



Naval Discipline Act 1860

1860 CHAPTER 123

PART I

ARTICLES OF WAR

Public Worship

I Public Worship to be performed.

All Officers in Command of Her Majesty's Ships of War shall cause the Public Worship of Almighty God according to the Liturgy of the Church of *England* established by Law to be solemnly, orderly, and reverently performed in their respective Ships, and shall take care that Prayers and Preaching, by the Chaplains in Holy Orders of the respective Ships, be performed diligently, and that the Lord's Day be observed according to Law.

Misconduct in the Presence of the Enemy

II Penalty for Misconduct in Action.

Every Flag Officer, Captain, Commander or Officer commanding subject to this Act who upon Signal of Battle, or on Sight of a Ship of an Enemy which it may be his Duty to engage, shall not,

- (1) Use his utmost Exertion to bring his Ship into Action ;
- (2) Or shall not during such Action, in his own Person and according to his Rank, encourage his inferior Officers and Men to fight courageously;
- (3) Or who shall surrender his Ship to the Enemy when capable of making a successful Defence, or who in Time of Action shall improperly withdraw from the Fight, shall, if he has acted traitorously, suffer Death ; if he has acted from Cowardice shall suffer Death, or be imprisoned, and be also dismissed with Disgrace from Her Majesty's Service; and if he has acted from Negligence, or through other Default,

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he shall be dismissed from Her Majesty's Service, with or without Disgrace, or shall suffer such other Punishment as is herein-after mentioned.

III Penalty for not pursuing the Enemy and of not assisting a Friend in View.

Every Officer subject to this Act who shall forbear to pursue the Chase of any Enemy, Pirate, or Rebel, beaten or flying, or shall not relieve and assist a known Friend in View to the utmost of his Power, or who shall improperly forsake his Station, shall, if he has therein acted traitorously, suffer Death; if he has acted from Cowardice, suffer Death or be imprisoned; if he has acted from Negligence, or through other Default, shall be dismissed from Her Majesty's Service, with or without Disgrace, or shall suffer, such other Punishment as is herein-after mentioned.

IV Penalty for delaying or discouraging the Service, or deserting his Post, &c.

When any Action or any Service is commanded, every Person subject to this Act who shall presume to delay or discourage the said Action or Service upon any Pretence whatsoever, or in the Presence or Vicinity of the Enemy shall desert his Post or sleep upon his Watch, shall suffer Death, or such other Punishment as is herein-after mentioned.

V Penalty for Misconduct of subordinate Officers and Men in Action.

Every Person subject to this Act, and not being a Commanding Officer, who shall not use his utmost Exertions to carry the Orders of his superior Officers into execution when ordered to prepare for Action, or during the Action, shall, if he has acted traitorously, suffer Death ; if he has acted from Cowardice shall suffer Death, or be imprisoned; and if he has acted from Negligence, or through other Default, be dismissed from Her Majesty's Service, with or without Disgrace, or suffer such other Punishment as is herein-after mentioned.

Communications with the Enemy

VI Penalty for Spies.

All Spies for the Enemy shall be deemed to be Persons subject to this Act, and shall suffer Death, or such other Punishment as is herein-after mentioned.

VII Penalty for corresponding, &c. with the Enemy.

Every Person subject to this Act who shall traitorously hold—

- (1) Correspondence with or shall give Intelligence to the Enemy;
- (2) Or fail to make known to the proper Authorities any Information he may have received from the Enemy;
- (3) Or who shall relieve the Enemy with any Supplies,
shall suffer Death, or such other Punishment as is herein-after mentioned.

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VIII Penalty for improper Communication with the Enemy.

Every Person subject to this Act who shall, without any treacherous Intention, hold any improper Communication with the Enemy, shall be dismissed from Her Majesty's Service, or shall suffer such other Punishment, as is herein-after mentioned.

Neglect of Duty

IX Penalty for abandoning Post, &c.

