

colonial troops serving with Her Majesty's forces out of the colonies should be subject, and in which you ask to be informed of the course which this Government proposes to take in the matter.

On receipt of the despatch of the 15th of April, I addressed a letter in reply to Sir Anthony Musgrave, of which I enclose a copy, and which expresses the views of this Government on the subject.

I also enclose for your information a copy of the Defence Act of 1884, referred to in my letter to Sir Anthony Musgrave.

The Hon. the Colonial Secretary, New Zealand.

I have, &c.,

S. W. GRIFFITH.

### Enclosure.

Sir,—

Colonial Secretary's Office, Brisbane, 5th June, 1885.

I have the honour to acknowledge the receipt of a copy of a despatch, No. 19, of the 15th of April last, addressed to your Excellency by the Right Hon. the Secretary of State for the Colonies, enclosing a copy of a letter from the War Office to the Colonial Office, and of a memorandum by the Judge Advocate-General, on the subject of the discipline to which colonial troops serving with Her Majesty's troops should be subject.

2. The Defence Act of this colony provides (section 60) that the land force when called out for active service should be subject to the Army Act and all other laws applicable to Her Majesty's troops which are not inconsistent with that Act, except that no man shall be subject to any corporal punishment but death or imprisonment, and except also that the regulations may prescribe that any provisions of these laws shall not apply to the defence force. The 61st section contains similar provisions with respect to the naval force.

3. This Act was intended to apply to our local forces while serving in Queensland, although power is taken (under the authority conferred by the Army Act) to order the force beyond the colony. It was not, however, contemplated by the Legislature that any local troops should be ordered under any circumstances beyond the limits of Australasia.

4. So far as regards the employment of the local forces in Australasia, I do not think that any amendment of the Act in the respect suggested is desirable, or would commend itself to the Legislature. I entirely agree, however, that in any case of troops volunteering to serve out of Australasia with other bodies of Her Majesty's forces, the same military discipline should be made applicable to them as to the regular forces.

5. I think, therefore, that in the event of any force being raised in this colony for service with Her Majesty's regular forces out of Australasia, an Act should be passed to the effect suggested by the Judge Advocate-General. But I do not think that the present would be an opportune time to make such a proposition to Parliament.

His Excellency Sir A. Musgrave, G.C.M.G., Governor.

I have, &c.,

S. W. GRIFFITH.

### No. 11.

The PREMIER, Victoria, to the PREMIER, New Zealand.

Sir,—

Premier's Office, Melbourne, 2nd September, 1885.

I beg to acknowledge the receipt of your letter of the 7th ultimo, asking the views of this Government with reference to the despatches of the Secretary of State for the Colonies, dated the 15th and 27th April last, in which Lord Derby suggested certain legislation by the colonies for the purpose of bringing colonial forces, when serving with Imperial troops outside the limits of their respective colonies, under the Imperial military law.

In reply, I beg to inform you that the view which this Government takes of the matter is embodied in the opinion of my colleague the Hon. the Attorney-General, of which I enclose a copy herewith.

I have, &c.,

JAMES SERVICE,

Premier.

The Hon. the Colonial Secretary, Wellington.

### Enclosure.

It would seem to be very doubtful, in view of the 1st section of the Constitution Act, which limits the power of the Colonial Parliament to the making of laws in and for Victoria, whether the Legislature has power to make a law which is only to operate outside the territorial limits of the colony. I am of opinion that it would be necessary to have an Imperial Act passed or an amendment of section 177, 44 and 45 Vict., cap. 58, providing for the discipline of colonial troops who have engaged to serve in the colony when serving outside the limits thereof, and that such an Act should provide that persons entering into an engagement with the Colonial Government to serve abroad shall be deemed to have agreed with the Imperial Government to serve Her Majesty in any part of the world, and when outside the colony or when in the field with Imperial troops, to be under the Imperial military law.

It is also doubtful whether the Legislature can provide that the Imperial military law shall, as amended by the Imperial authorities from time to time, apply to Victorian troops serving outside the colony. Such a provision would be unconstitutional and be a delegation by the Victorian Legislature of its power to make laws.

GEO. B. KERFERD,

Attorney-General,

Crown Law Offices, Melbourne, 9th July, 1885.