



ပြည်ထောင်စုမြန်မာနိုင်ငံ

ဥပဒေ

အတွဲ

THE BURMA CODE VOLUME

ပြည်ထောင်စုမြန်မာနိုင်ငံအစိုးရအမိန့်အရ ပုံနှိပ်ပြုစုသည်။

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နိဂါန်း။

ဤဥပဒေအတွဲ ၂ ကိုပြင်ရာ၌အတွဲ ၁ ကိုစီမံသည့်နည်းအတိုင်းပင် ပြုလုပ်ထားခြင်းဖြစ်ပါသည်။ ဤအတွဲပါဥပဒေများကို အပိုင်း ၄။—ကာကွယ်ရေး။ ။က၊ တပ်ပေါင်းစုဆိုင်ရာနှင့် ခ၊ ဖွဲ့စည်းအုပ်ချုပ်ပုံအခြေခံဥပဒေကို ကာကွယ်စောင့်ရှောက်ရေးဟူသည့် ခေါင်းစဉ်များဖြင့်အမျိုးအစား ခွဲခြားထားပါသည်။

၎င်းဥပဒေများကို ၁၉၅၄ ခုနှစ်၊ ဒီဇင်ဘာလ ၃၁ ရက်နေ့ထိ ပြင်ဆင်ထားသည့်အတိုင်း ပုံနှိပ်ခြင်း ဖြစ်ပါသည်။

စံညွှန်း၊

အတွင်းရေးမှူး၊

ဥပဒေပြင်ဆင်ရေးကော်မတီ၊

တရားရေးဝန်ကြီးဌာန။

ရန်ကုန်မြို့၊ ၁၃၁၇ ခု၊ ဝါခေါင်လဆန်း ၁၄ ရက်။
(၁၉၅၅ ခု၊ စက်တင်ဘာလ ၁ ရက်။)

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THE BURMA ARMY ACT.¹

CHAPTER I.

PRELIMINARY.

²1. In this Act the expression "Burma commissioned officers" means Burma commissioned officers, Governor's commissioned officers and warrant officers of the Burma Forces who were commissioned under this Act as in force prior to the coming into operation of the Constitution.

Burma commissioned officers.

Application of Act.

2. (1) The following persons shall be subject to this Act, namely—

Persons subject to Act.

- (a) Burma commissioned officers, commissioned officers and warrant officers of the Burma Forces ;
- (b) persons enrolled under this Act ; and
- (c) persons not otherwise subject to military law who, on active service, in camp, on the march, or at any frontier post specified by the President of the Union by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of the Burma Forces.

(2) Every person subject to this Act under sub-section (1), clause (a) or (b) shall remain so subject until duly retired, discharged, cashiered, removed or dismissed from the service.

3. (1) The President of the Union may, by notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (1), clause (c), shall be so subject as Burma commissioned officers, commissioned officers, warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction.

Special provision as to rank in certain cases.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

4. Every person subject to this Act under section 2, sub-section (1), clause (c), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer, is named or prescribed, under the command of the said officer commanding the force :

Commanding officer of persons subject to military law under section 2, clause (c).

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

¹ The Burma Laws (Adaptation) Act, 1940, did not give a date or number to this Act because it is to be deemed to be a new Act for Burma with effect from the date of separation.

² Inserted by the Union of Burma (Adaptation of Laws) Order, 1948.

Powers to apply Act to certain forces under the Government of the Union of Burma.

5. (1) The President of the Union may, by notification, apply all or any of the provisions of this Act to any force raised and maintained under the authority of the President of the Union.

¹(1.1) On such notification being made, any provisions of this Act so applied shall have effect in respect of persons belonging to any such force as they have effect in respect of persons subject to this Act, holding in the Burma Forces the same rank as the aforesaid persons hold for the time being in the force to which this Act is so applied, and shall have effect in respect of persons who are employed by, or are in the service of, or are followers of, or accompany any portion of any such force as they have effect in respect of persons subject to this Act under clause (c) of sub-section (1) of section 2.

²(2) While any of the provisions of this Act apply to any such force, the President of the Union may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force and may suspend the operation of any other enactment for the time being applicable to that force.

Officers to exercise powers in certain cases.

³6. (1) Whenever persons subject to this Act are serving—

- (a) out of the Union of Burma under an officer not subject to the authority of the President of the Union, or
- (b) in the Union of Burma under an officer commanding any military organization not in this section specifically named, and being, in the opinion of the President of the Union, not less than a brigade,

the President of the Union may prescribe the officer by whom the powers which, under this Act, may be exercised by the General Officer Commanding, Burma Army, and by officers commanding armies, army corps, divisions and brigades shall, as regards such persons, be exercised.

(2) The President of the Union may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

³6A-6B.

Definitions.

Definitions.

7. In this Act, unless there is something repugnant in the subject or context,—

- (1) "British officer" means a person holding His Britannic Majesty's commission in His Britannic Majesty's Land Forces or in the Royal Marines or in the Territorial Army [or in the Burma Auxiliary Force or in the Auxiliary Force, India,¹ and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Britannic Majesty's Naval Forces or Royal Air Force;
- (2) "Indian commissioned officer" means a person commissioned, gazetted or in pay as an officer holding His Britannic Majesty's commission in the Indian Land Forces, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in the Indian Air Force;

¹ Inserted by Act XVII, 1943.

² Amended *ibid*.

³ Section 6A and section 6B (which was inserted by Act IX, 1944) were deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

⁴ Inserted by Act IX, 1944, which provides that this amendment shall cease to operate on the expiry of a period of six months after termination of hostilities in being at the commencement of that Act.

- ¹(2A) * * * *
- ²(2B) "commissioned officer" means a person commissioned, gazetted, or in pay as an officer holding a commission in the Burma Forces, and includes a Burma commissioned officer ;
- (3) "warrant officer" means a person appointed, gazetted or in pay as a Burma warrant officer in the Burma Forces ;
- (4) "non-commissioned officer" means a person attested under this Act holding non-commissioned rank in the Burma Forces, and includes an acting non-commissioned officer ;
- ³(5) "officer" means an officer of any of the Burma Military Forces and includes an officer of any force to which this Act is applied under sub-section (1) of section 5 and also includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Burma Naval or Air Forces, but does not include a warrant officer, petty officer, or non-commissioned officer ;
- ⁴(6) "commanding officer", when used in any provision of this Act with reference to any separate portion of the Burma Forces or to any force to which this Act is applied under sub-section (1) of section 5 or to any department, means a British officer or Burma or Indian commissioned officer whose duty it is under the regulations of the Army or, in the absence of any such regulation, by the custom of the service to discharge with respect to that portion of the forces or to that force to which this Act has been applied under sub-section (1) of section 5 or to that department the functions of commanding officer in regard to matters of the description referred to in that provision ;
- ⁵(7) "superior officer", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer [including a warrant officer and a non-commissioned officer of any force to which this Act is applied under sub-section (1) of section 5] and, as regards persons placed under his orders, an officer, warrant officer, petty officer or non-commissioned officer of any of the Burma Naval, Military or Air Forces ;
- (8) "army", "army corps", "division" and "brigade" mean respectively an army, army corps, division or brigade which is under the command of an officer subject to the authority of the President of the Union, or when on active service, an army, army corps, division or brigade under the command of an officer holding a commission in the Burma Forces ;
- (9) "corps" means any separate body of persons subject to this Act or the Army Act which is prescribed as a corps for the purposes of all or any of the provisions of this Act ;
- (10) "independent brigade" means a brigade which does not form part of a division ;
- (11) "department" includes any division or branch of a department ;
- (12) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to military law to act ;
- (13) "active service", as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted *ibid.*

³ Substituted by Act XVII, 1943.

⁴ Inserted *ibid.*

military in operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country;

- (14) "military custody" means the arrest or confinement of a person according to the usages of the service and includes air force custody;
- ¹(14A) "military prison" means a military prison established under the provisions of section 111B of this Act and includes a military prison established by the Government of India or Pakistan in which any person sentenced under this Act may be confined under the law for the time being in force in India or Pakistan;
- (15) "military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward;
- (16) "Court-martial" means a Court-martial held under this Act;
- (17) "criminal Court" means a Court of ordinary criminal justice in the Union of Burma;
- (18) "civil offence" means an offence which, if committed in the Union of Burma, would be triable by a criminal Court;
- (19) "offence" means any act or omission punishable under this Act, and includes a civil offence as hereinbefore defined;
- (20) * * * *
- (21) "prescribed" means prescribed by rules made under this Act; and
- (22) all words and expressions used herein and defined in the Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

Procedure
before en-
rolling
officer.

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Enrolment.

9. If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign and shall also cause the person to sign the enrolment paper, and the person shall then be deemed to be enrolled.

Validity of
enrolment.

²10. Every person who has for the space of three months been in the receipt of military pay as an enrolled person and been borne on the rolls of any corps or department shall be deemed to have been duly enrolled, and shall not be entitled

¹ Inserted by Act XXV, 1943.

