

Suppression of Rebellion Act 1863

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An Act for the suppression of the Rebellion which unhappily exists in this Colony and for the protection of the Persons and Property of Her Majesty's Loyal Subjects within the same (Temporary).

Preamble reciting existence of Rebellion.

WHEREAS a combination for the subversion of the authority of Her Majesty and Her Majesty's Government has for some time existed amongst certain Aboriginal tribes of this Colony and has now manifested itself in acts of open Rebellion And Whereas persons in prosecution of the said Rebellion have committed murders on some of Her Majesty's subjects engaged in their peaceful occupations have pillaged their homesteads and burnt and destroyed their property And Whereas the ordinary course of law is wholly inadequate for the suppression of the said Rebellion and the prompt and effectual punishment of those who are guilty of such atrocity and outrage:

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows:—

I Short Title.

The Short Title of this Act shall be "The Suppression of Rebellion Act 1863."

II Governor to issue orders for the suppression of the Rebellion.

It shall be lawful for the Governor in Council from time to time during the continuance of the said Rebellion to issue his Orders to all persons whom he shall think fit to authorize in that behalf to take the most vigorous and effectual measures for suppressing the said Rebellion in any part of this Colony which shall appear to be necessary for the public safety and for the safety and protection of the persons and properties of Her Majesty's peaceable and loyal subjects and to punish all persons acting aiding or in any manner assisting in the said Rebellion or maliciously attacking or injuring the persons or properties of Her Majesty's loyal subjects in furtherance of the same according to Martial Law either by death penal servitude or otherwise as to them shall seem expedient and to arrest and detain in custody all persons engaged or concerned in such Rebellion or suspected thereof and to cause all persons so arrested or detained in custody to be brought to trial in a summary manner by Courts Martial at the earliest possible period for all offences committed in furtherance of the said Rebellion whether such persons shall have been taken in open arms against Her Majesty or shall have been otherwise concerned in the said Rebellion or in aiding or in any manner assisting in the same and to execute the Sentences of all Courts Martial whether of death penal servitude or otherwise and to do all other acts necessary to such several purposes.

III Acts done in pursuance of such orders not to be questioned in Supreme Court.

No act which shall be done in pursuance of any order issued as aforesaid shall be questioned in Her Majesty's Supreme Court of New Zealand or in any other Court And in order to prevent any doubt which might arise whether any act alleged to have been done in conformity to any Orders so issued as aforesaid was so done it shall be lawful for the Governor to declare such acts to have

been done in conformity to such Orders and such declaration signified by any writing under the hand of the Governor shall be a sufficient discharge and indemnity to all such persons concerned in any such acts and shall in all cases be conclusive evidence that such acts were done in conformity to such Orders.

IV Officers &c. acting under such orders responsible only to Courts Martial.

All Officers Non-Commissioned Officers Soldiers and Militiamen who shall act under any such orders as aforesaid shall be responsible for all things which shall be done under such orders to Courts Martial only by which they shall be liable to be tried for any offence against the Articles of War under any Act then in force for any such purposes and Courts Martial shall have full and exclusive cognizance of all matters and things which shall be objected against such Officers Non-Commissioned Officers Soldiers and Militiamen respectively and all proceedings shall be had thereon in the same manner as for Offences against the Articles of War and not otherwise and the Supreme Court or any other Court of Justice civil or criminal shall not take cognizance of any act matter or thing which shall be done by any such Officer Non-Commissioned Officer Soldier or Militiaman in pursuance of this Act and if any proceeding shall be had in any such Court against any such Officer Non-Commissioned Officer Soldier or Militiaman for any such act matter or thing by indictment action or otherwise all such proceedings shall be stayed by summary order on application to the Court wherein they shall be had.

V Return to *Habeas Corpus* that person is detained under warrant under this Act sufficient.

Proviso.

If any person who shall be detained in custody under the Powers created by this Act shall sue forth a Writ of *Habeas Corpus* it shall be good and sufficient return to such Writ that the party suing forth the same is detained by virtue of a warrant under the hand and seal of some person duly authorized by the Governor in Council for the time being to issue such warrant under the authority of this Act Provided that at the time such return is made the name of such person so authorized as aforesaid to issue such warrants shall have been or shall be notified by the Governor to the Supreme Court by writing signed by him signifying to the said Court that such person was so authorised as aforesaid to exercise the powers specified by this Act and when such return shall be made it shall not be necessary to bring up the body of the person who is so detained.

VI Governor or General or other Officer empowered by the Governor may authorise the holding of Courts Martial.

For the trial of offences under this Act it shall be lawful for the Governor or the General or other Officer Commanding Her Majesty's forces in New Zealand or for any other Officer of Her Majesty's Forces not under the Rank of a Field

Officer who shall be authorised by a Commission from the Governor in Her Majesty's name in that behalf from time to time by warrant under his hand to authorise and empower any Officer in Her Majesty's Regular or Militia Forces in New Zealand not under the Rank of a Field Officer to convene assemble and hold Courts Martial for the trial of such persons under this Act as the Governor or General or other Officer as aforesaid shall direct.

VII Constitution of such Courts.

Every such Court Martial shall consist of not less than three nor more than nine Commissioned Officers of Her Majesty's Regular or Militia forces in New Zealand or partly of Commissioned Officers of each such Force And when the defendant shall be a person of the Maori or Half-Caste race a sworn Interpreter shall be appointed by the Governor or in default of such appointment by the Officer convening such Court to interpret in the said Court on behalf of the defendant Provided always that no Court which shall consist of less than seven Members four of whom at least shall be Commissioned Officers of Her Majesty's Regular Forces shall pass sentence of Death and that on every Court there shall be at least two such Commissioned Officers.

VIII Powers of such Courts.

Every such Court shall have all powers privileges and authorities appertaining or incident to and shall conduct all proceedings according to the manner of Courts Martial held under the Provisions of the Act for the time being in force in New Zealand for punishing mutiny and desertion and the sentence of any such Court when confirmed by the Governor or the General or other Officer Commanding Her Majesty's Forces in New Zealand may be carried into execution.

IX Act not to abridge power of proclaiming Martial Law.

Nothing in this Act contained shall be construed to take away abridge or diminish the acknowledged prerogative of Her Majesty for the public safety to resort to the exercise of Martial Law against open enemies or Traitors or any powers by law vested in the said Governor of this Colony with or without the advice of the Executive Council or of any other person or persons whomsoever to suppress Treason and Rebellion and to do any act warranted by law for that purpose in the same manner as if this Act had never been made but such prerogative is hereby declared to be in full force in this Colony in Her Majesty the Queen and in the Governor as Her Majesty's Representative in that behalf.

X Indemnity for acts already done.

Every person shall be and is hereby freed indemnified and discharged of and from all actions and prosecutions which he may have been or may become liable or subject to for or by reason or by means of or in relation to any act matter or thing done by him before the passing of this Act which would have

been lawful if done in pursuance of any order duly issued under the authority of this Act And no such act matter or thing shall be questioned in the Supreme Court or in any Court whatsoever within the Colony of New Zealand.

XI Duration of Act.

This Act shall come into operation on the day of the passing hereof and shall continue and be in force until the end of the next session of the General Assembly only and no longer.