

INDIAN NAVY ACT 1848

ACT No. XXVII. of 1848

(Rep., Act 8 of 1868)

[30th December, 1848.]

Passed by the Hon'ble the President of the Council of India in Council on the 30th December, 1848.

An Act to amend the Act XII of 1844.

WHEREAS it is deemed expedient that the Act No. XII. of 1844, entitled “An Act for better securing the observance of an Exact Discipline in the Indian Navy,” should be amended as hereinafter is mentioned, And whereas the Court of Directors of the East India Company have given their previous sanction to the several enactments hereinafter contained, It is enacted as follows:

I. From and after the First day of February 1849 the Articles and Orders hereinafter following, as well in time of Peace as in time of War, shall be observed and put in execution in manner hereinafter mentioned in addition to the thirty-five Articles and Orders contained in the said Act, that is to say:

36th. Every person belonging to the Indian Navy who shall be guilty of Manslaughter, or any other offence against the person, or of any offence against the property, of any subject of Her Majesty, or any other person entitled to Her Majesty's protection, or to the protection of the respective Governments of the East India Company, or any other person whomsoever, not being an Enemy of Her Majesty or of the East India Company, (and the punishment of which offence is not provided for by the said Act,) shall be liable to Transportation for life, or for a term of years, or to such other punishment according to the nature and degree of the offence as a Court Martial shall award.

37th. All Insubordination, Disorders, Irregularities, and Neglects which any person belonging to the Indian Navy may be guilty of, the prejudice of good order or of discipline in the Naval Service of the East India Company, and all disgraceful conduct of a cruel or dishonest or indecent or malicious or mischievous character, though not particularly specified in the said Act, or in this Act, shall be liable to such punishment, having regard to the nature and degree of the offence, as a Court Martial shall adjudge.

38th. Where any person belonging to the Indian Navy (not being of the Rank of an Officer,) shall be guilty of any offence, which the Officer in Command of the Ship or Vessel shall deem necessary to be punished without trial by Court Martial, the offence shall be investigated by such Commanding Officer; and the offender shall be liable to such punishment, (not extending to life or limb, or to transportation, or imprisonment exceeding six days, or to any corporal punishment exceeding twelve lashes), as such Officer shall by his Warrant adjudge.

II. In the several cases in which a Court Martial is by the said Act authorized to award the punishment of death and also in grave cases of embezzlement against the 8th and 24th Articles of the said Act, also in the case of grave offences against the 20th and 21st of the said Articles a Court Martial may, if it shall adjudge the same to be proper, award sentence of transportation for life or for a term of years.

III. In all cases where a capital punishment shall have been awarded by a court Martial, it shall be lawful for the Governor General in Council, (if he shall think the circumstances of the case make it proper so to do), to order the offender to be transported for life, or for a certain term of years.

IV. In cases where any sentence of transportation shall be passed under the provisions of the said Act, or of this Act, or any sentence of death be commuted to transportation, the offender shall be conveyed to or left at some one of the Presidencies of India, and shall be liable to be dealt with, as in the case of other offenders sentenced to transportation, and shall be subject to all such orders for carrying the sentence into execution as shall in that behalf be given by the Governor General in Council, or if the offender shall be at the Presidency of Fort St. George or the Presidency of Bombay, then by the Governor in Council of such Presidency; subject, however, in the last mentioned case, to any orders made by the Governor General in Council, in case any such orders shall have been so made.

V. The Governor General of India in Council, and the Governors in Council of Madras and Bombay respectively, shall have full power and authority from time to time, as there shall be occasion, to direct any superior Officer, Captain, or Commander of the Indian Navy, who shall be in any Port of the East Indies, to hold Courts Martial in any such Port as shall be found most expedient and for the good of the East India Company's Service; and such superior Officer, Captain, or Commander, or Commander shall preside at such Court Martial.

VI. And for removing the doubts which have been entertained as to the effect and intention of the 9th Section of the said Act No. XII. of 1844, in relation to the Officers of whom Courts Martial, to be held or appointed under the Act, shall be composed, it is declared and enacted, that any Officers of the Indian Navy, ordered by Government or the Superintendent of the Indian Navy to be present at any Court Martial, for the purpose of serving thereat if required, shall be eligible to act on any Court Martial, although such Officers may not be commissioned to any Ship or Vessel.

VII. If on any occasion there shall not be present a sufficient number of Superior Officers, Captains, Commanders, and Lieutenants of the Indian Navy to form a Court Martial, for the purposes of the said Act or of this Act, the required number of Officers may, with the sanction of the Government, or Officer by whose authority the Court Martial shall have been convened, be made up or completed by any Officer or Officers in the Military Service of the East India Company then being Commissioned and in Pay, and of the Rank either of Major or Captain, who may be present, and may be ordered, or be ready, to afford his or their services on such Court Martial; and, for default of such or of a sufficient number of such, then the deficiency may be supplied by any Officer or Officers of Her Majesty's Naval service of sufficient Rank, according to the said Act, who may be present, and may be ready to afford his or their services on such Court Martial; and the proceedings of a Court Martial so constituted shall be valid and effectual.

VIII. The Clauses and Provisions of the said Act No. XII. of 1844, for regulating the places to which and persons to whom the same is to extend, and also the other Clauses and Provisions thereof shall apply to this Act, and the two Acts shall be construed together as one Act, and the same effect shall be given thereto, and to the several Articles and Provisions thereof respectively as if the Articles and Provisions contained in this Act had been originally contained in the said Act No. XII. of 1844, and had formed part of the Articles and Provisions that Act.
