicted of any Crime or Offence by the Civil Magistrate or by the Verdict of a Jury, shall be liable to be punished by a Court-martial for the same, otherwise than by cashiering in the Case of a Commissioned Officer, or in the Case of a Warrant Officer by Reduction to an inferior Class or to the Rank of a Private Soldier, by Order of the Officer commanding in chief in the Presidency to which the Offender belongs, or in the Case of a Non-commissioned Officer by Reduction to the Ranks, by Order of the Officer commanding in chief as aforesaid or of the Colonel; and whenever any Officer or Soldier shall have been tried before a Court of ordinary Criminal Jurisdiction, the Clerk of such Court or other Officer having the Custody of the Records of such Court, or the Deputy of such Clerk, shall, if required by the Officer commanding the Regiment or Corps to which such Officer or Soldier belongs, transmit to him a Certificate under his Hand containing the Substance and Effect only of the Indictment, omitting the formal Part, and containing also a Copy of the Entry of the Judgment of the Court thereon if such Officer or Soldier shall have been convicted, or of the Acquittal of such Officer or Soldier, and shall be allowed for such Certificate a Fee of One Company's Rupee and Eight Annas; and every such Certificate purporting to be signed as aforesaid shall be sufficient Evidence before a Court-martial of such Conviction or Acquittal, and it shall not be necessary to prove the Signature or official Character of the Person appearing to have signed the Certificate, nor, if the Court be satisfied from all the Circumstances of the Case that the Prisoner is the Person mentioned in such Certificate, shall it be necessary to give other Proofs of his Identity.

Soldier not to be arrested for Debt unless amounting to 300 Company's Rupees.

LX. Any Person enlisted into the *East India* Company's Service as a Soldier shall be liable to be arrested or taken out of such Service only by Process or Execution on account of any Charge of Felony or of Misdemeanor, or of any Crime or Offence (other than the Misdemeanor of refusing to comply with an Order of Justices or Magistrates for Payment of Money), or on account of an original Debt proved by Affidavit of the Plaintiff, or of some One on his Behalf, to amount to the Value of Three hundred Company's Rupees

at the least, over and above all Costs of Suit, such Affidavit to be sworn, without Payment of any Fee, before some Judge of the Court out of which Process or Execution shall issue, or before some Person authorized to take Affidavits in such Court, of which Affidavit, when duly filed in such Court, a Memorandum shall, without Fee, be endorsed upon the Back of such Process, stating the Facts sworn to, and the Day of filing such Affidavit; but no Soldier shall be liable by any Process whatever to appear before any Justice of the Peace or other Authority whatever, or to be taken out of the *East India* Company's Service, by any Writ, Summons, Warrant, Order, Judgment, Execution, or any Process whatsoever issued by or by the Authority of any Court of Law, or any Magistrate, Justice or Justices of the Peace, or any other Authority whatsoever, for any original Debt not amounting to Three hundred Company's Rupees; and all Writs, Summonses, Warrants, Commitments, Judgments, Sentences, and Executions on account of any such Debt for which it is herein declared that a Soldier is not to be taken out of the *East India* Company's Service shall be utterly illegal, and null and void, to all Intents and Purposes; and any Judge of any such Court may examine into any Complaint made by a Soldier or by his Superior Officer, and by Warrant under his Hand discharge such Soldier, without Fee, he being shown to have been arrested contrary to the Intent of this Act, and shall award reasonable Costs to such Complainant, who shall have for the Recovery thereof the like Remedy as would have been applicable to the Recovery of any Costs which might have been awarded against the Party by whom the Action shall have been brought or Execution sued as aforesaid, or a Writ of Habeas corpus ad subjiciendum shall be awarded or issued, and the Discharge of any such Soldier out of Custody shall be ordered thereupon: Provided always, that any Plaintiff, upon Notice of the Cause of Action first given in Writing to any Soldier or left at his last Quarters, may proceed in any Action or Suit to Judgment, and have Execution other than against the Body or Military Necessaries or Equipments of such Soldier.

Persons employed under Articles of War to collect Effects of Officers dying in Service abroad may do so without Probate or Letters of Administration.