² Substituted by Act IX, 1944.

to claim his discharge on the ground of any irregularity or illegality in his enrolment or any other ground whatsoever; and if within the said three months such person claims his discharge any such irregularity or illegality or other ground shall not, until such person is discharged in pursuance of his claim, affect his position as an enrolled person under this Act or invalidate any proceedings, act or thing taken or done prior to his discharge.

Attestation.

11. The following persons shall be attested, namely :—

Persons to be attested.

- (a) all persons enrolled as combatants;
- (b) all other enrolled persons prescribed by the President of the Union.

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be present or by any other prescribed person.

Mode of attestation.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to [the Constitution]¹, and that he will serve in the Burma Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE.

13. (1) The President of the Union may dismiss from the service any person subject to this Act.

Dismissal by President.

(2) * * *

14. The [General Officer Commanding, Burma Army, an officer commanding an army, army corps, division or brigade]² or any prescribed officer, may dismiss from the service any person serving under his command other than an officer.

Dismissal by the General Officer Commanding, Burma Army, etc.

15. * * *

16. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

Discharge.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, * * *³ setting forth—

Certificate to person dismissed or discharged.

- (a) the authority dismissing or discharging him;
- (b) the cause of his dismissal or discharge;
- (c) the full period of his service in the army.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by Act XVII, 1943.

³ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

Discharge,
etc., out of
the Union of
Burma.

18. (1) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of the Union of Burma, and requests to be sent to the Union of Burma shall, before being discharged, be sent to the Union of Burma with all convenient speed.

(2) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of the Union of Burma, shall be sent to the Union of Burma with all convenient speed :

Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to the Union of Burma.

CHAPTER IV.

SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

Reduction
of non-com-
missioned
officers.

19. (1) The [General Officer Commanding, Burma Army, an officer commanding an army, army corps, division or brigade,¹ or any prescribed officer, may reduce to a lower grade or to the ranks any warrant officer or any non-commissioned officer under his command :

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy.

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

Minor
punishments.

20. (1) The President of the Union may specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a Court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

(2) Imprisonment in military custody and in the case of persons subject to this Act on active service any prescribed field punishment may be specified as minor punishments, provided that—

(a) the term of such imprisonment or field punishment shall not exceed twenty-eight days ; and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

Collective
fines.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the [General Officer Commanding, Burma Army, or the officer commanding the army, army corps, division or independent brigade to which such unit belongs,¹ may, after obtaining the report of a Court of inquiry, impose a collective fine upon the commissioned officers, warrant officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

¹ Substituted by Act XVII, 1943.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any frontier post specified by the President of the Union by notification in this behalf at which troops are stationed, may punish any follower of such corps or detachment who is subject to this Act under section 2, sub-section (1), clause (c)—

Punishment
of certain
followers.

(a) if such follower is not a menial servant, with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees;

(b) if such follower is a menial servant, with imprisonment for a term which may extend to seven days, or, if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant, under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

Provost-Marshals.

23. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the [General Officer Commanding, Burma Army, or the officer commanding an army, army corps, division or independent brigade,]¹ or an officer commanding the forces in the field; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

Appoint-
ment.

24. (1) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army. He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a Court-martial.

Duties and
powers.

(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1), clause (b), any follower who is subject to this Act under section 2, sub-section (1), clause (c), and is a menial servant and who on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

25. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences
punishable
with death.

(a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge; or which it is his duty to defend; or

(b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice; or

¹ Substituted by Act XVII, 1943.

- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer ; or
 - (d) treacherously makes known the watchword to any person not entitled to receive it ; or
 - (e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State ; or
 - (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency ; or
 - (g) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave ; or
 - (h) in time of action, leaves his commanding officer or his post or party to go in search of plunder ; or
 - (i) in time of war, quits his guard, picquet, party or patrol without being regularly relieved or without leave ; or
 - (j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessities to the camp or quarters of any of the Burma Forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind ; or
 - (k) on active service commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving ;
- shall, on conviction by Court-martial, be punished with death, or with such less, punishment as is in this Act mentioned.

Offences not
punishable
with death.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) strikes, or forces or attempts to force, any sentry ; or
- (b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment ; or
- (c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard ; or
- (d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave ;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Mutiny and Insubordination.

Offences
punishable
with death.

27. Any person subject to this Act who commits any of the following offences; that is to say,—

- (a) begins, excites, causes, or conspires with any other persons to cause or joins in any mutiny ; or
- (b) being present at any mutiny, does not use his utmost endeavours to suppress the same ; or
- (c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer ; or

- (d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such ; or

- (e) disobeys the lawful command of his superior officer ;

shall, on conviction by Court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

28. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences not punishable with death.

- (a) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or
- (b) refuses to superintend or assist in the making of any field work or other military work of any description ordered to be made either in quarters or in the field ; or
- (c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal or any such officer, non-commissioned officer or other person ;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Desertion, Fraudulent Enrolment and Absence without Leave.

29. Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by Court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Desertion.

30. Any person subject to this Act who commits any of the following offences, that is to say,—

Harbouring deserter, absence without leave, etc.

- (a) knowingly harbours any deserter, or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended ; or
- (b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person ; or
- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in the same or any other corps or department ; or
- (d) absents himself without leave or without sufficient cause overstays leave granted to him ; or
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay ; or
- (f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty ; or
- (g) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march ; or
- (h) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave ; or
- (i) without proper authority is found two miles or upwards from camp ; or

(j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating ;
shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Disgraceful Conduct.

Disgraceful
conduct.

31. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of the State¹ entrusted to him ; or
 - (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted ; or
 - (c) wilfully destroys or injures any property of the State¹ entrusted to him ; or
 - (d) commits theft in respect of any property of the State¹, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army ; or
 - (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen ; or
 - (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person ; or
 - (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity ; or
 - (h) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or
 - (i) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission ;
- shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Intoxication.

Intoxication.

32. Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Persons in Custody.

Offences
punishable
with death.

33. Any person subject to this Act who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape, shall, on conviction by Court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not
punishable
with death.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge ; or
- (b) without proper authority releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape ; or

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(c) being in military custody, leaves such custody before he is set at liberty by proper authority ;
shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Property.

35. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to property.

- (a) commits extortion, or without proper authority exacts from any person, carriage, portage or provisions ; or
- (b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property ; or
- (c) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service ; or
- (d) makes away with, or is concerned in making away with, his arms, ammunition, equipments, instruments, tools, clothing or regimental necessities ; or
- (e) loses by neglect anything mentioned in clause (d) ; or
- (f) wilfully injures anything mentioned in clause (d) or any property belonging to the State¹, or to any military mess, band or institution, or to any person subject to military law, or serving with, or attached to the army ; or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him ;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to False Documents and Statements.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

False accusations and offences in relation to documents.

- (a) makes a false accusation against any person subject to military law, knowing such accusation to be false ; or
- (b) in making any complaint under section 117 or section 117A, knowingly makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact ; or
- (c) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement ; or
- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to the State¹ or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

False
answers on
enrolment.

37. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Courts-martial.

Offences in
relation to
Courts-
martial.

38. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) when duly summoned to attend as a witness before a Court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or other thing which he may have been duly warned and called upon to produce or deliver up; or
- (b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a Court-martial while sitting; or
- (c) having been duly sworn or affirmed before any Court-martial or other military Court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Miscellaneous Military Offences.

Miscel-
laneous
military
offences.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being an officer or warrant officer, behaves in a manner unbecoming his position and character; or
- (b) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position; or
- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or
- (d) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; or
- (e) attempts to commit suicide and does any act towards the commission of such offence; or
- (f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from any town or bazaar, carrying a sword, bludgeon or other offensive weapon; or
- (g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or
- (h) neglects to obey any general or garrison or other orders; or

- (i) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline ;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

39A. Whoever attempts to commit an offence punishable by this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence. Attempts.

Abetment.

40. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence. Abetment.

Civil Offences.

41. (1) Every person subject to this Act who, either within the Union of Burma or at any place beyond the Union of Burma, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section shall, subject to the provisions of this Act, be liable to be tried for the same by Court-martial, and on conviction to be punished as follows, that is to say,— Civil offences committed outside the Union of Burma or on active service in the Union of Burma.

- (a) if the offence is one which would be punishable under the law of the Union of Burma with death or with transportation, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of the Union of Burma ; and
- (b) in other cases, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of the Union of Burma, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline :

Provided that a person subject to this Act who at any time within the Union of Burma or at any place, * * * * and while not on active service, commits the offence of murder or culpable homicide not amounting to murder in relation to a person not subject to military law, or the offence of rape, shall not be deemed to be guilty of an offence against military law and shall not be tried by a Court-martial.

(2) The powers of a Court-martial to try and to punish any person under this section shall not be affected by reason of the fact that the civil offence with which such person is charged is also a military offence.

42. * * * *

CHAPTER VI.

PUNISHMENTS.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by Court-martial, according to the scale following, that is to say,— Punishments.

