"Imperial Government in the most ungrudging and patriotic spirit, stating that, "for more abundant caution, the colonial authorities propose, by local legislation, "without delay, to make their contingent subject to Imperial military law in "cases where the local law has not provided for their government and "discipline; and I have suggested that, to prevent any possible conflict, they "should be made unconditionally subject to such law."

I enclose a copy of a letter, with its enclosure, which has been received from the War Office on this subject, and I shall be glad to be informed whether the Government and Legislature of the colony under your administration contemplate taking any steps in the sense indicated, in view of the possibility of colonial troops hereafter serving with the Imperial forces.

I have, &c.,
DERBY.

Governor Sir W. F. D. Jervois, G.C.M.G., C.B., &c.

Enclosure.

War Office, 30th March, 1885.

SIR,—

I am directed by the Secretary of State for War to request that you will call the attention of the Earl of Derby to the reply made by the Judge-Advocate-General in the House of Commons on Thursday, 19th March last, to a question put by Colonel Stanley, as to the Act for discipline under which the colonial contingent now serving in the field will be amenable.

The Judge-Advocate-General having suggested in the reply above mentioned, and in the accompanying memorandum, that, to prevent any possible conflict, these contingents should be made unconditionally subject to Imperial military law, I am to request that, if Lord Derby concurs in this suggestion, you will move his Lordship to cause the various colonies from which offers of assistance have been received to be informed that, in the event of these offers being accepted, it is expedient, in order to avoid any possible conflict of legislation, to make the colonial forces which may be employed in service outside the limits of the colony unconditionally subject to British military law; and, with a view to carrying this into effect, a short Act should be passed by the Legislature of each colony which takes part in military operations.

I have, &c.,
RALPH THOMPSON.

The Under-Secretary of State, Colonial Office.

Sub-Enclosure.

The Under-Secretary of State.

I HAVE carefully perused and considered the various accompanying colonial statutes, rules, and regulations relating to the government and discipline of the forces raised in the different colonies.

With the exception of the Cape Mounted Rifles—which are subject to a discipline of their own—all these forces when "on actual military service" are placed under Imperial military law, though in some cases (see Canadian Act, 1883, 46 Vict., c. 2, section 64; South Australian Act, 1879, 41 Vict., No. 125, section 4) this enactment is qualified by a provision that it is only to apply so far as our military law is not inconsistent with the colonial Acts or the rules and regulations made under them.

I observe, too, that nearly every colonial statute contains an express provision that no man enlisted under it shall be subject to any corporal punishment except death or imprisonment. Although, since the abolition of flogging in our army this exception has become comparatively unimportant, it might be held to apply to the "summary punishment" substituted for it. Moreover, the latest Act under which the New South Wales forces are enlisted (34 Vict., No. 19) contains certain special provisions, *e.g.*, that no member of the force shall be sentenced to death except for mutiny, desertion to the enemy, or traitorous conduct or correspondence (section 10); and a still more important enactment in section 8, which vests in the Governor of the colony the power to convene and delegate power to convene Courts-martial, and to appoint officers to constitute such Courts. Again, the earlier New South Wales Act (31 Vict., No. 5.) provides that a Volunteer shall not be bound to leave the colony under any circumstances, and section 29 of the same Act provides that "a Court-martial for the trial of an officer of the Volunteer force, or of a Volunteer, or of an officer or non-commissioned officer of the Volunteer permanent staff shall be composed of officers of the Volunteer force only."

It is obvious that provisions of this nature—which seem to be more or less scattered through all the accompanying statutes—might cause embarrassment and confusion, even if they do not seriously interfere with the discipline of the contingent, and, having regard to the extreme importance of placing all men serving under the same flag under the same military discipline, I cannot too strongly urge what I have already suggested that a short Act should be passed by the Legislature of each colony which takes part in our military operations, placing its contingent unreservedly and unconditionally under Imperial military law, so as to give full effect to the provisions of the 177th section of the Army Act.

The additional liabilities under which the colonial forces would by this means be placed would, now that corporal punishment is abolished in our army, be trifling in comparison with the importance of the object attained; and, looking to the spirit in which the New South Wales Government—in the case of which colony alone immediate action is necessary—is acting, and the offer made in the telegram received by its Agent-General in this country, I apprehend that no difficulty ought to arise in carrying out the above suggestion.

G. OSBORNE MORGAN,
Judge-Advocate-General.

24th March, 1885.