LXI. It shall be lawful for all Officers or other Persons who, under the Authority of any Articles of War in force for the Time being for the *European* Officers or Soldiers in the Service of the *East India* Company, may be authorized to take care of or collect or superintend or direct the Collection of the Effects or any Part of the Effects of any Officers or Soldiers dying in the Service of the said Company out of the United Kingdom, to ask, demand, and receive any such Effects to which their Authority shall extend, and to commence, prosecute, and carry on any Actions or Suits for the Recovery thereof, and to sell and dispose of or otherwise deal with the same, without taking out any Letters of Administration, either with any Will annexed or otherwise,

otherwise, in the same Manner in every respect as if such Officers or Persons so authorized as aforesaid had been appointed Executors, and had proved the Will, or had taken out Administration of such Effects; and no Administrator General nor Registrar of any Court in the *East Indies*, or any Person acting under the Appointment or Authority of such Court, *ad colligenda* or otherwise, or any other Person, shall in any Manner interpose in relation to any such Effects, unless empowered so to do by any such Officers or Persons so authorized as aforesaid, any Law, Statute, or Usage to the contrary notwithstanding; and all such Officers and Persons are, in the Exercise of the Powers hereby given, to follow any Orders and Directions which may from Time to Time be given on the Subject by the Military Secretary of the Government of the Presidency to which the deceased Officer or Soldier shall have belonged.

What Debts to be deemed Regimental Debts, and to have Priority accordingly.

LXII. All Sums of Money due from deceased Officers and Soldiers in respect of Military Clothing, Appointments, and Equipments, in respect of Servants Wages, in respect of Household Expenses incurred during the current Month or since the last Issue of Pay, or in respect of Quarters, or of Mess, or Band, or Regimental Accounts, and all Sums of Money due to any Agent, or Paymaster or Quartermaster, or any other Officer upon any such Account, or on account of any Advance made for any such Purpose, and also any Charges or Expenses attending or relating to the Illness or Funeral of any such Officer or Soldier, and any Sums of Money due from deceased Officers or Soldiers which, by any Articles of War to be made under the Powers of this Act, shall be directed to stand on the same Footing as any of the Matters before mentioned, shall be deemed and taken to be Regimental Debts, and shall be paid out of any Arrears of Pay or Allowances, or out of any Prize or Bounty Money, or the Equipage, Goods, and Chattels of any Officer or Soldier dying out of the United Kingdom while in the Service of the said Company, and out of any other Effects of such Officer or Soldier so dying which may be collected or received by any Officers or other Persons acting under the Authority of the Articles of War in manner hereinbefore mentioned, in preference to any other Debts, Claims, or Demands whatsoever upon the Estate and Effects of such Officer or Soldier; and if Doubt shall arise as to whether any Claim or Demand made in relation to any Officer or Soldier is a Regimental Debt or not, or what is the proper Amount of the same, or whether any such Regimental Debt remains due, such Question shall be decided and concluded by any Order or Certificate to be made by the Military Secretary to the Government of the Presidency to which such Officer or Soldier shall have belonged, or by any other Person whom such Military Secretary shall authorize to act for that Purpose

on

on his Behalf, and all such Payments shall be good and valid in Law; and every Person who shall make any such Payment out of any such Arrears of Pay or other the Premises aforesaid under the Provisions of this Act, or in pursuance of any such Order or Certificate as aforesaid, or into whose Hands any such Money shall come, shall be and is hereby indemnified for and in respect of such Payments, and all other Acts, Matters, and Things to be done in pursuance of the Provisions of this Act or of any such Order or Certificate, anything in any Acts or Laws to the contrary notwithstanding.

Regimental Debts to be paid without Probate or Letters of Administration, and the Surplus only to be deemed the Personal Estate to be administered.

Military Secretary to administer such Surplus when not exceeding 1,000 Company's Rupees, without Probate or Administration, and Duty-free.