Every Person subject to this Act who shall desert his Post or sleep upon his Watch, or negligently perform the Duty imposed on him, shall be dismissed from Her Majesty's Service, with or without Disgrace, or shall suffer such other Punishment as is herein-after mentioned.

Mutiny

X Penalty for Mutiny with Violence.

Where Mutiny is accompanied by Violence, every Person subject to this Act who shall join therein shall suffer Death, Penal Servitude, or Imprisonment; and every Person subject to this Act who shall not use his utmost Exertions to suppress such Mutiny shall, if he has acted traitorously, suffer Death, Penal Servitude, or Imprisonment; if he has acted from Cowardice, shall suffer Penal Servitude or Imprisonment; if he has acted from Negligence he shall be dismissed from Her Majesty's Service, with or without Disgrace, or suffer such other Punishment as is herein-after mentioned.

XI Penalty for Mutiny not accompanied by Acts of Violence.

Where a Mutiny is not accompanied by Violence, the Ringleaders of such Mutiny shall suffer Death, Penal Servitude, or Imprisonment; and all other Persons who shall join in such Mutiny, or shall not use their utmost Exertions to suppress the same, shall suffer Imprisonment, or such other Punishment as is herein-after mentioned.

XII Penalty for inciting to Mutiny.

Every Person subject to this Act who shall endeavour to seduce any other Person subject to this Act from his Duty or Allegiance to Her Majesty, or endeavour to incite him to commit any Act of Mutiny, shall suffer Death, Penal Servitude, Imprisonment, or such other Punishment as is herein-after mentioned.

XIII Penalty for Civilians endeavouring to seduce from Allegiance

Every Person, not otherwise subject to this Act, who, being on board any Ship of Her Majesty, shall endeavour to seduce from his Duty or Allegiance to Her Majesty any Person subject to this Act, shall so far as respects such Offence be deemed to be a Person subject to this Act, and shall suffer Death or such other Punishment as is herein-after mentioned.

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XIV Penalty for making mutinous Assemblies or uttering seditious Words.

Every Person subject to this Act who shall make or endeavour to make any mutinous Assembly, or shall lead or incite any other Person to join in any mutinous Assembly, or shall utter any Words of Sedition or Mutiny, shall suffer Penal Servitude, Imprisonment, or such other Punishment as is herein-after mentioned.

XV Penalty for concealing any traitorous or mutinous Practice, Design, or Words.

Every Person subject to this Act who shall wilfully conceal any traitorous or mutinous Practice or Design, or any traitorous or mutinous Words spoken against Her Majesty, or any Words, Practice, or Design tending to the Hindrance of the Service, shall suffer Penal Servitude, Imprisonment, or such other Punishment as is herein-after mentioned.

XVI Penalty for striking or offering to strike superior Officer.

Every Person subject to this Act who shall strike or offer to strike or use any Violence against his superior Officer, being in the Execution of his Office, shall be punished with Death, Penal Servitude, Imprisonment, or such other Punishment as is herein-after mentioned ; and every Person subject to this Act who shall strike or offer to strike or use any Violence against his superior Officer, not being in the Execution of his Office, shall be punished with Penal Servitude or such other Punishment as is herein-after mentioned.

Insubordination

XVII Penalty for Disobedience or using threatening Language to superior Officer.

Every Person who shall wilfully disobey any lawful Command of his superior Officer, or shall use threatening or insulting Language or behave with Contempt to his superior Officer, shall be punished with Dismissal from Her Majesty's Service, with or without Disgrace, or suffer Imprisonment or such other Punishment as is herein-after mentioned.

XVIII Penalty for quarrelling, &c, or using reproachful Speech or Gestures.

Every Person subject to this Act who shall quarrel or fight with any other Person, whether such other Person be or be not subject to this Act, or shall use reproachful or provoking Speeches or Gestures, tending to make any Quarrel or Disturbance, shall suffer Imprisonment or such other Punishment as is herein-after mentioned.

Desertion and Absence without Leave

XIX Penalty for Desertion.

