



ANNO QUADRAGESIMO SEPTIMO ET QUADRAGESIMO
OCTAVO

VICTORIÆ REGINÆ.

A.D. 1884.

No. 307.

An Act for the Commissioning of Ships of War and the
Establishment of a Naval Brigade.

[Assented to, September 10th, 1884].

WHEREAS it is desirable to provide for the commissioning of ships of war and the establishment of a Naval Brigade for South Australia—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may be called "The Naval Discipline Act, 1884." Short title.

2. For the purpose of defending the coasts of this province, and of co-operating in time of war with the ships of the Royal Navy, in such manner and for such periods as the Governor shall approve, the Governor may, on behalf of Her Majesty, place in commission any armed vessels that the Parliament of this province may from time to time direct to be maintained, and may engage the services of any persons to serve in the naval forces of this province upon the terms and conditions hereinafter provided: Provided also that the number of persons under engagement at any one time shall not exceed one hundred, or such greater number as shall from time to time be fixed by the Governor by Proclamation in the *Government Gazette*; but no such Proclamation shall be issued while Parliament is in Session unless an Address has been passed by both Houses of Parliament, praying for the issue of such a Proclamation.

Governor authorised to commission ships of war, and to engage men to serve therein.

3. Such persons shall be raised by voluntary entry from among seafaring Force to be raised by voluntary enlistment.

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seafaring men and others who may be deemed suitable for the service in which such volunteers are to be employed, and are to be so raised and entered at such times and in such places in the said province as the Governor shall from time to time direct.

Oath to be taken.

4. Every volunteer raised under this Act shall take and subscribe, before some Justice of the Peace or some commissioned officer as hereinafter provided, the oath contained in the First Schedule hereto; and it shall be the duty of such Justice and officer to transmit to the Governor, or to such person as he may appoint in that behalf, every oath so taken and subscribed.

Term of service.

5. Every volunteer raised under this Act, and who shall have taken and subscribed the oath as aforesaid, shall, at his option, be entered for the term of three or five years, and, whether employed regularly or only occasionally during such term, shall be subject as a volunteer to the provisions of this Act during such term and no longer, save as hereinafter otherwise provided; and at the expiration of the period of his service as volunteer he shall be entitled to claim his discharge, save as hereinafter provided; but, when any volunteer shall be entitled to claim his discharge as aforesaid, he shall continue liable to the provisions of this Act until actually discharged by the Governor or some officer duly appointed by him to give such discharge.

Governor may appoint officers.

6. The Governor may appoint fit and proper persons to be officers of such volunteers, and may issue commissions under his hand and the seal of the province, and may withdraw, alter, or amend such commissions.

Appointment of warrant and petty officers.

7. The Governor, or any person to whom he may delegate his authority in that behalf, may appoint fit and proper persons to be warrant and non-commissioned or petty officers of such volunteers.

Title of force.

8. The force so constituted shall be called the South Australian Naval Brigade, and is hereinafter called the Naval Brigade.

Pay and allowances.

9. The Governor may fix the bounties on enlistment and re-enlistment, and the amount of pay and allowances to be received by the volunteers aforesaid: Provided that such bounties, pay, and allowances shall not exceed in amount the respective sums voted by Parliament for the services of the Naval Brigade.

The Governor may make regulations for the government of the Naval Brigade, and for carrying this Act into effect.

10. The Governor may make rules and regulations for the employment, suspension, or dismissal of the members of the Naval Brigade, and for enforcing good order and discipline among them, and otherwise for carrying out the objects of this Act, and may, from time to time, annul, amend, and add to the same, or make others in lieu thereof; and such rules and regulations shall be published in the *Government Gazette*, and, after such publication, shall be judicially noticed by all Courts and Justices of the Peace, and all such rules and regulations

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regulations shall, within fourteen days after the making thereof, be laid before both Houses of Parliament if Parliament be then sitting, and if Parliament be not then sitting, then within fourteen days after the commencement of the next Session of Parliament.

11. On the summons, by Proclamation by the Governor in the *Government Gazette*, and on all occasions of actual invasion of the colony, or of hostile attack thereon, or upon the making of any general signals of alarm in the manner prescribed, the members of the Naval Brigade not already in active service shall forthwith repair to the rendezvous prescribed, or otherwise assemble as prescribed, and shall thenceforth be liable to active service in accordance with the rules and regulations.