LXIII. All such Regimental Debts shall and may be paid without Probate of any Will being obtained or any Letters of Administration or any Confirmation of Testament or Letters Testamentary or Dative being taken out by any Person, and the Surplus only of such Arrears of Pay or Allowances, Prize or Bounty Money, Equipage, Goods and Chattels, and other Effects to be collected and received as aforesaid, or the Proceeds thereof, shall be deemed the Personal Estate of the Deceased for the Payment of any Duty which may be claimable in respect of the same; and it shall be lawful for the Military Secretary aforesaid to order and direct the Payment or Distribution of any such Surplus, to any Amount not exceeding One thousand Company's Rupees, without any Probate or Letters of Administration, or Confirmation of Testament or Letters Testamentary or Dative, or Payment of any Duty; and it shall also be lawful for any Paymaster or other Person to issue any Sum, not exceeding the Value of One thousand Company's Rupees, which may be due to any deceased Officer or Soldier, unto the Widow or Relative of any Officer or Soldier deceased, or unto the Representative or Representatives of any such Officer's Widow or Relative in *India*, in like Manner, without any Probate or Letters of Administration, or Confirmation of Testament or Letters Testamentary or Dative, or Payment of any Duty, the same to be paid to the Person who shall be notified by the said Military Secretary aforesaid as being entitled thereto or as being a proper Person to receive the same; and all such Payments respectively shall be as valid and effectual to all Intents and Purposes as if the same had been made by or to any Executor or Administrator, or under the Authority of any Probate or Letters of Administration, or Confirmation of Testament or Letters Testamentary or Dative, anything in any Act or Acts or Law or Laws to the contrary notwithstanding.

Effects, &c. remitted not to be deemed Assets in the Place to which re-

LXIV. Any Effects or the Proceeds or Surplus of any Effects which shall be collected or received under the Authority of any Articles of War as aforesaid, if and when remitted to any Person under any Order of the said Military Secretary or to such Military Secretary,

Secretary, shall not, by reason of coming to the Hands of such Person or Military Secretary, be taken to be Assets or Effects in the Place to which such Proceeds or Surplus may be remitted, so as to render it necessary that Administration should be taken out in respect thereof; and it shall be lawful for the Military Secretary aforesaid to order that such Effects or the Proceeds or Surplus of any such Effects shall be remitted to any Place in *India*, either to himself or to any other Person or Persons by whom the same can more conveniently be paid over to the Person or Persons entitled thereto; and the Obedience to the Orders of such Military Secretary in respect to the Payment and Disposal of any such Effects, Proceeds, or Surplus of such Effects shall be a sufficient Discharge from all Actions, Suits, and Demands in respect thereof to all Persons to whose Hands any such Effects, Proceeds, or Surplus shall have come, and by whom the same shall have been paid and disposed of under the Order of such Military Secretary.

mitted so as to render Administration necessary.

Power to Military Secretary to order Remittance of Effects to any other Place in India.

LXV. The Effects or the Proceeds or Surplus of the Effects collected or received under the Authority of any Articles of War as aforesaid, which shall remain after satisfying such Regimental Debts as aforesaid, and subject to any such Payment, Distribution, or Disposal thereof as is herein-before authorized, shall with all convenient Speed be transmitted to such Military Secretary as aforesaid by the Officers or Persons employed or required to take care of, collect, and receive the same, and such Military Secretary shall cause the same or the Surplus thereof remaining after satisfying such Debts, and subject to such Payment and Distribution as aforesaid, to be paid to the Executor or legal Representative (if in *India*) of such Officer or Soldier, or if there shall be no such Executor or legal Representative in *India*, or no such Executor or legal Representative shall within Twelve Months from the Death of such Officer or Officers claim such Surplus, then and in that Case such Military Secretary shall remit the said Surplus to the Court of Directors of the *East India* Company in *London*, to be by them paid to the Executor or legal Representative of such Officer or Soldier so deceased, and such Remittance at the End of Twelve Months as aforesaid shall be a Discharge to such Military Secretary from all Actions, Suits, and Demands in respect of such Surplus: Provided always, that the Administrator General or Registrar of Her Majesty's several Supreme Courts in *India* shall not, nor shall any other Person by virtue of his Office, be required or entitled to take out Letters of Administration with the Will annexed or otherwise in respect of such Surplus, nor in any Manner to interpose in relation thereto, unless expressly authorized so to do by the said Military Secretary; and in all Cases in which the Surplus so to be remitted by the said Military Secretary

Mode of administering Surplus prescribed.