Every Person subject to this Act who shall absent himself from his Ship or from the Place where his Duty requires him to be, without any Intention of returning to such Ship or Place, or who shall at any Time and under any Circumstances when absent from his Ship do any Act which shows that he has not any Intention of returning to such Ship or Place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,

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- (1) If he has deserted to the Enemy he shall be punished with Death, Penal Servitude, or such other Punishment as is herein-after mentioned;
- (2) If he has deserted under any other Circumstances he shall be punished with Penal Servitude or such other Punishment as is herein-after mentioned ;
and in every such Case he shall forfeit all Pay, Head Money, Bounty, Salvage, Prize Money, and Allowances that have been earned by him, and all Annuities, Pensions, Gratuities, Medals, and Decorations that may have been granted to him, and also all Clothes and Effects which he may have left on board the Ship or at the Place from which he has deserted, unless the Tribunal by which he is tried shall otherwise direct.

XX Penalty for inducing any Person to desert.

Every Person subject to this Act who shall endeavour to seduce any other Person subject to this Act to desert shall suffer Imprisonment, or such other Punishment as is herein-after mentioned.

XXI Penalty for entertaining a Deserter.

Every Officer in Command of any Ship of Her Majesty who shall receive or entertain any Deserter from Her Majesty's Military or Naval Forces, after discovering him to be a Deserter, and shall not, with all convenient Speed, in the Case of a Deserter from Her Majesty's Naval Forces, give Notice to the Commanding Officer of the Ship to which such Deserter belongs, or, if such Ship is at a Distance, to the Secretary of the Admiralty or to the Commander-in-Chief, or, in case of a Deserter from Her Majesty's Military Forces, give Notice to the Secretary of War or the Commanding Officer of the Regiment to which such Deserter belongs, the Officer so offending shall be dismissed from Her Majesty's Service, or shall suffer such other Punishment as is herein-after mentioned.

XXII Penalty for Absence without Leave.

Every Person subject to this Act who shall be absent without Leave shall be liable to Imprisonment for any Period not exceeding Ten Weeks, with or without Hard Labour, or such other Punishment as the Circumstances of the Case may require, and shall also forfeit out of his Wages a Sum not exceeding the Amount of Two Days Pay, exclusive of all Charges of Apprehension, and in addition for every Twenty-five Hours of Absence a Sum not exceeding Six Days Pay ; and any Person may be deemed to be absent without Leave, notwithstanding his Absence may not have been voluntary, but may have been caused by Imprisonment under any Commitment for any Offence against the Law.

Miscellaneous Offences

XXIII Penalty for profane Swearing and other Immoralities.

Every Person subject to this Act who shall be guilty of profane Oaths, Cursings, Execrations, Drunkenness, Uncleaness, or other scandalous Actions in derogation of God's Honour and Corruption of good Manners, shall be dismissed from Her Majesty's Service, or suffer such other Punishment as is herein-after mentioned.

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XXIV Penalty on Officer for Cruelty or Oppression.

Every Officer subject to this Act who shall be guilty of Cruelty, or of any scandalous or fraudulent Conduct, shall be dismissed with Disgrace from Her Majesty's Service; and every Officer subject to this Act who shall be guilty of any other Conduct unbecoming the Character of an Officer shall be dismissed, with or without Disgrace, from Her Majesty's Service.

XXV Penalty for suffering Ships to be improperly lost.

Every Person subject to this Act who shall either designedly or negligently suffer any Ship of Her Majesty to be improperly lost, stranded, or hazarded, shall be dismissed from Her Majesty's Service, with or without Disgrace, or suffer Imprisonment or such other Punishment as is herein-after mentioned.

XXVI Penalty for not taking care of and defending Ships under Convoy.