Liabie to active service when summoned in case of invasion, &c.

12. Every member of the Naval Brigade who, unless absent from the province on leave, or laboring under an infirmity disabling him from active service, shall refuse or neglect to repair to the rendezvous, or join the assembly of the Naval Brigade as aforesaid, shall be deemed a deserter, and be liable to punishment as such.

Refusal or neglect to obey summons.

13. Every member of the Naval Brigade, from the time of his entering upon active service until his services shall be legally dispensed with, shall, while serving ashore or afloat within or beyond the limits of this province, be and continue subject to the enactments and regulations for the time being in force for the discipline of the Royal Navy.

Mutiny Act and Articles of War to apply during active service.

14. The Governor may, from time to time, appoint five persons, being commissioned officers under this Act, or being Special Magistrates or Justices of the Peace, of whom three shall be a quorum, to be a court to hear and determine all offences committed against this Act, or the regulations made in pursuance hereof, and shall appoint one of the persons aforesaid to be president of such court, and the procedure of such court and all matters connected therewith shall be governed by the regulations to be made hereunder.

Power to constitute court.

15. Such court shall have the power of punishing, for contempt of court, by fine not exceeding Five Pounds, or by imprisonment for not more than twenty-four hours, and shall have the like power of adjournment and of enforcing the attendance and examination of witnesses as Justices of the Peace have under Ordinance No. 6 of 1850, and any statute extending or amending the same.

Power to compel attendance of witnesses, and punish for contempt.

16. Such court shall have power to censure, fine, and imprison, with or without hard labor, and to dismiss from the service, any person found guilty of offences against this Act, or the rules and regulations to be made hereunder: Provided that no person shall be liable to pay a fine exceeding Fifty Pounds, or be imprisoned for more than six months.

Power to punish.

17. In addition to any other punishment herein provided for, such

Offender may be ordered to pay the

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amount of damage in certain cases.

such court may further adjudge any offender to pay such amount as shall make good any loss or damage to the Government property with which he may have been entrusted, or any part thereof, in all cases where such damage or loss shall have been occasioned by his wilful neglect or misconduct, and such amount may, by virtue of such judgment, be recovered by summary proceedings before any two Justices of the Peace at the suit of any person appointed by the said court to sue for the same, or may be stopped from the pay or allowances of the offender in such mode as the court shall direct.

Challenge of judges by accused.

18. In all trials by such court, as soon as the president and other members appointed to serve thereon are assembled, their names shall be read over in the hearing of the accused, who shall thereupon be asked if he desires to be tried by the president or by any of such members, and if the accused shall then object to the president, such objection, unless disallowed by the majority of the other members of the court, shall be referred to the decision of the authority by whom such president shall have been appointed; but if the accused object to any member, other than the president, such objection shall be decided by the president and other members so appointed; and when the place of the president or other members in respect of whom any challenge shall have been made and allowed shall have been supplied by some member in respect of whom no challenge shall have been made or allowed, and, if no challenge shall have been made, or, if made, not allowed, the oath in the Second Schedule to this Act shall be administered by the president to the other members, and afterwards by some sworn member to the president.

Oath of judges.

Proceedings of court to be drawn up, signed, and sent to the Governor.

19. When any such court has, by a majority of its members, decided upon and recorded their sentence, the proceedings shall be drawn up in writing, and signed by the president of such court, who shall thereupon forward them to the Governor for confirmation.

Sentence of court to be confirmed.

20. No sentence passed by any such court under this Act shall be put into execution until confirmed by the Governor, and it shall be lawful for the Governor to withhold his confirmation and to remit either wholly or in part any such sentence.

As to swearing and summoning witnesses.

Witnesses not liable to arrest.

