

1917-18.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1^o 10th October, 1918.*(Brought from the Senate.)*

A BILL

FOR

AN ACT

To amend the *Defence Act* 1903-1918.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

- 1.—(1.) This Act may be cited as the *Defence Act (No. 2) 1918*. Short title and citation.
- 5 (2.) The *Defence Act* 1903-1917, as amended by the *Defence Act* 1918 (No. 16 of 1918), is in this Act referred to as the Principal Act.
- (3.) Sub-section (3.) of section one of the *Defence Act* 1918 (No. 16 of 1918) is repealed.
- 10 (4.) The Principal Act, as amended by this Act, may be cited as the *Defence Act* 1903-1918.
2. Section twenty of the Principal Act is amended by omitting therefrom the words "but officers of the Active Military Forces shall rank as senior in their respective ranks to officers of the Reserve Military Forces". Seniority of officers in Reserve Forces.
- 15 3. Section sixty of the Principal Act is amended by inserting therein after sub-section (3.) thereof the following sub-section :—
- "(3A.) Notwithstanding anything contained in this section the Governor-General may by proclamation— Calling out of the reserves.
- 20 (a) subject to the conditions specified in the proclamation, temporarily exempt from service or postpone the service of any persons called upon, in pursuance of this section, to enlist and serve ; and

(b) divide, according to age, any class mentioned in sub-section (3.) of this section and call upon such divisions of any class as he considers necessary.”

4. Section sixty-one of the Principal Act is amended—

(a) by omitting from the proviso thereto the letter “(g)”; and 5
(b) by adding at the end thereof the following sub-section:—

Persons exempt
from service.

“(2.) Every person who is called upon to enlist and serve in pursuance of section sixty of this Act and who is by virtue of this section exempt from service shall, notwithstanding such exemption, do all things required to be done by a person liable to enlist and 10
serve :

Provided that any such person (unless exempt by virtue of paragraph (h) or (i) of the last preceding sub-section) shall not, until he ceases to be exempt, be required to take the oath of enlistment.” 15

5. Section sixty-two of the Principal Act is amended by omitting sub-section (2.) thereof and inserting in its stead the following sub-section:—

Training of
cadets.

“(2.) All those liable to be trained as senior cadets shall be allotted to the Naval or Military Forces, and shall be trained as 20
prescribed in elementary naval or military exercises and in musketry, and shall be organized in naval or military units.”

6. Section seventy-five of the Principal Act is repealed, and the following section inserted in its stead :

Resisting
draft, &c.

“75. Any person who— 25

(a) when called upon in pursuance of this Act to enlist, fails to attend at the time and place appointed for medical examination or enlistment ; or

(b) counsels or aids any person, who is liable to enlist in the Defence Force, to fail to enlist or to evade enlistment ; or 30

(c) counsels or aids any person who has enlisted or who is liable to enlist in any part of the Defence Force not to perform any duty he is required by this Act to perform ; or

(d) conceals or assists in concealing any person who is liable 35
to enlist in the Defence Force,

shall be guilty of an offence.

Penalty: Fifty pounds, or imprisonment for six months, or both.”

When drafted,
refusing to be
sworn.

7. Section seventy-six of the Principal Act is amended by 40
omitting therefrom the words “the commanding officer of the corps to which he is attached or which he is required to join, shall be liable to imprisonment, with or without hard labour, for a period not exceeding six months” and inserting in their stead the words
“an officer, shall be guilty of an offence. 45

Penalty: Fifty pounds, or imprisonment for six months, or both.”

8. Section

8. Section seventy-seven of the Principal Act is amended by omitting therefrom the words "shall be liable to be imprisoned, with or without hard labour, for any period not exceeding twelve months" and inserting in their stead the words "shall be guilty of an offence."
- 5

Offences connected with desertion.

Penalty: Fifty pounds, or imprisonment for six months, or both."

9. Section eighty-five of the Principal Act is amended by omitting the word "wilfully".

Penalty for contravening the Act in any way.

- 10 10. Section ninety-eight of the Principal Act is amended by inserting after the words "except for" the word "murder,".

Sentence of death in certain cases only.

11. After section one hundred and ten of the Principal Act the following section is inserted:—

- 15 "110A.—(1.) A Company Roll Book shall be kept by such persons as the Regulations prescribe.

Company Roll Book.

(2.) The entries in the Company Roll Book shall relate to such matters and be made by such persons as the Regulations prescribe.

(3.) The production of the Company Roll Book shall be *prima facie* evidence of the entries contained therein."

- 20 12. Section one hundred and twenty-four of the Principal Act is amended by inserting in paragraph (k) thereof after the word "formation" the word ", incorporation,".

Regulations.

13. Section one hundred and forty-six of the Principal Act is repealed and the following section inserted in its stead:—

- 25 "146.—(1.) Every person who registers shall receive a Record Book in the prescribed form.