- (a) death ;
- (b) transportation for life or for any period not less than seven years ;

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948

- (c) imprisonment either rigorous or simple for any term not exceeding fourteen years ;
 - (cc) in the case of commissioned officers¹, cashiering ;
 - (d) dismissal from the service ;
 - (e) * * *
 - (f) reduction, in the case of a warrant officer, to a lower grade or class or place in the list of his rank, or to the ranks ; or in the case of a non-commissioned officer, to a lower grade or a lower rank or to the ranks ;
- Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy ;
- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture in the prescribed manner of seniority of rank and service for the purpose of promotion ;
 - (gg) in the case of officers, warrant officers and non-commissioned officers, reprimand or severe reprimand ;
 - (h) forfeitures and stoppages as follows, namely :—
 - (i) forfeitures of service for the purpose of increased pay, pension or any other prescribed purpose ;
 - (ii) * * *
 - (iii) forfeiture, in the case of a person sentenced to cashiering or dismissal from the service, of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal ;
 - (iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good ;
 - (v) on active service, forfeiture of pay and allowances for a period not exceeding three months.

Lower
punish-
ments.

44. Where in respect of any offence under this Act there is specified a particular punishment or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

Field
punishments.

45. Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a Court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

Position of
field
punishment
in scale.

46. Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

Combination
of punish-
ments.

47. A sentence of a Court-martial may award, in addition to or without any one other punishment, the punishment specified in clause (cc) or clause (d) and any one or more of the punishments specified in clauses (f), (g), (gg) and (h) of section 43.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

47A. Whenever a commissioned officer¹ is sentenced to transportation or imprisonment, the Court shall, by its sentence, sentence such officer to be cashiered.

Cashiering of commissioned officer on conviction.

48. Whenever any person is sentenced to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say,—

Solitary confinement.

- (a) a time not exceeding one month if the term of imprisonment does not exceed six months ;
- (b) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year ;
- (c) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A warrant officer or a non-commissioned officer sentenced by Court-martial to transportation, imprisonment, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

Reduction of warrant or non-commissioned officers to ranks.

49A. When any enrolled person on active service has been sentenced by Court-martial to dismissal or to transportation or imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to transportation or imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment.

Retention in the ranks of a person convicted on active service.

CHAPTER VII.

PENAL DEDUCTIONS.

50. (1) The following penal deductions may be made from the pay, and allowances of a commissioned officer¹, that is to say,—

Deductions from pay and allowances.

- (a) all pay and allowances for every day of absence without leave, unless a satisfactory explanation has been given through his commanding officer and has been approved by the President of the Union ;
- (b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the Court-martial by whom he is convicted of such offence [or by an officer exercising authority under section 20]² ;
- (c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay ;
- (d) any sum required to make good any loss, damage or destruction of public or regimental property which after due investigation appears to the President of the Union to have been occasioned by any wrongful act or negligence on the part of the commissioned officer¹ ;
- (e) any sum ordered by a Court-martial to be stopped under section 43.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Inserted by Act XXV, 1943.

(2) The following penal deductions may be made from the pay and allowances of a person subject to this Act other than a commissioned officer¹, that is to say,—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal Court, a Court-martial, or an officer exercising authority under section 20 or of field punishment awarded by a Court-martial or such officer ;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal Court or Court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under section 20 ;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him ;
- (cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the President of the Union ;
- (d) all pay and allowances ordered by a Court-martial under section 43, or by an officer exercising authority under section 20, to be forfeited ;
- (e) any sum ordered by a Court-martial to be stopped under section 43 ;
- (f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessities or military decoration, or to any buildings or property, as may be awarded by his commanding officer ;
- (g) any sum required to pay a fine awarded by a criminal Court, a Court-martial exercising jurisdiction under section 41, or an officer exercising authority under section 20 or section 21 ;

Provided that the total deductions from the pay and allowances of a person subject to this Act other than a commissioned officer¹ made under clauses (c) to (g), both inclusive, shall not (except in the case of a person sentenced to dismissal) exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (a) and (b)—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day ;
- (ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody ; and
- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

Deductions
from public
money other
than pay.

51. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

52. Any deduction from pay and allowances authorized by this Act may be remitted in such manner, and to such extent and by such authority as may from time to time be prescribed. Remission of deductions.

52A. (1) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances. Provision for dependants of prisoners of war.

(2) * * *

52B. In the case of any person subject to this Act, it shall be lawful, notwithstanding any provision in this Act or in any other enactment or in any rule of law to the contrary, for proper provision to be made by the prescribed authorities for any dependants of any such person who is a prisoner of war or missing, out of his pay and allowances. General power to make provision for dependants of prisoners of war or missing persons.

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

53. For the purposes of this Act there shall be four kinds of Courts-martial, that is to say,— Courts-martial and the kinds thereof.

- (1) general Courts-martial ;
- (2) district Courts-martial ;
- (3) summary general Courts-martial ; and
- (4) summary Courts-martial.

54. A general Court-martial may be convened by the President of the Union, or by any officer empowered in this behalf by warrant of the President of the Union. Power to convene general Courts-martial.

55. A district Court-martial may be convened by any officer having power to convene a general Court-martial, or by any officer empowered in this behalf by warrant of any such officer. Power to convene district Courts-martial.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit. Contents of warrant issued under section 54 or section 55.

57. A general Court-martial shall consist of not less than [three]¹ officers, each of whom has held a commission for not less than three whole years and of whom not less than [two]² are of a rank not below that of Captain : Composition of general Courts-martial.

³ [Provided that, where a sufficient number of officers, who have held commission for not less than three whole years, is not available, the President of the Union or the officer empowered in this behalf by warrant of the President

¹ Inserted by Act IX, 1944.

² Substituted by Act XLI, 1953.

³ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948

⁴ Inserted by Act XV, 1948.

of the Union may appoint any officer who has held a commission for not less than one whole year, [or who has acted as a Sessions Judge for a period of not less than two years, or who has acted as an Advocate of the High Court of over ten years' standing]¹ to make up the required number] :

[Provided further that the provisions of the Burma Army (Amendment) Act, 1953, shall apply to every general Court-martial existing on the commencement of the said Act.]

Composition
of district
Courts-
martial.

58. A district Court-martial shall consist of not less than three officers * * *

59-61. * * *

Convening
of summary
general
Courts-
martial.

62. The following authorities shall have power to convene a summary general Court-martial, namely :—

- (a) an officer empowered in this behalf by an order of the President of the Union ;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf ;
- (c) an officer commanding any detached portion of * * * troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general Court-martial.

Composition
of summary
general
Courts-
martial.
Summary
Courts-
martial.

63. A summary general Court-martial shall consist of not less than three * * * commissioned officers.

64. (1) A summary Court-martial may be held—

- (a) by the commanding officer of any corps or department of the Burma Forces, or of any detachment of those forces ;
- (b) by the commanding officer of any * * * corps or detachment to which details subject to this Act are attached.

(2) At every summary Court-martial the officer holding the trial shall alone constitute the Court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

Dissolution
of Courts.

65. (1) If a Court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a Court-martial shall be dissolved.

(3) Where a Court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-martial.

Prohibition
of second
trial.

66. When any person subject to this Act has been acquitted or convicted of an offence by a Court-martial or by a criminal Court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a Court-martial or dealt with summarily in respect of it under either of the said sections.

¹ Inserted by Act XLI, 1953.

² Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

67. No trial by Court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enrolment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question not being a commissioned officer¹ has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of [the regular forces.]

Limitation of trial.

Explanation.—For the purposes of this section, “mutiny” means any of the offences specified in clauses (a), (b) and (c) of section 27.

68. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Place of trial.

Adjustment of the jurisdiction of Courts-martial and criminal Courts.

69. When a criminal Court and a Court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which Court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a Court-martial, to direct that the accused person shall be detained in military custody.

Order in case of concurrent jurisdiction.

70. (1) When a criminal Court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the President of the Union.

Power of criminal Court to require delivery of offender.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the Court before which the proceedings are to be instituted for the determination of the President of the Union, whose order upon such reference shall be final.

71. (1) Notwithstanding anything contained in the Burma General Clauses Act, or in section 403 of the Code of Criminal Procedure, a person convicted or acquitted by a Court-martial may be afterwards tried by a criminal Court for the same offence or on the same facts.

Trial by Court-martial no bar to subsequent trial by criminal Court.

(2) If a person sentenced by a Court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal Court for the same offence or on the same facts, that Court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

Powers of Courts-martial.

72. A general or summary general Court-martial shall have power to try any person subject to this Act for any offence made punishable therein and to pass any sentence authorized by this Act.

Powers of general and summary general Courts-martial.

73. A district Court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years :

Powers of district Court-martial.

Provided that a district Court-martial shall not award a warrant officer any punishment other than the punishments specified in clauses (g), (gg) and (h) of

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

section 43 or, either in addition to or in substitution for any such punishment, the punishment specified in clause (d) or the punishment specified in clause (f) of that section.

Offences
triable by
summary
Court-
martial.

74. A summary Court-martial may try any offence punishable under any of the provisions of this Act :

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district Court-martial or on active service a summary general Court-martial for the trial of the alleged offender, an officer holding a summary Court-martial shall not try without such reference any of the following offences, namely :—

- (a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33 or 41, or
- (b) any offence against the officer holding the Court.

