

No. 6, 1922.]

ACT

To provide for the withdrawal of martial law from operation in certain districts of the Transvaal; to indemnify the Government, its officers and other persons in respect of acts advised, ordered or done in good faith in relation to measures taken for the prevention and suppression of disorder or disturbance, the maintenance of good order and public safety and in the administration of martial law; and further to enable special criminal courts constituted under the existing law to try certain classes of offences committed during the disturbances in those districts.

Preamble.

WHEREAS, in order that special precautions might be taken in certain districts of the Transvaal for the prevention and suppression of disorder and the maintenance of public safety, the Governor-General, with the advice of the Executive Council, did, on the tenth day of March, 1922 by Proclamation No. 50 of 1922, place those districts under martial law as martial law is understood and administered in His Majesty's dominions:

AND WHEREAS it is desirable that martial law should now be withdrawn from operation in the said districts and that the Government, its officers, and persons acting under them or upon their orders should be indemnified in respect of acts and things in good faith advised, commanded, ordered, directed or done for the purposes for which martial law was so proclaimed:

AND WHEREAS it is further desirable to make special provision whereby persons charged with certain classes of offences committed in the course of disturbances prior to and after the proclamation of martial law as aforesaid may be tried by special criminal courts constituted as in the Criminal Procedure and Evidence Act 1917 is provided for the trial of other similar offences:

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Withdrawal of martial law.

1. As from the date of the promulgation of this Act in the *Gazette*, martial law is withdrawn from operation in every magisterial district which was placed under martial law by Proclamation No. 50 of 1922 and thereupon that Proclamation and any regulations, orders and instructions issued under the authority of martial law and for the purposes of its administration shall, in respect of each such district, cease to be of force and effect.

Indemnity of Government and its officers, etc., for certain acts.

2. (1) No action, indictment or any other legal proceeding whatever shall be brought or instituted in any court of law in the Union against—

- (a) His Royal Highness the Governor-General; or
- (b) any member of the Executive Council of the Union; or
- (c) any control officer or commissioned officer, as defined in the regulations published under Government Notice No. 428 of 1922; or
- (d) any person employed in the public service or the railways and harbours service or in the police forces or defence forces or in any special police force or in the prisons service of the Union; or

- (e) any person acting under, or by the direction or with the approval of, any officer, member or person aforesaid in any position or capacity, civil or military,

for, or on account of, or in respect of, any act or thing whatsoever, in good faith advised, commanded, ordered, directed or done on or after the tenth day of March, 1922 and prior to the promulgation of this Act, for the purposes of preventing or suppressing disorder in any such district or to maintain good order and public safety therein, or before that date, if such act or thing was necessary in relation to the preparatory measures for the purposes aforesaid.

Any such action, indictment, or any other legal proceeding whatever which may have been commenced prior to the promulgation of this Act shall be discharged and shall become and be made void.

(2) Every such person as is described in sub-section (1) by whom any such act or thing has been in good faith advised, commanded, ordered, directed, or done, for the purposes in that sub-section described shall in respect thereof be freed, acquitted, discharged, released, and indemnified against all persons whomsoever.]

(3) Every act or thing referred to in sub-section (1) shall be presumed to have been advised, commanded, ordered, directed, or done (as the case may be) in good faith or, as far as it concerns acts done prior to the tenth March, 1922, to have been necessary until the contrary is alleged and proved by the party complaining.

3. (1) The several convictions obtained before and the sentences passed by magistrates, additional magistrates and assistant magistrates under the jurisdiction conferred by the regulations published under Government Notice No. 428 of 1922 or any amendment of those regulations for offences thereunder are hereby confirmed in so far as the same shall not have been set aside or reduced by or under the authority of the Minister of Defence; and every person undergoing such a sentence and confined in any prison, gaol, or lock-up or any other place whatsoever shall continue to be confined therein or elsewhere as the Minister of Justice may direct, until the expiration of the sentence or until released by the Governor-General in the exercise by him of the Royal mercy, or until otherwise discharged under lawful authority. Every such conviction and sentence shall be deemed for all purposes to be a conviction and sentence of a duly and legally constituted court of law in the Transvaal, shall be carried out accordingly, and shall have the same consequences and effect.

(2) Every person who, during the existence of martial law has, in good faith and upon the authority of a control officer or commissioned officer (as defined in the said regulations) been arrested or committed to or detained in any prison, gaol, or lock-up or in any other place whatsoever in respect of an alleged criminal offence (whether statutory or at common law or against the regulations aforesaid) shall be deemed to have been as lawfully arrested, committed, or detained as if the arrest, committal or detention had been under a warrant or order issued in accordance with law.

(3) Every recognizance taken during the existence of martial law upon which a person accused of any offence mentioned in sub-section (2) has been admitted to bail shall be and is hereby declared to be in full force and effect.

4. If the Attorney-General of the Transvaal, upon consideration of any preparatory examination where an accused person has been committed for trial, decides to indict such person upon a charge of murder, or assault with intent to commit murder, or assault with intent to do grievous bodily harm, or arson, or malicious injury to property, and states in writing to the Minister of Justice that the act alleged to constitute such offence appears to have been committed in one of the districts which was placed under martial law as aforesaid and appears

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also to have been committed in connection with the disorder hereinbefore referred to or in connection with the industrial dispute from which such disorder arose, the Governor-General may constitute a special criminal court to try such offence as if it were an offence referred to in section *two hundred and fifteen* of, and specified in the Second Schedule to, the Criminal Procedure and Evidence Act, 1917, and the provisions of that Act relating to trials by a superior court shall in all respects apply to the trial of any such offence.

Short title.

5. This Act may be cited for all purposes as the Indemnity and Trial of Offenders Act, 1922.