21. The president of every such court shall administer the oath or the affirmation contained in the Third Schedule hereto to every witness or other person who shall be examined before such court in any matter relating to any proceeding before the court, and every person as well civil as military who may be required to give or produce evidence before a court may be summoned by the president of the court, and all persons summoned and attending as witnesses before any such court shall, during their necessary attendance in or on such courts, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or, if such court be not sitting, then by any Judge of the Supreme Court

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Court upon its being made to appear to such Court or Judge, by affidavit in a summary way, that such witness was arrested in going to or attending upon or returning from such court; and all witnesses so duly summoned as aforesaid who shall not attend on such courts, or attending shall refuse to be sworn or to affirm as aforesaid, or, being so sworn, or having so affirmed, shall refuse to give evidence, or shall not produce the documents under their power or control required to be produced by them, or to answer all such questions as the court may legally demand of them, shall forfeit and incur such penalty not exceeding Five Pounds as the court may direct and adjudge.

22. Every person who, upon any examination upon oath before any such court held in pursuance of this Act, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Penalty on persons giving false evidence.

23. Whenever it is intended to bring any person employed as aforesaid for trial before any such court, the president of the court shall issue a summons under his hand to such person, commanding him to attend at a time and place to be therein specified; and if such person do not appear at such time and place he shall be deemed to have waived his right of challenge, and the proceedings shall be carried on as if the accused were present.

Accused to attend court.

24. When the proceedings of such courts have been duly confirmed, and the sentence promulgated, the proceedings are to be forthwith returned to the president, who shall forthwith transmit the same to the Attorney-General for record in his office.

Proceedings to be deposited in Attorney-General's office.

25. Any person who has been tried by such court, or any person on his behalf, shall be entitled, on demand to be made within the space of six months from the date of the final decision on the proceedings, to a copy of such proceedings (paying for the same at the rate of sixpence per folio of seventy-two words), whether such sentence shall be approved or not, as soon after the receipt of the proceedings at the office of the Attorney-General as such copy can be conveniently supplied.

Copy may be obtained on demand.

26. In all cases in which the same court tries more offenders than one, and they are arraigned on separate and distinct charges, the members of the court shall be re-sworn at the commencement of each trial, and the proceedings shall be made up separately, and signed as if each offender had been tried by a court composed of different members.

Same court trying more offenders than one.

27. No person who has been acquitted or convicted of any offence by any court under this Act shall be liable to be tried a second time by the same or any other court for the same offence; and no finding, opinion, or sentence given by any court, and signed by the president thereof, shall be revised more than once, nor shall
any

No second trial for same offence, but re-vision may be allowed.

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any additional evidence in respect of any charge with which the offender is then charged be received by the court on any revision, except evidence as to his previous character in the service.

Stoppage of pay in certain cases.

28. No member of the Naval Brigade shall be entitled to receive any pay or allowances when in confinement under a sentence of any court, or during any absence from duty without leave, or under any charge of which he shall be afterwards convicted either by such court or by any court of criminal jurisdiction.

Minor offences, with their punishments.

29. The commanding officer of the Naval Brigade may (subject to the regulations to be made hereunder) take notice of any minor offence against discipline by fine not exceeding Twenty Shillings, or solitary confinement for a time not exceeding twenty-four hours in a place set apart for the purpose.

Power to arrest.

30. If any person engaged as aforesaid do not, when on service, or during the times of training and exercise, or of his being under arms or wearing the clothing or accoutrements of his corps, and going to or being at or coming from any place of exercise or assembly of the corps, conduct himself in a decent and orderly manner, or do not obey the lawful command of his commanding officer or the regulations to be made as aforesaid, the person so offending may be ordered by such officer into the custody of any person or persons belonging to such forces, and be detained as such officer may direct, until such offence is dealt with as provided by this Act.

Absconders may be apprehended on officer's warrant.

31. Any member of the Naval Brigade who shall abscond or desert may be apprehended by a written order under the hand of the officer in command of the vessel or corps to which such absconder or deserter belongs, and such person may be conveyed on board such vessel or to any place named in such order; and all constables and other peace officers are hereby directed to take cognizance of such order, and to aid and assist in the apprehension and conveyance on board, or to such other place named in such order, of the person therein referred to, and in the meantime to lodge such person in some place of security until such order can be obeyed.

Power to detain.