Persons
triable by
summary
Court-
martial.

75. A summary Court-martial may try any person subject to this Act and under the command of the officer holding the Court, except an officer or warrant officer.

Sentences
awardable
by summary
Court-
martial.

76. A summary Court-martial may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

Procedure at Trials by Court-martial.

President.

77. At every general, district or summary general Court-martial the senior member shall sit as president.

Judge
Advocate.

78. Every general Court-martial shall, and every district [or summary general]¹ Court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General [of the Burma Forces],² or, if no such officer is available, a person appointed by the convening officer.

79. * * * *

Challenges.

80. (1) At all trials by general, district or summary general Courts-martial as soon as the Court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the Court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the Court shall proceed with the trial.

¹ Inserted by Act XVII, 1943.

² Substituted *ibid.*

81. (1) Every decision of a Court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused. Voting of members.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

82. An oath or affirmation in the prescribed form shall be administered to every member of every Court-martial and to the judge advocate before the commencement of the trial. Oaths of president and members.

83. Every person giving evidence at a Court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form. Oaths of witnesses.

84. (1) The convening officer, the president of the Court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing. Summoning witnesses and production of document

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Evidence Act, sections 123 and 124, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, High Court or Court of Session, wanted for the purpose of any Court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate or Court.

85. (1) Whenever, in the course of a trial by Court-martial, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued. Commissions.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) * * *

(4) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and

may for this purpose exercise the same powers, as in trials of warrant cases under the Code of Criminal Procedure.

(5) * * *

(6) When the witness resides out of the Union of Burma, the commission may be issued to [any consular officer, or other official]¹ competent to administer an oath or affirmation in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the Court may think relevant to the issue, and the Magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such Magistrate or officer by pleader or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(10) On receipt of a commission and deposition returned under sub-section (9), the Judge Advocate General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the Court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

² *Explanation.*—In this section, the expression "Judge Advocate General" means the Judge Advocate General of the Burma Forces, and includes a Deputy Judge Advocate General.

Conviction
of one
offence
permissible
on charge
of another.

86. (1) A person charged before a Court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a Court-martial with attempting to desert may be found guilty * * * ³ of being absent without leave.

(3) A person charged before a Court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest misappropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a Court-martial with an offence punishable under section 41 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure were applicable.

(5) A person charged before a Court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Inserted by Act XVII, 1943.

³ Deleted by Act XXV, 1943.

(6) A person charged before a Court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.

87. No sentence of death shall be passed by any Court-martial without the concurrence of two-thirds at the least of the members of the Court.

Majority
requisite to
sentence of
death.

Evidence before Courts-martial.

88. The Evidence Act shall, subject to the provisions of this Act, apply to all proceedings before a Court-martial.

General rule
as to evi-
dence.

89. A Court-martial may take judicial notice of any matter within the general military knowledge of the members.

Judicial
notice.

90. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Presumption
as to sig-
natures.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

Enrolment
paper.

91A. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of the Burma Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of the Burma Forces, if purporting to be signed by or on behalf of the President of the Union or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

Presumption
as to certain
documents.

(2) An Army List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book, in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal, assistant provost-marshal or other officer, or any portion of the Burma Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of the Burma Forces, and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer, and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

Reference by
accused to
Government
officer.

92. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply, or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another Court-martial.

Evidence of
previous
convictions
and general
character.

93. (1) When any person subject to this Act has been convicted by a Court-martial of any offence, such Court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a Court-martial or by a criminal Court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, Court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary Court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and Revision of Findings and Sentences.

Finding and
sentence
invalid
without
confirmation

94. No finding or sentence of a general or district Court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Power to
confirm
finding and
sentence of
general
Court-
martial.

95. The findings and sentences of general Courts-martial may be confirmed by the President of the Union, or by any officer empowered in this behalf by warrant of the President of the Union.

Power to
confirm
finding and
sentence of
district
Court-
martial.

96. The findings and sentences of district Courts-martial may be confirmed by any officer having power to convene a general Court-martial, or by any officer empowered in this behalf by warrant of any such officer.

97. A warrant issued under section 95 or section 96 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 95 or section 96.

98. (1) The finding and sentence of a summary general Court-martial shall require to be confirmed by the convening officer or, if the convening officer so directs, by an authority superior to the convening officer—

Confirmation of finding and sentence.

- (a) in the case of the trial of an officer,
- (b) in the case of an acquittal or a sentence of death or transportation or imprisonment for a term exceeding two years, and
- (c) in any other case if so ordered by the convening officer.

(2) Save as provided in sub-section (1), a sentence passed by a summary general Court-martial shall not require to be confirmed, but may be carried out forthwith.

99. Subject to such restrictions as may be contained in any warrant issued under section 95 or section 96, a confirming officer may, when confirming the sentence of a Court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the Court-martial ;

Power of confirming officer to mitigate, remit or commute sentences.

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.

99A. When any person subject to this Act is tried and sentenced by Court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Confirmation of finding and sentence on board ship.

100. (1) Any finding or sentence of a Court-martial which requires confirmation may be once revised by order of the confirming officer ; and on such revision, the Court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

(2) The Court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, [provided that it consists of not less than the minimum number of officers prescribed by this Act.]¹

101. The finding and sentence of a summary Court-martial shall not require to be confirmed, but may be carried out forthwith:

Finding and sentence of a summary Court-martial.

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of the [General Officer Commanding, Burma Army, or of an officer commanding not less than a corps.]¹

102. The proceedings of every summary Court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer ; and such officer, or the [General Officer Commanding, Burma Army, or the officer commanding the army, or army corps in which the trial was held,]¹ may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the Court might have passed.

Transmission of proceedings of summary Courts-martial.

¹ Substituted by Act XVII, 1943.

Substitution of a valid finding or sentence for an invalid finding or sentence.

¹ 103. (1) Where a finding of guilty by a Court-martial, which has been confirmed, or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 112 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding, if the new finding could have been validly made by the Court-martial on the charge and if it appears that the Court-martial must have been satisfied of the facts establishing the offence specified or involved in the new finding, and may pass a sentence for the said offence.

(2) Where a sentence passed by a Court-martial which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority which would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of the punishments awarded by, the sentence for which a new sentence is substituted under this section.

² (4) Any finding substituted, or any sentence passed, under this section shall for the purposes of this Act and the rules made thereunder have effect as if it were a finding or sentence, as the case may be, of a Court-martial.

Provision in the case of accused being lunatic.

103A. (1) Whenever, in the course of a trial by Court-martial, it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the president of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a Court-martial whose finding does not require confirmation, to the prescribed officer.

(2) A confirming officer to whom a case is reported under sub-section (1), may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the President of the Union.

(4) On receipt of a report under sub-section (3), the President of the Union may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

- (a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or
- (b) if such person is detained under sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure,

take steps to have such person tried by the same or another Court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a criminal Court.

¹ Substituted by Act XXV, 1943.

² Added by Act IX, 1944.

(5A) Where any person is in custody, under sub-section (3) or under detention under sub-section (4),—

- (a) if such person is in custody under sub-section (3), on the report of a medical officer, or
- (b) if such person is detained under sub-section (4), on a certificate from any of the authorities empowered to grant a certificate under section 473 of the Code of Criminal Procedure,

that, in the judgment of such officer or authority, such person may be released without danger of his doing injury to himself or to any other person, the President of the Union may thereupon order such person to be released, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum.

(5B) Where any relative or friend of any person who is in custody under sub-section (3) or under detention under sub-section (4) desires that he shall be delivered to his care and custody, the President of the Union may, upon the application of such relative or friend and on his giving security to the satisfaction of the President of the Union that the person delivered shall—

- (a) be properly taken care of and prevented from doing injury to himself or to any other person, and
- (b) be produced for the inspection of such officer, and at such times and places, as the President of the Union may direct,

order such person to be delivered to such relative or friend.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the President of the Union.

CHAPTER IX.

EXECUTION OF SENTENCES.

104. In awarding a sentence of death a Court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death. Form of sentence of death.

105. * * *

106. Whenever any person is sentenced under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary Court-martial, by the Court. Commencement of sentence of transportation or imprisonment.

¹ 107. (1) Whenever any sentence of transportation is passed under this Act or whenever any sentence passed under this Act is commuted to transportation, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall forward him to such prison with the warrant. Execution of sentence of transportation or imprisonment.

(2) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence passed under this Act is commuted to imprisonment, the confirming officer, or in the case of a sentence which does not require confirmation, the Court, or in either case such officer as may be prescribed may direct either that the sentence shall be carried out by confinement in a civil prison or by

¹ Substituted by Act XXV, 1943.

confinement in a military prison, and the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which the person under sentence is to be confined and shall forward him to such prison with the warrant :

Provided that, in the case of a sentence of imprisonment for a period not exceeding three months, in lieu of a direction that the sentence shall be carried out by confinement in a civil or a military prison, a direction may be made that the sentence shall be carried out by confinement in military custody :

Provided further that, on active service a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

Execution of sentence of imprisonment in special cases.