The Officers of all Ships of Her Majesty appointed for the Convoy and Protection of any Ships or Vessels shall diligently perform their Duty without Delay according to their Instructions in that Behalf; and every Officer who shall fail in his Duty in this respect, and shall not defend the Ships and Goods under his Convoy, without Deviation to any other Objects, or shall refuse to fight in their Defence if they are assailed, or shall cowardly abandon and expose the Ships in his Convoy to Hazard, or shall demand or exact any Money or other Reward from any Merchant or Master for convoying any Ships or Vessels entrusted to his Care, or shall misuse the Masters or Mariners thereof, shall make such Reparation in Damages to the Merchants, Owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the Nature of his Offence, by Death or such other Punishment as is herein-after mentioned.

XXVII Master of Merchant Vessel to obey Orders of convoying Officer.

Every Master or other Officer in Command of any Merchant or other Vessel under the Convoy' of any Ship of Her Majesty shall obey the Commanding Officer thereof in all Matters relating to the Navigation or Security of the Convoy, and shall take such Precautions for avoiding the Enemy as may be directed by such Commanding Officer ; and if he shall fail to obey such Directions such Commanding Officer may compel Obedience by Force of Arms, without being liable for any Loss of Life or of Property that may result from his using such Force.

XXVIII Penalty for taking any Goods on board other than for the Use of the Vessel, except Gold, Silver, Jewels, &c.

Every Officer in Command of any of Her Majesty's Ships who shall receive on board', or permit to be received on board, such Ship any Goods or Merchandises whatsoever, other than for the sole Use of the Ship, except Gold, Silver, or Jewels, and except the Goods and Merchandise belonging to any Merchant or on board any Ship which may be shipwrecked or in imminent Danger, either on the High Seas or in some Port, Creek, or Harbour, for the Purpose of preserving them for their proper Owners, or except such Goods or Merchandise as he may at any Time be ordered to take or receive on board by Order of the Admiralty, shall be dismissed from Her Majesty's Service, or suffer such other Punishment as is herein-after mentioned.

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XXIX Penalty for embezzling Public Stores.

Every Person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell, or receive, any Ammunition, Provisions, or other Public Stores, and every Person subject to this Act who shall knowingly permit any such wasteful Expenditure, Embezzlement, Sale, or Receipt, shall suffer Imprisonment or such other Punishment as is herein-after mentioned.

XXX Penalty for burning any Magazine or Vessel, &c. not belonging to an Enemy.

Every Person subject to this Act who shall unlawfully set fire to any Dockyard, Victualling Yard, or Steam Factory Yard, Arsenal, Magazine, Building, Stores, or to any Ship, or Furniture thereunto belonging, not being the Property of an Enemy, Pirate, or Rebel, shall suffer Death or such other Punishment as is hereinafter mentioned.

XXXI Penalty for making or signing false Musters.

Every Person subject to this Act who shall knowingly make or sign a false Muster or Record or other official Document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other Person in the making or signing thereof, shall be dismissed from Her Majesty's Service, with or without Disgrace, or suffer such other Punishment as is hereinafter mentioned.

XXXII Penalty for Misconduct in Hospital.

Every Person subject to this Act who shall wilfully do any Act, or wilfully disobey any Orders, whether in Hospital or elsewhere, with Intent to produce or to aggravate any Disease or Infirmary, or to delay his Cure, or who shall feign any Disease, Infirmary, or Inability to perform his Duty, shall suffer Imprisonment, or such other Punishment as is herein-after mentioned.

XXXIII Penalty for endeavouring to stir up any Disturbance on account of Unwholesomeness of the Victuals or other just Grounds.

Every Person subject to this Act who shall have any Cause of Complaint, either of the Unwholesomeness of the Victuals or upon any other just Ground, shall quietly make the same known to his Superior, or Captain, or Commander-in-Chief, and the said Superior, Captain, or Commander-in-Chief shall, as far as he is able, cause the same to be presently remedied; and no Person subject to this Act upon any Pretence whatever shall attempt to stir up any Disturbance, upon Pain of such Punishment as a Court-martial may think fit to inflict, according to the Degree of Offence.

XXXIV Penalty for Offences against Naval Discipline not particularly mentioned.

