

ACT NO. XI OF 1856.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th April, 1856.)

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty and of the East India Company in India.

WHEREAS it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the Service of Her Majesty and of the East India Company in India, and for punishing persons who aid and encourage such deserters: It is enacted as follows:—

Preamble.

1. If it shall appear that any officer or soldier, being a deserter from the said Forces, 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 offence, as is hereinbefore described, shall be lawful, 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.

Penalty on master in certain cases if a deserter be concealed on board his ship.

Proviso.

Charge may be in the alternative.

2. Any

[Price one anna nine pies.]

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Jurisdiction.

2. 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, etc.

3. 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.

4. 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. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Proviso.

Commanding Officer may issue warrants for

5. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commanding Officer

Officer of any fort, garrison, station, regiment, or detachment, at any port or place within the Territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, 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 European Officer or Soldier belonging to the said Forces, 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 Commanding 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 or soldier, and to detain him in custody in order to his being dealt with according to law.

apprehension
of deserters.

6. The warrant to be issued under the preceding Section may be addressed to any European Officer or Soldier of the said Forces, 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.

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

7. Every person who shall be apprehended under any warrant under the 5th 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 person shall have been arrested,

Persons ap-
prehended
how to be
dealt with,
etc.

who

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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 said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the Commanding Officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the Commanding Officer of the nearest military station, in order that he may be dealt with according to law.