108. Whenever, in the opinion of the [General Officer Commanding, Burma Army, or of an officer commanding an army, army corps, division or independent brigade,]¹ any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Offenders sentenced to transportation how dealt with until transported.

108A. In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.

Communication of certain orders to civil prison officers.

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in [a civil or military prison,]² a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined.

Limit of solitary confinement.

110. In executing a sentence of solitary confinement such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

111. * * *

Execution of sentence of fine.

111A. When a sentence of fine is imposed by a Court-martial under section 41, whether the trial was held within the Union of Burma or not, a copy of such sentence, signed and certified by the president of the Court or the officer holding the trial, as the case may be, may be sent to any Magistrate in the Union of Burma, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure for the levy of fines as if it was a sentence of fine imposed by such Magistrate.

Establishment and regulation of

111B. (1) The President of the Union may set apart any building or part of a building or any place in the Union of Burma as a military prison for the confinement of persons sentenced to imprisonment under this Act * * *⁴.

¹ Substituted by Act XVII, 1943.

² Substituted by Act XXV, 1943.

³ Inserted by Act XXV, 1943.

⁴ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (2) The President of the Union may make rules providing :— military
prisons.
- (a) for the government, management and regulation of such military prisons ;
 - (b) for the appointment and removal and powers of inspectors, visitors, superintendents and officers thereof ;
 - (c) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence ; and
 - (d) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners ;

Provided that, such rules shall not authorise corporal punishment to be inflicted for any offence nor render the imprisonment more severe than it is under the law for the time being in force relating to civil prisons in the Union of Burma.

(3) Rules made under this section may provide for the application to military prisons of any of the provisions of the Prisons Act relating to the duties of officers of prisons and the punishment of persons not prisoners.

CHAPTER X.

PARDONS AND REMISSIONS.

112. (1) When any person subject to this Act has been convicted by a Court-martial of any offence, the President of the Union or, in the case of a sentence which he could have confirmed or which did not require confirmation, [the General Officer Commanding, Burma Army, or the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving] ¹ or the prescribed officer may, Pardons and
remissions.

- (a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded ;
- (b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act ;

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted ;

Provided that, in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a Court-martial.

¹ Substituted by Act XVII, 1943.

CHAPTER XI.

RULES.

Power to
make rules.

113. (1) The President of the Union may make rules¹ for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the removal, retirement or discharge from the service of persons subject to this Act ;
- (b) the amount and incidence of fines to be imposed under section 21 ;
- (bb) the specification of the punishments which may be awarded as field punishments under sections 20 and 45 ;
- (c) the assembly and procedure of Courts of inquiry, and the administration of oaths or affirmations by such Courts ;
- (d) the convening and constituting of Courts-martial ;
- (e) the adjournment, dissolution and sittings of Courts-martial ;
- (f) the procedure to be observed in trials by Courts-martial ;
- (g) the confirmation and revision of the findings and sentences of Courts-martial ;
- (h) the carrying into effect sentences of Courts-martial ;
- (i) the forms of orders to be made under the provisions of this Act relating to Courts-martial, transportation or imprisonment ;
- (ii) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions ; and
- (j) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the Gazette, and, on such publication, shall have effect as if enacted in this Act.

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

Property of
deceased
persons and
deserters.

114. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts :—

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.

¹ For such rules, see *Burma Gazette*, 1938, Part I, p. 730.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to the State¹, unless the deserter shall in the meantime have surrendered or been apprehended.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Meaning of desertion.

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the President of the Union from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Disposal of certain property without production of probate, etc.

116. The provisions of [sections 114 and 115]² shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane, or, who, being on active service, is officially reported missing:

Application of sections 114 and 115 to lunatics.

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (2) to (5), inclusive, [of section 114,³ until one year has elapsed from the date of such report.

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

117. (1) Any person subject to this Act other than a * * * commissioned officer who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

Complaints against officers.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by Act XXV, 1943.

³ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority :

Provided that a decision by an authority competent to dispose of the matter complained of shall be final.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

Complaints
by
com-
mis-
sioned
officers.

117A. Any * * * commissioned officer, who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the President of the Union.

Privileges
of persons
attending
Courts-
martial.

118. (1) No president or member of a Court-martial, no judge advocate, no party to any proceeding before a Court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a Court-martial, shall, while proceeding to, attending on or returning from a Court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the Court-martial.

Exemption
from arrest
for debt

119. (1) No person subject to this Act shall, so long as he belongs to the Burma Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue Court or revenue officer.

(2) The judge of any such Court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the Court by the complainant.

Property
exempted
from attach-
ment.

120. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue Court or any revenue officer, in satisfaction of any decree or order enforceable against him.

Application
of the last
two fore-
going sec-
tions to
reservists.

121. Every person belonging to the Burma Reserve Forces shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act.

Priority of
hearing by
Courts of
cases in
which
officers and
soldiers are
concerned.

122. (1) On the presentation to any Court by or on behalf of any person subject to this Act of a certificate from the proper military authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such Court, the Court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

* Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

(3) No fee shall be payable to the Court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the Court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the Court to an officer commanding a corps, whose decision shall be final.

Deserters and Military Offenders.

123. (1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to military custody.

Capture of
deserters.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

124. (1) Any person subject to this Act who is charged with an offence may be taken into military custody.

Arrest by
military
authorities.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

125. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police-officer, such Magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Arrest by
civil
authorities.

126. (1) When any person subject to this Act has been absent without due authority from his duty for a period of sixty days, a Court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the State¹ entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the Court-martial book of the corps or department a record of the declaration.

Inquiry on
absence of
person
subject to
Act.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

Disposal of Property.

Order for custody and disposal of property pending trial in certain cases.

126A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Court-martial during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for disposal of property regarding which offence committed.

126B. (1) After the conclusion of a trial before any Court-martial, the Court or the officer confirming the finding or sentence of such Court-martial or any authority superior to such officer, or, in the case of a Court-martial whose finding or sentence does not require confirmation [the General Officer Commanding, Burma Army, or the officer commanding the army, army corps, division or brigade within which the trial was held,]¹ may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within the Union of Burma or not, be sent to a Magistrate in any district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

THE BURMA ARMY SUSPENSION OF SENTENCES ACT.

Construction

1. This Act shall be construed as part of the Burma Army Act.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "committed" means committed to prison or to confinement in military custody;
- (b) "competent military authority" means superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority;

¹ Substituted by Act XVII, 1943.

- (c) "imprisonment" includes confinement in military custody ;
- (d) "principal Act" means the Burma Army Act ;
- (e) "sentence" means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation ; and "sentenced" has the corresponding meaning ; and
- (f) "superior military authority" means the President of the Union or any officer empowered under the principal Act to convene general Courts-martial or summary general Courts-martial.

3. (1) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the president of the Court-martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed until the orders of a superior military authority have been obtained.

Suspension of sentences.

(2) A superior military authority may, in the case of any such offender so sentenced,—

- (a) direct that, until his orders have been obtained, such offender shall not be committed ; and
- (b) suspend the sentence whether or not the offender has already been committed.

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Calculation of periods of sentence under suspension.

5. A superior military authority may, at any time whilst a sentence is suspended under this Act, order—

Power to set aside suspension or order remission.

- (a) that the offender be committed to undergo the unexpired portion of the sentence, or
- (b) that the sentence be remitted.

6. Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than four months, be reconsidered by a competent military authority, and if, on any such reconsideration, it appears to such authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall, if he is not also a superior military authority, refer the case to a superior military authority.

Periodical review of suspended sentences.

7. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

Procedure on further sentence of offender whose sentence is suspended.

- (a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently ;
- (b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed on the unexpired portion of the previous sentence, but both sentences shall run concurrently ; and

- (c) if the further sentence is for a period of three months or less and is not suspended under this Act, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended.

Saving of
section 112,
Burma Army
Act.

8. The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section 112 of that Act.

Provision as
to dismissal.

9. Where in addition to any other sentence the punishment of dismissal has been awarded by a Court-martial, and such other sentence is suspended under this Act, then, notwithstanding anything contained in the principal Act or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority :

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted:

THE BURMA RESERVE FORCES ACT

1. * * *

Division of
Reserve
Forces into
Regular and
Supple-
mentary
Reserves.

2. The Burma Reserve Forces shall consist of the Regular Reserve and the Supplementary Reserve.

Locality of
service of
Reserves.

3. A person belonging to the Burma Reserve Forces shall be liable to serve beyond the limits of the Union of Burma as well as within those limits.

Power to
make rules
for regula-
tion of
Reserve
Forces.

4. The President of the Union may make rules and orders for the government, discipline and regulation of the Burma Reserve Forces.

Liability of
Reserve
Forces to
military law.

5. Subject to such rules and orders as may be made under section 4, a person belonging to the Burma Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to the Burma Forces.

Punishment
of certain
offences by
persons be-
longing to
Reserve
Forces.