Every Person subject to this Act who shall be guilty of any Act, Disorder, or Neglect to the Prejudice of good Order and Naval Discipline, not herein-before specified, shall suffer Imprisonment, or such other Punishment as is herein-after mentioned.

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XXXV Penalty for not sending to the Court of Admiralty all Papers found aboard Prize Ships.

All the Papers, Charter Parties, Bills of Lading, Passports, and other Writings whatsoever that shall be taken, seized, or found aboard any Ship or Ships which shall be taken as Prize shall be duly preserved, and the Commanding Officer of the Ship which shall take such Prize shall send the Originals entire and without Fraud to the Court of Admiralty, or such other Court or Commissioners as shall be authorized to determine whether such Prize be lawful Capture, there to be viewed, made use of, and proceeded upon, according to Law, upon Pain that every Person offending herein shall be dismissed from Her Majesty's Service, or shall suffer such further Punishment as is herein-after mentioned, and in addition thereto shall forfeit and lose his Share of the Capture.

XXXVI Penalty for taking Money or other Effects out of any Prize before the same shall be condemned.

No Person subject to this Act shall take out of any Prize or Ship seized for Prize any Money, Plate, or Goods, unless it shall be necessary for the better securing thereof, or for the necessary Use and Service of any of Her Majesty's Ships and Vessels of War, before the same be adjudged lawful Prize in some Admiralty Court; but the full and entire Account of the whole without Embezzlement shall be brought in, and Judgment passed entirely upon the whole, without Fraud, upon Pain that every Person offending herein shall be dismissed from Her Majesty's Service, with or without Disgrace, or suffer such other Punishment as is herein-after mentioned, and in addition thereto forfeit and lose his Share of the Capture.

XXXVII Penalty for stripping or ill-using Persons taken on board a Prize.

If any Ship or Vessel shall be taken as Prize, none of the Officers, Mariners, or other Persons on board her shall be stripped of their Clothes, or in any sort pillaged, beaten, or evil intreated, upon Pain that the Person or Persons so offending shall be dismissed from Her Majesty's Service, with or without Disgrace, or suffer such other Punishment as is herein-after mentioned. Offences punishable by ordinary Law.

XXXVIII Penalty for Offences punishable by ordinary Law.

Every Person subject to this Act who shall be guilty of Murder shall suffer Death:

If he shall be guilty of Manslaughter he shall suffer Penal Servitude, Imprisonment, or such other Punishment as is hereinafter mentioned:

If he shall be guilty of Sodomy with Man or Beast he shall suffer Penal Servitude:

If he shall be guilty of indecent Assaults he shall suffer Penal Servitude or such other Punishment as is herein-after mentioned:

If he shall be guilty of Robbery or Theft he shall suffer Penal Servitude, Imprisonment, or such other Punishment as is hereinafter mentioned:

If he shall be guilty of any other Criminal Offence punishable by the Laws of *England*, he shall be punished either in pursuance of the First Part of this Act as an Act to the Prejudice of good Order and Naval Discipline not otherwise specified, or the Offender shall be subject to the same Punishment as might be awarded by any Civil Tribunal competent to try the Offender.

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XXXIX Offences, when punishable.

For all Offences specified or referred to in this Act, if committed by any Person subject thereto in any Harbour, Haven, or Creek, or on any Lake or River, whether in or out of the United Kingdom or anywhere within the Jurisdiction of the Admiralty, or at any Place on Shore out of the United Kingdom of *Great Britain and Ireland*, or in any of Her Majesty's Dockyards, Victualling Yards, Steam Factory Yards, or on any Gun Wharf, or in any Arsenal, Barrack, or Hospital belonging to Her Majesty, whether in or out of the said United Kingdom, the Offender may be tried and punished under this Act, and for all Offences herein-before specified under the Headings " Communications with the Enemy," " Mutiny," " Insubordination," " Desertion and Absence without Leave," or " Miscellaneous Offences," if committed by any Person subject to this Act at any Place on Shore, whether in or out of the said United Kingdom, the Offender may be tried and punished under this Act.