Registrar of Supreme Courts to take out Administration to Surplus.

to the said Court of Directors in *London* shall not exceed One hundred Pounds, it shall be lawful for the said Court of Directors to order and direct the Payment and Distribution thereof to such Persons as they shall determine to be entitled thereto, without any Probate, Letters Testamentary or Dative, or Payment of any Duty.

Power to Her Majesty to make Provision for the Collection and Administration of the Effects of Deserters.

LXVI. It shall be lawful for Her Majesty, by any Articles of War to be made by Her as aforesaid, to make Provision for collecting any Effects of Deserters, and for Payment out of the same of any Regimental Debts and Quarters of the Deserters, and for carrying the Balance to the Credit of the *East India* Company for the Use of the said Company, and all Questions respecting any such Regimental Debts may be determined and concluded in such Manner as hereinbefore is provided.

Where Troops are serving beyond the Jurisdiction of the Courts of Requests, Actions of Debt not exceeding 400 Company's Rupees to be cognizable by a Military Court.

LXVII. In all Places where the said Company's Forces now are or may be employed, or where any Body of Her Majesty's Forces may be serving with the Forces of the said Company situate beyond the Jurisdiction of any Courts of Requests, or other Courts for enforcing small Demands, established at the Cities of *Calcutta*, *Madras*, and *Bombay* respectively, Actions of Debt, and all personal Actions against Officers or against Persons licensed to act as Sutlers, or other Persons amenable to the Provisions of this Act not being Soldiers, shall be cognizable before a Court of Requests composed of Military Officers, and not elsewhere, provided the Value in question shall not exceed Four hundred Company's Rupees, and that the Defendant was a Person of the above Description when the Cause of Action arose, which Court the Commanding Officer of any Camp, Garrison, or Cantonment is hereby authorized and empowered to convene; and the said Court shall in all practicable Cases consist of Five Commissioned Officers, and in no Instance of less than Three, and the President thereof shall in all practicable Cases be a Field Officer, and in no Case be under the Rank of a Captain, and every Member shall have served Five Years as a Commissioned Officer; and the President and Members assisting at any such Court, before any Proceedings be had before it, shall take the following Oath, which Oath shall be administered by the President of the Court to the other Members thereof, and to the President by any Member having first taken the Oath; (that is to say,)

Composition and Constitution of the Court prescribed.

President, &c. of Court to take the following Oath.

'I swear, That I will duly administer Justice 'according to the Evidence in the Matters that shall be brought 'before me. So help me GOD.'

Powers of such Court defined.

And all Witnesses before any such Court shall be examined in the same Manner as in the Case of a Trial by Court-martial, and it shall be

be competent for such Court, upon finding or awarding any Debt or Damage, either to award Execution thereof generally, or to direct specially that the whole or any Part thereof shall be stopped and paid over to the Plaintiff out of any Part not exceeding One Half of any Pay or Allowance, or out of any other Public Money which may respectively be coming to the Defendant in the current or any future Month or Months, or to direct the same to be so paid by Instalments; and in all Cases where the Execution shall be awarded generally the Debt, if not paid forthwith, shall be levied by Seizure and public Sale of such of the Defendant's Goods and Property as may be found within the Camp, Garrison, or Cantonment under a written Order of the Commanding Officer, grounded on the Judgment of the Court; and all Orders of such Commanding Officer as to the Manner of such Sale, or the Person by whom the same shall be made, or otherwise respecting the same, shall be valid and binding; and any Goods and Property of the Defendant found within the Limits of the Camp, Garrison, or Cantonment to which the Defendant shall belong at any subsequent Time shall be liable to be seized and sold in like Manner in satisfaction of any Remainder of such Debt or Damages; and if any Question shall arise whether any such Effects or Property are liable to be taken in execution as aforesaid, the Decision and Order of the said Commanding Officer shall be final and conclusive with respect to the same, and if sufficient Goods shall not be found within the Limits of the Camp, Garrison, or Cantonment, then any Public Money or any Part not exceeding One Half of the Pay or Allowances accruing to the Defendant shall be stopped in liquidation of such Debt or Damages; and if such Defendant shall not receive Pay as an Officer or from any Public Department, but be a Sutler, Servant, or Follower, he may be arrested by like Order of the Commanding Officer, and imprisoned in some convenient Place within the Military Boundaries for any Period not exceeding Two Months, unless the Debt be sooner paid; and the said Commanding Officer shall not, nor shall any Person acting on his Orders in respect of the Matters aforesaid, incur any Liability to any Person or Persons whomsoever for any Act done by him in pursuance of the Provisions aforesaid; and in Cases where the said Court shall direct specially that the whole or any Part of the Debt or Damages shall be stopped and paid out of Part of any Pay or Allowances, or out of any Public Money, the same shall be stopped and paid accordingly in conformity with such Direction: Provided always, that nothing herein-before contained shall enable any such Action as aforesaid to be brought in the said Court by any Officer or Soldier against any Officer.