6. (1) If a person belonging to the Burma Reserve Forces—

- (a) when required by or in pursuance of any rule or order under this Act to attend at any place, fails without reasonable excuse to attend in accordance with such requirement, or
- (b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order,
he shall be liable—

- (i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Burma Army Act empowered to award, or
- (ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Burma Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

THE BURMA TERRITORIAL FORCE ACT

1. * * *

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

"enrolled" means enrolled or re-enrolled in the Burma Territorial Force under this Act;

* * *

"non-commissioned officer" means a person holding non-commissioned rank in the Burma Territorial Force, and includes an acting non-commissioned officer;

* * * ; and

"prescribed" means prescribed by rules made under this Act.

3. There shall be raised and maintained in the manner hereinafter provided a force to be designated the Burma Territorial Force: Constitution of Burma Territorial Force.

Provided that the President of the Union shall establish all or any of the branches of the Force as circumstances may permit from time to time.

4. (1) The President of the Union may constitute one or more corps or units of the Burma Territorial Force and may disband or reconstitute any corps or unit so constituted. Constitution and disbandment of units.

(2) The President of the Union may constitute for any town or group of towns one or more urban corps or units of the Burma Territorial Force, to be recruited from persons residing in or near such town or towns, and may disband or reconstitute any corps or unit so constituted.

(3) The President of the Union may constitute a University Corps consisting of one or more units of the Territorial Force, for the appointment thereto of students of, and other persons connected with the University of Rangoon or colleges affiliated thereto, and may disband or reconstitute any unit so constituted.

14A. * * *

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948

- Enrolment.** 5. (1) [Any citizen of Burma]¹ may offer himself for enrolment in the Burma Territorial Force, and any such person who satisfies the prescribed conditions may be enrolled in the prescribed manner for such period, not exceeding six years, as may be prescribed.
- (2) An applicant for enrolment may apply to be enrolled for service in any particular branch, corps or unit constituted for the place within which he for the time being resides.
- * * *
- Appointment to corps or unit.** 6. (1) Every person enrolled shall without unnecessary delay be appointed in the prescribed manner to a corps or unit constituted under section 4 for the place in which he for the time being resides.
- (2) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.
- Transfer and attachment.** 7. (1) Any person appointed to a corps or unit under section 6 may be transferred, whether on disbandment of the corps or unit or otherwise, to another corps or unit of the Burma Territorial Force, in such manner as may be prescribed.
- (2) Nothing contained in sub-section (1) shall be deemed to authorise the transfer without his own consent of any person enrolled to a corps or unit constituted for a place other than that in which he for the time being resides, or of a person enrolled for service in a particular branch to a corps or unit of another branch, or of a person enrolled for service in a particular corps or unit to any other corps or unit.
- (3) Any person enrolled may be attached at his own request to any corps or unit of the Burma Territorial Force or to any regular forces.
- Change of residence.** 7A. (1) Any enrolled person who leaves his place for the time being and thereby leaves the place in which the corps or unit in which he is serving is constituted shall, if he does not intend to return to that place, notify the prescribed authority in that place of his change of residence.
- (2) If such person having intended to return does not return within three months, he shall notify the prescribed authority as aforesaid immediately on the expiry of that period.
- (3) The prescribed authority on being notified of a change of residence under sub-section (1) or sub-section (2) may, subject to the provisions of section 7, transfer such person from the corps or unit in which he is serving to another corps or unit.
- Discharge.** 8. Every person enrolled shall be entitled to receive his discharge from the Burma Territorial Force on the expiration of the period for which he was enrolled, and any such person may, prior to the expiration of that period, be discharged from the said Force by such authority and subject to such conditions as may be prescribed, and shall be so discharged on a recommendation of the Advisory Committee in this behalf :
- Provided that no person enrolled who is for the time being engaged in military service under the provisions of this Act shall be entitled to receive his discharge before the termination of such service.
- Liability to serve and perform military service.** 9. (1) Every person enrolled shall, subject to such conditions as may be prescribed, be bound to serve in any corps or unit of the Burma Territorial Force to which he has been appointed or transferred or is for the time being attached, and shall be subject to all rules and regulations that may be made under this Act relating to such corps or unit.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Deleted *ibid.*

(2) Every person enrolled who has attained the age of eighteen years shall be liable to perform military service—

- (a) when called out with any portion of the Burma Territorial Force by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential; or
- (b) when any portion of the Burma Territorial Force to which he belongs has been embodied to support or supplement [the Burma Forces]¹ in the event of an emergency by a notification directing such embodiment issued by the President of the Union and published in the Gazette; or
- (c) when attached at his own request to any regular forces:

Provided that nothing in this sub-section shall apply to persons enrolled in a University Corps.

10. (1) No person embodied under section 9 shall be required to perform military service beyond the limits of the Union of Burma save under a general or special order of the President of the Union.

(2) Any portion of the Burma Territorial Force which, having been called out or embodied under section 9, is performing military service shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer in charge or after the cancellation of the order or notification under clause (a) or (b), as the case may be, of section 9.

Territorial
limits of
liability to
and duration
of military
service.

11. ² (1) * * *

(2) Every [commissioned officer]¹ of the Burma Territorial Force, when doing duty as such officer, shall be subject to the Burma Army Act, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in [the Burma Forces]¹ as he holds for the time being in the said Force, subject to the terms of his commission and the orders of the President of the Union.

(3) Every non-commissioned officer and man of the Burma Territorial Force,—

- (a) when called out or embodied for military service under section 9,
- (b) when attached to, or otherwise acting as part of, or with, any regular force, or
- (c) when embodied for, or otherwise undergoing, military training in the prescribed manner,

shall be subject to the Burma Army Act, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in [the Burma Forces]¹ as he holds for the time being in the said Force, subject to the orders of the President of the Union:

Provided that the said Act, rules and regulations shall, in their application to such non-commissioned officers and men when embodied for or otherwise undergoing military training, be modified to such extent and in such manner as may be prescribed:

Provided further that non-commissioned officers and men of an urban corps or unit, when undergoing military training without having been embodied for that purpose, and non-commissioned officers and men of a University Corps when undergoing training, shall, in respect of such training, be subject only to such disciplinary and other rules as may be prescribed.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948,

² Deleted *ibid.*

(4) Where an offence punishable under the Burma Army Act, or, as the case may be, under that Act as modified under sub-section (3), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Burma Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong ; nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial has already commenced before such expiry.

Summary
trial and
punishments.

11A. In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Burma Army Act, [any commissioned officer]¹ non-commissioned officer or man of the Burma Territorial Force, not being a member of a University Corps, may be punished, either by a criminal Court or summarily by order of the prescribed authority, for any offence under that Act, with fine which may extend to fifty rupees, to be recovered in such manner and by such authority as may be prescribed :

Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a criminal Court :

Provided further that no Court inferior to that of a Magistrate of the first class shall try any offence made punishable by or under this Act.

Presumption
as to certain
documents.

11B. Where [any commissioned officer]¹ non-commissioned officer or man of the Burma Territorial Force is required, by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer, stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

Advisory
Committees.

12. (1) The President of the Union shall constitute a Central Advisory Committee to advise him on matters connected with the Territorial Force and a Unit Advisory Committee for each unit.

(2) * * * *

(3) The constitution, powers and procedure of the Advisory Committees shall be such as may be prescribed.

Power to
make rules.

13. (1) The President of the Union may, after previous publication, make rules² to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—

- (a) prescribe the manner in which, the period for which and the conditions subject to which, persons may be enrolled under section 5 ;
- (b) prescribe the manner in which persons enrolled may be appointed to corps and units under section 6 or transferred under section 7 or section 7A ;
- (c) prescribe the authorities by which and the conditions subject to which persons enrolled may be discharged under section 8 ;

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² For such rules, see *Burma Gazette*, 1941, Part I, p. 952.

- (d) prescribe preliminary and periodical military training, compulsory and voluntary, for any persons or class of persons enrolled and provide for the embodiment of any corps or unit for that purpose;
- (e) prescribe the military or other obligations to which members of a University Corps shall be liable when undergoing military training and provide generally for the maintenance of discipline in such cases;
- (f) provide for the medical examination of persons offering themselves for enrolment under section 5;
- (g) provide for and regulate the remuneration, allowances, gratuities or compensation (if any) to be paid to any person or class of persons enrolled or to their dependants; and
- (h) provide for any other matter which under this Act is to be or may be prescribed.

(3) All rules made under this Act shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

14. (1) The General Officer Commanding the Forces in the Union of Burma may make regulations consistent with this Act and the rules made thereunder providing generally for all details connected with the organisation and personnel of the Burma Territorial Force and for the duties, military training, clothing, equipment, allowances and leave of persons enrolled.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may specify the courses of training or instruction to be followed by any person or class of persons enrolled.

15. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, all [commissioned officers,]¹ non-commissioned officers and men of the Burma Territorial Force who have been appointed to a corps or unit shall be deemed to be [commissioned officers,]¹ non-commissioned officers and soldiers, respectively, of [the Burma Army].¹

Certain persons subject to this Act to be deemed part of the Burma Army for certain purposes.

16. No person shall be liable to pay any municipal or other tax in respect of any horse, bicycle, motor-bicycle, motor car, or other means of conveyance which he is authorised by regulations made under section 14 to maintain in his capacity as a member of the Burma Territorial Force.

