

ACT No. III OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 2nd February 1855.)

AN ACT for the better prevention of desertion from the Indian Navy.

WHEREAS it is expedient to amend and extend the laws in force for apprehending and detaining deserters from the Indian Navy and for punishing persons who aid and encourage such desertion; It is hereby enacted as follows:—

I. Article 4 of a Rule, Ordinance, and Regulation for the Port of Bombay, passed by the Governor in Council and registered in the Court of the Recorder on the 11th day of July 1820, is hereby repealed in so far as it relates to Seamen of the Indian Navy.

II. Whoever, directly or indirectly, instigates or procures any Officer, Seaman, or other person belonging to the Indian Navy to desert, or knowing that any Officer, Seaman, or other person belonging to the Indian Navy is about to desert, assists him in deserting; or knowing any Officer, Seaman, or other person belonging to the Indian Navy to be a deserter, harbours, conceals, or assists in concealing such deserter, shall, for every such offence, be liable to a fine not exceeding one thousand Rupees.

III. If it shall appear that a deserter has been concealed on board any Merchant Vessel, and that the Master or person in charge of such Vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such Master or person, or for the want of proper discipline on board his Vessel, such Master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always that no conviction for such minor offence as is lastly hereinbefore described, shall be law-  
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ful unless the same shall be stated in the charge which the party is called upon to answer; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his Vessel, or has, by neglect of duty, or by reason of the want of proper discipline on board the Vessel, allowed such deserter to be so concealed.

Charge may be in the alternative.  
IV. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any Port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a Justice of the Peace, shall be punishable on summary conviction.

Conviction to be quashed on merits only; form of conviction, &c.  
V. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Saving of proceedings under Act No. XIV of 1849.  
VI. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other Officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No. XIV of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act.  
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Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

VII. Whenever,

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VII. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commander-in-Chief of the Indian Navy, or other person who shall be in the performance of the duties of Superintendent of the Indian Navy, or his Deputy, or, in their absence, to the Senior Officer of the Indian Navy at any Port or place within the territories of the East India Company, which oath or affirmation the several persons above-named shall severally under this Act have power to administer, or whenever, on such information as aforesaid, given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such Port or place, there shall appear reason to suspect that any Officer, Seaman, or other person belonging to the Indian Navy, who may have deserted or be absent without leave, is on board any Ship, Vessel, or Boat, or is concealed on shore at any such Port or place within the territories of the East India Company, it shall be lawful for such Commander-in-Chief of the Indian Navy, or person performing the duties of Superintendent of the Indian Navy, or his Deputy, or such Senior Officer, or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a Warrant authorizing the person or persons to whom such Warrant may be addressed to enter into and search, at any time of the day or night, any such Ship, Vessel, or Boat, or any house or place on shore, and to apprehend any such Officer, Seaman, or person belonging to the Indian Navy, and to detain him in custody in order to his being dealt with according to Law.

VIII. The Warrant to be issued under the preceding Section may be addressed to any person in the Indian Navy, or to all Constables, Peace Officers, and other persons who may be bound to execute the Warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such Warrant.

IX. Every person who shall be apprehended as a deserter from the Indian Navy, under any Warrant under the 7th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in or near the place wherein such

Commander-in-Chief of Indian Navy, &c., may issue Warrants for apprehension of deserters.

Warrant to whom to be addressed, and by whom to be executed.

Persons apprehended how to be dealt with, &c.

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such person shall have been arrested, who shall examine such person, and if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the Indian Navy, shall cause him to be placed on board some Vessel of the Indian Navy, in order that he may be dealt with according to law; and if there shall be no such Vessel in or near the place wherein such deserter shall have been apprehended, shall cause such deserter to be conveyed to the nearest or most convenient prison, and to be detained there until he can be placed on board a Vessel of the Indian Navy for such purpose as aforesaid: and in every case in which any person shall be committed to prison as aforesaid, the committing Magistrate shall transmit an account thereof to the Commander-in-Chief of the Indian Navy or to the Officer commanding some Vessel of the Indian Navy; and every person so committed to prison, shall be entitled to his discharge from custody under such commitment, unless within three months from the date thereof he shall, on the requisition of the said Commander-in-Chief, or such other Officer as aforesaid, have been placed on board one of the Vessels of the Indian Navy in order that he may be dealt with according to Law.