Record Book.

(2.) The entries in the Record Book shall relate to such matters and shall be made by such persons as the Regulations prescribe.

- 30 (3.) A copy of the entries in the Record Book shall be prepared by such persons and in such form and shall be retained by such persons as the Regulations prescribe.

(4.) The production of a Record Book, or of a book or document purporting to be a copy of the entries in a Record Book, shall be *prima facie* evidence of the entries contained therein."

1917-18.

THE PARLIAMENT OF THE COMMONWEALTH

HOUSE OF REPRESENTATIVES.

DEFENCE BILL 1918 (No. 2).

(Amendments to be moved by the Assistant Minister for Defence,
the Hon. G. H. Wise.)

New Clauses.

2A. After section forty of the Principal Act the following sections are inserted:—

“40A. In time of war any person who is employed under articles of apprenticeship may, notwithstanding any provision of or obligation under the articles, enlist in the Military Forces, and any person who so enlists shall not be liable, during the period of his service in the Forces, and until a reasonable period thereafter, to be claimed for service under the articles.

Enlistment of persons serving under articles of apprenticeship.

“40B.—(1.) Any person employed under articles of apprenticeship who has in time of war enlisted in the Military Forces shall, upon discharge from the Military Forces, unless the Minister otherwise determines, be entitled, within a period of three months after the date of his discharge, or, in the case of a person discharged before the commencement of this section, within three months after such commencement, to resume his employment under his articles of apprenticeship and the period served by him after discharge shall be deemed to be a continuance of the period served by him prior to enlistment.”

Resumption by apprentice of service under articles.

“(2.) If any master, upon the application of an apprentice who is entitled under the last preceding subsection to resume his employment, refuses to re-employ him, he shall be guilty of an offence.

Penalty : Fifty pounds.”

12A. Section one hundred and nineteen of the Principal Act is amended by omitting therefrom the words “without the authority of the Minister, be entitled to” and inserting in their stead the words “except as prescribed,”.

Amendment of s. 119.

Custody of offenders.

12B. Section one hundred and thirty-five of the Principal Act is amended by omitting from sub-section (5.) the words "detained by that authority" and inserting in their stead the words "handed over by that authority to military custody for conveyance to and detention".

12C. Section one hundred and thirty-five B of the Principal Act is repealed and the following section inserted in its stead :—

Total duration of confinement of trainees in any one year.

"135B.—(1.) Notwithstanding anything contained in the next two preceding sections, a person shall not be liable in any one year to confinement in excess of thirty days in respect of offences committed by him against the provisions of sub-section (1.) or paragraph (a) of sub-section (1A.) of section one hundred and thirty-five, or of costs awarded in proceedings for such offences, and any order or other authority issued by a Court authorizing confinement for a period in excess of such thirty days, shall in so far as it relates to the period in excess be void, but nevertheless proceedings shall not be maintainable against the Commonwealth or any person in respect of the order or authority or of any act or thing done in pursuance of the order or authority."

(2.) In this section "confinement" includes detention under the authority of section one hundred and thirty-five of this Act, and custody under the authority of the last preceding section.

Additional training by theological students not required.

12D. Section one hundred and thirty-eight of the Principal Act is amended by omitting from sub-section (3.) thereof the words "undergo such equivalent training as prescribed, unless exempted by some provision of this Act" and inserting in their stead the words "become liable for training as prescribed but shall not be required to perform additional training equivalent to the training from which they have been exempted under this sub-section."

12E. Section one hundred and forty-two of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words "register themselves or";

(b) by inserting, after sub-section (1.), the following sub-section :—

Registration.

"(1A.) Any male inhabitant of Australia who has resided therein for six months and is a British subject and whose *bonâ fide* residence is within a distance of five miles, reckoned by the nearest practicable route, from the nearest place appointed for training, and who is, at any time after he has attained the age of fourteen years and before he has attained the age of twenty-six years, not registered in accordance with the provisions of the last preceding sub-section shall be guilty of an offence," and

(c) by inserting in sub-section (2.), after the word "against", the words "sub-section (1.) of".

1917-18.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

DEFENCE BILL (No. 2) (1918).

(Notice of Amendments.)

MR. W. MALONEY : To move—

New clause—

Notwithstanding anything contained in this or any other Act it shall be mandatory that all men and officers who have seen active service at the Front shall rank as senior in their respective ranks to men and officers of the reserve Military Forces who have not seen active service overseas.

MR. GREGORY : To move, as an amendment to the proposed new clause, to add the following words—“and when any promotion or appointment is being made, if not to a returned soldier or sailor the Secretary of the Department or the Public Service Commissioner shall certify that no returned soldier or sailor with suitable qualifications is available.”