Exemption from local taxation.

THE BURMA AUXILIARY FORCE ACT.

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2. Definitions.
3. Constitution of an auxiliary force.
4. Classes who may be enrolled.
5. Enrolment.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Sections.

6. Liability to undergo military training.
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SCHEDULE I.—TRAINING.

THE BURMA AUXILIARY FORCE ACT.

Application of Act. 1. Notwithstanding anything to the contrary contained in the conditions of service under which persons have been enrolled under this Act it shall apply and shall be deemed always to have applied to such persons wherever they may be.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—
 “Advisory Committee” means an Advisory Committee constituted under section 28 for the prescribed military area, or part of a prescribed military area, within which a person subject to this Act for the time being resides or is serving, as the case may be;
 “competent military authority” means the authority prescribed as competent to perform or exercise all or any of the duties imposed or powers conferred on the competent military authority by this Act;
 “enrolled person” means a person enrolled in the prescribed manner under this Act;

¹ Inserted by Act XX, 1943.

"enrolling officer" means an officer authorised to enrol persons under this Act;

"prescribed" means prescribed by rules made under this Act, and "prescribe" has a corresponding meaning;

"regulation" means a regulation made under section 31; and

"training year" means a period of twelve months beginning on the first day of April and ending on the thirty-first day of March.

3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force * * * ¹ to be designated the Burma Auxiliary Force.

Constitution of an auxiliary force.

4. Every person who is a citizen of Burma shall, subject to the provisions of this Act, be eligible for enrolment thereunder.

Classes who may be enrolled.

5. (1) Any male eligible for enrolment under this Act who has attained the age of sixteen years and is not a member of the Burma regular naval, military or air forces may apply to be enrolled in the Burma Auxiliary Force, and, if he satisfies the prescribed conditions, may be enrolled therein in the prescribed manner and shall thereupon become subject to the provisions of this Act.

Enrolment.

(2) Subject to the prescribed conditions an applicant for enrolment may apply to be enrolled for service in any particular branch, or in any particular corps or unit.

6. Every enrolled person shall be liable to undergo military training as provided by or under this Act until discharged from the Burma Auxiliary Force, as hereinafter provided.

Liability to undergo military training.

7. Every enrolled person liable to undergo military training under section 6 shall, on and from the first day of April next following the date on which he attains the age of eighteen years or, if he has already attained the age of eighteen years, on and from any later date on which he is enrolled, be liable to perform military service under this Act.

Liability to perform military service.

8. (1) Every enrolled person shall, without unnecessary delay, be appointed by, or under the orders of, the competent military authority to a corps or unit of the Burma Auxiliary Force, and on receipt of an order so appointing him shall report himself for the purpose of joining such corps or unit at such time and place as may be specified in the order.

Appointment to corps or unit.

(2) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

9. Every enrolled person liable to perform military service under this Act who on becoming so liable is included in the Active Class shall, within the training year in which he becomes so liable, undergo preliminary training of such amount as may be ordered by the competent military authority subject to the limits specified in Schedule I:

Preliminary training.

Provided that, if such preliminary training cannot be completed within that training year, it may be completed at the discretion of the officer commanding the corps or unit to which such enrolled person belongs in the training year next following:

Provided further that any person may be exempted either wholly or in part by the officer commanding his corps or unit from the necessity of undergoing

¹ Deleted by Act XX, 1943.

² This section was first substituted by Act XX, 1943, and subsequently substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

preliminary training required by this section, and shall, on the publication in the orders of the corps or unit of such exemption, be deemed to the extent of such exemption to have completed such preliminary training.

10. * * *

Classification
and periodical
training.

11. Every enrolled person liable to perform military service under this Act—

(i) shall be included by the officer commanding the corps or unit to which he is appointed in one or other of the following classes, namely—

- (a) the Active Class ; or
- (b) the Reserve Class ;

(ii) shall under the orders of the competent military authority undergo the periodical training specified in Schedule I for the class in which he is for the time being included ; and

(iii) shall, if the President of the Union so directs, undergo such increased amount of training as may be specified by the President of the Union for this purpose for the class in which he is for the time being included.

Classifica-
tion.

12. (1) Every commissioned officer of the Burma Auxiliary Force shall be included in the Active Class until he relinquishes his commission.

(2) Enrolled persons liable to perform military service under this Act, not being commissioned officers of the Burma Auxiliary Force, shall be classified as follows, namely :—

- (a) every such person who is required by section 9 to undergo preliminary training or who being so required has completed or is deemed to have completed the same shall be included in the Active Class until he is transferred to the Reserve Class by order of the officer commanding the corps or unit ;
- (b) every such person who is transferred from the Active Class under the provisions of clause (a) or who on enrolment is assigned to the Reserve Class by order of the officer commanding the corps or unit shall be included in the Reserve Class.

(3) Any enrolled person who ceases to be a commissioned officer of the Burma Auxiliary Force shall thereupon be included in the class in which he would have been included under this section if the provisions of sub-section (1) had not applied to him, and shall undergo periodical training accordingly.

(4) Any person who is under this section included in the Reserve Class may apply to the competent military authority to be included in the Active Class, and shall, if the competent military authority grants the application, thereupon be deemed to be included in that class.

Variations
of training.

13. (1) The competent military authority may, by order in writing,—

- (a) on the recommendation of the Advisory Committee, direct that any enrolled person included in the Active Class shall, for the purposes of periodical training, be included for any stated period in the Reserve Class, or
- (b) on his own motion or on the recommendation of the Advisory Committee, reduce the specified amount of training either in individual cases or in the case of any unit or part thereof for any stated period.

(2) The competent military authority shall grant in respect of each individual or unit or part thereof whose training is reduced under clause (b) of sub-section (1) a certificate setting forth the amount of training to be undergone during the said period,

14. Every enrolled person shall, if and when required by the officer commanding the corps or unit to which he belongs, present himself for such medical examination as may be necessary to determine the extent, if any, to which he is fit to undergo military training or to perform military service, before a medical officer appointed or approved in that behalf by the competent military authority, and for the purposes of such medical examination shall comply with the directions of such medical officer. Medical examination.

15. (1) Every person appointed to a corps or unit under section 8 shall remain in that corps or unit until transferred to another corps or unit by, or under the orders of, the competent military authority, but no person shall be transferred from the Infantry branch to another branch or from one unit to another unit located in the same prescribed military area except at his own request. Transfers.

(2) Any person so transferred from the Infantry branch to another branch may be required to undergo such further preliminary training, not exceeding eight days, as may be ordered by the competent military authority, and thereafter shall undergo the periodical training to which he is liable in the branch to which he is transferred :

Provided that any periodical training already undergone by such person in the training year in which he is transferred shall be deemed to have been undergone in such other branch.

Explanation.—Except during periodical training in camp, for the purposes of this section and of Schedule I, a day shall be deemed to consist of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number.

16. (1) Any enrolled person who leaves his place of residence in the Union of Burma for the time being and thereby leaves the area commanded by one competent military authority for that commanded by another shall, if he does not intend to return to the area which he leaves, notify the competent military authority commanding that area of his change of residence. Change of residence.

(2) If such person having intended to return does not return within three months, he shall notify the competent military authority as aforesaid immediately on the expiry of that period.

(3) The competent military authority on being notified of a change of residence under sub-section (1) or sub-section (2) may, subject to the provisions of section 15, transfer such person from the corps or unit in which he is serving to another corps or unit.

17. (1) Any enrolled person who has attained the age of forty-five years or has completed four years' service from the date of his enrolment shall, on application made by him in the prescribed manner, be entitled to receive his discharge from the Burma Auxiliary Force. Discharge.

(2) An enrolled person who is not entitled to his discharge under sub-section (1) shall be discharged by the competent military authority on a recommendation of the Advisory Committee in this behalf.

(3) Any enrolled person may be discharged by such authority, and subject to such conditions, as may be prescribed.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3) no enrolled person shall in time of war or in any emergency which may be notified by the President of the Union be entitled to receive his discharge.

Calling out
and embodi-
ment.

18. No person liable to perform military service under this Act shall be required to perform such service except—

- (a) when called out with any portion of the Burma Auxiliary Force by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential; or
- (b) when any portion of the Burma Auxiliary Force to which he belongs has been embodied to support or supplement [the Burma regular forces]¹ in the event of an emergency by a notification directing such embodiment issued by the President of the Union and published in the Gazette; or
- (c) when attached at his own request to any regular forces.

² 19-20.

Application
of the Army
Act.

21. (1) Every commissioned officer of the Burma Auxiliary Force, when doing duty as a commissioned officer, and every [warrant officer]³ non-commissioned officer and man of the said force—

- (a) when attached to or otherwise acting as part of or with any regular forces, and
- (b) when called out by an order, or embodied by a notification, under section 18,

shall be subject to the provisions of [the Burma Army Act]¹ and any orders or regulations made thereunder, and the said Act, orders and regulations shall apply to every such person in the circumstances aforesaid as if the same were enacted in this Act, and as if such person held the same rank in [the Burma Army]¹ as he holds for the time being in the said force, subject in the case of an officer, to the terms of his commission and the orders of [the President of the Union]¹, and, in the case of a [warrant officer]³ non-commissioned officer or man, to the orders of the President of the Union.