Term and Limitation of Actions.

LXVIII. Any Action which shall be brought against any Person for anything to be done in pursuance of this Act shall be brought within

within Six Months after the doing thereof; and it shall be lawful for every such Person to plead thereunto the General Issue of Not Guilty, and to give all special Matter in Evidence to the Jury; and if the Verdict shall be for the Defendant in any such Action, or the Plaintiff therein become nonsuited or suffer any Discontinuance thereof, the Court in which the said Matter shall be tried shall allow unto the Defendant Treble Costs, for which the said Defendant shall have the like Remedy as in other Cases where Costs are given to Defendants; and every Action against any Person for anything done in pursuance of this Act, or against any Member of a Court-martial in respect of any Sentence of such Court, or of anything done by virtue or in pursuance of such Sentence, shall be brought in some of the Courts of Record at the Presidencies in *India*, or in the Courts of Record at *Westminster* or in *Dublin*, or the Court of Session in *Scotland*, and in no other Court whatsoever.

Mode of Procedure.

Mode of receiving Penalties.

LXIX. All Penalties and Forfeitures by this Act imposed may and shall be sued for and be recoverable in any Court of Record at the said Presidencies or in any other Court in *India* in which under any Laws made or to be made in *India* the Penalty would be recoverable if the same had been incurred by the Offender in breach of any other Law: Provided always, that no Action shall be brought or Prosecution carried on by virtue of this Act for any such Penalties or Forfeitures as aforesaid, unless the same be commenced within Six Months after the Offence is committed.

One Moiety to Informer; Remainder to Military Secretary of the Presidency.

LXX. One Moiety of every Penalty, not including any Treble Value of any Articles adjudged or recovered under the Provisions of this Act, shall go to the Person who shall inform or sue for the same, and the Remainder of the Penalty, together with the Treble Value of any such Articles, or where the Offence shall be proved by the Person who shall inform the whole of the Penalty, shall be paid to the Military Secretary of the Government of the Presidency to which the Court by whom the Penalty shall be adjudicated shall be subject, and shall abide the Disposal of such Military Secretary; and the Court which shall adjudge any Penalty under this Act shall immediately report the same to the said Secretary.

Punishment for giving false Testimony.

LXXI. In all Cases where any Oath is hereby required to be taken, or any Person is hereby required to be sworn, a solemn Declaration or Affirmation may be substituted, if by the Laws for the Time being in force in *India* such Declaration or Affirmation would be allowed to be substituted in the Place of an Oath in case the Party were about to depose as a Witness in a Civil Action in any of the Supreme Courts at the Presidencies; and any Person wilfully and

and knowingly giving false Testimony on Oath, or solemn Declaration or Affirmation, in any Case wherein such Oath or solemn Declaration or Affirmation shall have been made for the Purpose of this Act or any Proceedings under this Act, shall be deemed guilty of wilful and corrupt Perjury, and being thereof duly convicted shall be liable to such Pains and Penalties as by any Law in force in *England* or by any Law in force in *India* any Persons convicted of wilful and corrupt Perjury are subject and liable to, and every Commissioned Officer convicted before a General Court-martial of Perjury shall be cashiered, and every Soldier or other Person amenable to the Provisions of this Act found guilty thereof by a General or other Court-martial shall be punished at the Discretion of the Court.

Offences against former Mutiny Acts and Articles of War, and all existing Proceedings, continued.