32. Every gaoler or keeper of any public prison or gaol in any part of this province shall receive into his custody any offender under sentence of imprisonment by a court under this Act, upon delivery to such gaoler or keeper of a warrant of commitment in the form contained in the Fourth Schedule hereto, under the hand and seal of the president of the court; and such gaoler or keeper shall keep such offender in a proper place of confinement, with or without hard labor, and with or without solitary confinement, according to the sentence of the court and during the time specified in the said order; and any gaoler or keeper of any public prison or gaol shall receive into his custody any absconder or deserter upon delivery to such gaoler or keeper of an order in writing in that behalf from the officer commanding the vessel or corps to which any such absconder is attached.

33. In

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33. In the event of any member of the Naval Brigade being killed or wounded in actual service or whilst on duty, such wounded person, or the widow and family of the person killed, shall be entitled to such pension or gratuity as Parliament shall provide.

Pension to wounded and to widows and families of slain.

34. All officers and other members of the Naval Brigade being on actual duty, and all prisoners under their charge, and their baggage, shall be exempt from any tolls or fare upon any railway, and every station-master, toll collector, or clerk, who shall take any toll or fare contrary to this Act shall, on summary conviction, be punishable by a fine of not more than Five Pounds for every such offence.

Officers and members free of railway tolls and fares.

35. Any person who shall falsely and fraudulently personate or represent himself to be an officer or member of the Naval Brigade, with intent to evade payment of any toll or fare to which he would otherwise be liable, shall, on summary conviction, be punishable by a fine of not more than Ten Pounds.

Penalty for personation.

36. It shall not be lawful for any person, not being a member of the Naval Brigade, to wear the uniform, or any part thereof, of the Naval Brigade; and if any person wilfully offend against the provisions of this section, he shall, on summary conviction, be punishable by a fine of not more than Ten Pounds.

Unauthorised persons not to wear the uniform.

37. When any person engaged under this Act as a member of the Naval Brigade has ceased to be a member of the same, and shall refuse or neglect to give up, on demand of the commanding officer, any arms, ammunition, accoutrements, clothing, or appointments belonging to the Naval Brigade, or any public stores or property in his care or keeping as a member thereof, he shall, in addition to any civil liability that he may have incurred, be punishable, on summary conviction for such offence, by a fine of not more than Ten Pounds.

Persons ceasing to belong to Brigade to give up arms, &c., under a penalty.

38. If any person knowingly and wilfully buy, take, exchange, receive, or conceal any arms, accoutrements, clothing, or appointments, or any public stores, property, or ammunition delivered for the use of any member of the Naval Brigade, the person so offending shall, on summary conviction, be punishable by a fine of not more than Ten Pounds.

Penalty for buying arms, accoutrements, &c.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WILLIAM C. F. ROBINSON, Governor.

SCHEDULES.

THE FIRST SCHEDULE.

Section 4.

I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the _____ for a period of _____ years, or until sooner legally discharged, dismissed, or removed, and that I will oppose and resist Her Majesty's enemies, and whether employed on land or at sea, will cause Her Majesty's peace to be kept and preserved and that I will prevent, to the best of my power, all offences against the same, and that, while I continue to act in the same, I will, to the best of my skill and knowlege, faithfully discharge my duty according to law.

So help me God—

THE SECOND SCHEDULE.

Section 18.

Oath to be taken by Member of a Court.

You shall well and truly try and determine, according to the evidence in the matter now before you, and shall duly administer justice according to the rules and regulations for the better government of the paid military and naval forces, and the Acts in force in South Australia relating thereto, without partiality favor, or affection, and if any doubt shall arise which is not explained by the said Acts, or the said rules and regulations, then according to your conscience and the best of your understanding. And you shall not divulge the sentence of the court until it shall be duly approved; neither shall you, upon any account, at any time whatsoever, disclose or discover the note or opinion of any particular member of the court, unless required to give evidence thereof as a witness in a judicial proceeding before a court.

So help you God—

THE THIRD SCHEDULE.

Section 21.

Oath to be administered by the President to a Witness.

The evidence which you shall give before the court shall be the truth, the whole truth, and nothing but the truth.

So help you God—

Affirmation of Witness who objects to take an Oath.

I, A. B., do solemnly, sincerely, and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful, and I do also solemnly, sincerely, and truly affirm and declare that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