LXXII. All Crimes and Offences which have been committed against the said Act of the Twelfth and Thirteenth Years of the Reign of Her present Majesty herein-before mentioned, or against any of the Articles of War made and established by virtue of the same, may be inquired of and punished in like Manner as if they had been committed against this Act; and every Warrant or Order for holding any Court-martial under the said Act shall remain in full Force, and all Proceedings of Courts-martial convened and held under any such Warrant or Order shall be still continued: Provided always, that no Person shall be liable to be tried or punished for any Offence against the said Act or this Act, or the Articles of War made or to be made by virtue of the same Acts or either of them, which shall appear to have been committed more than Three Years before the Date of the Warrant or Order for such Trial, unless the Person accused, by reason of his having absented himself or of some other manifest Impediment, shall not have been amenable to Justice within that Period, in which Case such Person shall be liable to be tried at any Time not exceeding Two Years after the Impediment shall have ceased.

Queen's Prerogative of Mercy not affected.

LXXIII. Nothing in this Act contained shall in any Manner affect Her Majesty's Royal Prerogative of Mercy.

Not to affect Provisions of 7 & 8 Vict. c. 18.

LXXIV. Nothing herein contained shall affect the Provisions of an Act passed in the Seventh Year of Her Majesty, intituled *An Act to remove Doubts as to the Power of appointing, convening, and confirming the Sentences of Courts-martial in the* East Indies, and all the Provisions thereof shall, after the passing of this Act, apply and be in full Force and Effect, unless and except so far as the Provisions thereof may in any respect be inapplicable.

Act to commence on 1st Jan. 1858.

LXXV. This Act shall commence and take effect from and after the First Day of *January* One thousand eight hundred and fifty-eight,

From and after 1st Jan. 1858, Provisions of 12 & 13 Vict. c. 43., and Articles of War made in pursuance of the same, to cease, except as herein provided.

eight, and from and after such Day all Powers and Provisions contained in the said Act of the Twelfth and Thirteenth Years of Her present Majesty, except as herein-after is particularly provided, shall cease and determine, and from and after the same Day the Articles of War made by Her Majesty in pursuance of the said Act shall cease and determine; provided nevertheless, that full Effect shall be given to the Provisions herein-before contained respecting the Punishment of Offences against the said former Act and otherwise as herein-before is mentioned, and that, so far as may be necessary to give full Effect to such Provisions, the said Act of the Twelfth and Thirteenth Years of Her Majesty, and the Articles of War made in pursuance of the same, shall be deemed to be in full Force; and provided also, that the Repeal of the same Act shall not operate to revive any former Act; and provided also, that the Provisions contained in the Act of the Third and Fourth Years of Her present Majesty, Chapter Thirty-seven, concerning or in any way relating to the *Indian* Navy, shall not be affected by this Act.

SCHEDULE to which this Act refers.

FORM of OATH to be taken by the President and Members of Courts-martial.

YOU shall well and truly try and determine according to the Evidence in the Matter now before you.

So help you GOD.

You shall duly administer Justice according to the Rules and Articles for the better Government of the Forces of the East India Company, and according to an Act of Parliament now in force for the Punishment of Mutiny and Desertion of the said Forces and other Crimes therein mentioned, without Partiality, Favour, or Affection, and if any Doubt shall arise which is not explained by the said Articles or Act according to your Conscience, the best of your Understanding, and the Custom of War in the like Cases; and you shall not divulge the Sentence of the Court until it shall be duly approved or published in Orders; neither shall you upon any account, at any Time whatsoever, disclose or discover any Vote or Opinion of any particular Member of the Court-martial, unless required to give Evidence thereof as a Witness by a Court of Justice or a Court-martial in due Course of Law.

So help you GOD

FORM of OATH to be taken by the Judge Advocate (or Person officiating as such).

I, , do swear, That I will not, upon any account whatsoever, disclose or discover the Vote or Opinion of any particular Member of the Court-martial, unless required to give Evidence thereof as a Witness by a Court of Justice or a Court-martial in due Course of Law; and that I will not, unless it be necessary for the due Discharge of my official Duties, disclose the Sentence of the Court until it shall be duly approved.

So help me GOD.

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