(2) Where an offence punishable under [the Burma Army Act]¹ has been committed by any person whilst subject to that Act under the provisions of sub-section (1), such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject:

Provided that no such person shall be kept in military custody after he has ceased to belong to the Burma Auxiliary Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry.

Refusal to
appear for
military
service.

22. If any person liable to perform military service under this Act fails to comply with an order or notification under section 18 calling him out or embodying him for military service, any District Magistrate may, on the application of the competent military authority or of an officer empowered by such authority in writing in that behalf, cause such person to be arrested and brought before him, and, if the Magistrate is satisfied that such person has been duly required to

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Repealed by Act XX, 1943.

³ Inserted *ibid.*

perform military service, the Magistrate may, without prejudice to any penalty which such person may have incurred, make over such person in custody to the military authorities.

23. An enrolled person who refuses or without lawful excuse (the burden of proving which shall lie upon such person) neglects—

Penalties for breach of sections 8, 14 and 16.

- (a) to comply with any order under section 8; or
- (b) to attend for medical examination, or to comply with the directions of the medical officer, as required by section 14; or
- (c) to notify any change of residence as required by section 16;

shall be punishable with fine which may extend to fifty rupees.

24. An enrolled person commits an offence if he, in circumstances when he is not subject to military law, does any of the following acts, namely:—

Other offences.

(1) when on parade or undergoing military training or wearing [military]¹ uniform—

- (a) strikes, or uses or offers violence to or uses threatening or insubordinate language to, or behaves with contempt to, his superior officer; or
- (b) disobeys any standing order of, or lawful command given by, his superior officer; or
- (c) neglects to obey a general or garrison order made specially applicable to the Burma Auxiliary Force by the competent military authority; or
- (d) is in a state of intoxication; or
- (e) being a [warrant officer, or]² non-commissioned officer strikes or ill-treats any person subject to military law or to this Act, or to the Burma Territorial Force Act, who is his subordinate in rank or position;

(2) without sufficient cause fails to appear at the place of parade at the time fixed or to attend at any place in his capacity as a member of the Burma Auxiliary Force, when duly required so to attend, or when on parade without sufficient cause quits the ranks;

(3) without sufficient cause fails to perform any part of the training which by or under this Act he is required to perform;

(4) strikes, or uses or offers violence to, any person whether subject to military law or not in whose military custody he is placed, and whether such person is or is not his superior officer;

(5) resists an escort whose duty it is to arrest him or detain him in military custody;

(6) being under arrest or detention or otherwise in lawful military custody escapes or attempts to escape;

(7) when in charge of any property belonging to Government or to a corps or unit of the Burma Auxiliary Force, makes away with, or is concerned in making away with, any such property;

(8) wilfully injures, or by culpable neglect loses or causes injury to, any such property as is mentioned in clause (7);

(9) wilfully ill-treats a horse or other animal used in the public service;

(10) knowingly furnishes a false return or report of the number or state of men under his command or charge, or of any money, arms or ammunition, clothing, equipment, stores or other property in his charge;

(11) through design or culpable neglect omits to make or send any return of any matter mentioned in clause (10) which it is his duty to make or send;

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Inserted by Act XX, 1943.

(12) when it is his official duty to make a declaration respecting any matter, makes a declaration respecting such matter which he either knows or believes to be false or does not believe to be true ;

(13) knowingly makes against any person subject to military law or to this Act or to the Burma Territorial Force Act an accusation which he either knows or believes to be false or does not believe to be true ;

(14) falsely personates any other person at any parade or on any occasion when such other person is required by or under this Act to do any act or attend at any place, or abets any such act of personation.

Punishment
for offences
under
section 24.

25. (1) Any person committing any of the offences specified in sub-clauses (b), (c) and (d) of clause (1) or in clauses (2), (3), (8), (11) and (14) of section 24 shall be punishable with fine which may extend to two hundred rupees.

(2) Any person committing any other offence specified in section 24 shall be punishable with imprisonment which may extend to two months, or with fine which may extend to two hundred rupees, or with both.

Dismissal.

26. The competent military authority may in his discretion dismiss any enrolled person from the Burma Auxiliary Force.

Summary
and minor
punishments.

27. The President of the Union may prescribe summary and minor punishments for offences under section 24 or for contravention of any rule or regulation made under this Act to which enrolled persons shall be liable without the intervention of a criminal Court, and the officer or officers by whom and the circumstances in which and the extent to which such summary and minor punishments may be inflicted, and the manner in which any such punishment may be enforced :

Provided that no punishment involving any kind of imprisonment shall be imposed as a summary or minor punishment :

Provided further that no summary punishment shall be inflicted in any case in which the accused claims to be tried by a criminal Court.

Presumption
as to certain
documents.

27A. Where any [warrant officer,]¹ non-commissioned officer or man of the Auxiliary Force is required by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

Advisory
Committees.

28. (1) The President of the Union shall constitute for each prescribed military area one or more Advisory Committees each consisting of three or more members, of whom one shall be the competent military authority and the others shall be persons eligible for enrolment in the Burma Auxiliary Force, within the meaning of section 4, who shall be appointed annually by, or under the orders of, the President of the Union.

(2) Any Advisory Committee constituted for a prescribed military area or a part thereof, as the case may be, which includes a place to which the President of the Union may, by order in writing, declare this sub-section to apply, shall consist of not less than five members, of whom not more than two shall be persons in the service of Government.

(3) The President of the Union shall prescribe the duties, powers and procedure of Advisory Committees and, in particular, the matters in respect of which the competent military authority shall be bound to give effect to a recommendation of an Advisory Committee unless the President of the Union otherwise directs.

¹ Inserted by Act XX, 1943.

29. The President of the Union may constitute any corps or unit and may disband any corps or unit constituted under this Act.

Constitution and disbandment of units.

30. (1) The President of the Union may make rules¹ to carry out the purposes of this Act.

Power to make

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—

- (a) provide for the appointment of enrolling officers ;
- (aa) prescribe the authority which shall be the competent military authority for any purpose under this Act ;
- (b) prescribe military areas for the purposes of this Act ;
- (c) prescribe the manner in which and the conditions subject to which persons may offer themselves for enrolment under this Act and the conditions governing applications to be enrolled in a particular branch, corps or unit ;
- (d) define the manner in which and the conditions under which persons or any class of persons liable to military service under this Act may be excused from being called out or embodied ;
- (e) prescribe the military training to be undergone by persons liable to military training under section 6 but not to military service under section 7 ;
- (f) prescribe the conditions governing the grant of, and the rates of pay for, and provide for the grant of allowances to, enrolled persons ;
- (g) prescribe for any military area which is a railway area or for any area beyond the limits of the Union of Burma the authorities which shall be deemed respectively to be the Government and the District Magistrate for all or any of the purposes of this Act ; and
- (h) provide for any other matter which under this Act is to be or may be prescribed.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(5) All rules made under this section shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

31. The [General Officer Commanding, Burma Army,]² may make regulations consistent with this Act and the rules made thereunder providing generally for details connected with the organisation and personnel of the Burma Auxiliary Force, and for the duties, equipment, military training, allowances and leave of enrolled persons.

Power to make regulations.

32. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, all officers, [warrant officers,]³ non-commissioned officers and men liable to perform military service under this Act who have been appointed to a corps or unit shall be deemed to be officers, [warrant officers,]³ non-commissioned officers, and soldiers, respectively, of [the Burma]⁴ Army.

Certain persons subject to this Act to be deemed part of the Burma Army for certain purposes.

¹ For rules under this section, see *Burma Gazette*, 1941, Part I, p. 939.

² Substituted by Act XX, 1943.

³ Inserted *ibid*.

⁴ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Trial of
offences.

33. Save as otherwise provided by section 27, no offence under this Act shall be tried save by a Court not inferior to that of a Magistrate of the first class.

Exemption
from local
taxation.

34. No enrolled person shall be liable to pay any municipal or other tax in respect of a horse, bicycle, motor-bicycle, motor car or other means of conveyance which he is authorised by a general or special order of the competent military authority to maintain in his capacity as a member of the Burma Auxiliary Force.

SCHEDULE I.

(See sections 9, 11, 12 and 15.)

TRAINING.

1. Preliminary—			
(a) for infantry	...	...	32 days, and the annual musketry course as laid down in regulations.
(b) for other branches	...	...	40 days, and the annual musketry or gun course as laid down in regulations.
2. Periodical—			
(1) Active class—			
(a) for infantry	...	...	20 days in each training year, and the annual musketry course as laid down in regulations.
(b) for other branches	...	...	20 days in each training year, and the annual musketry or gun course as laid down in regulations.
(2) Reserve class—			
(A) Personnel transferred from the Active Class, All branches.			The annual weapon training course as authorised in regulations.
(B) Personnel recruited direct to the Reserve class—			
(a) for infantry	...	...	As prescribed in item 2 (1) above.
(b) for other branches	...	...

NOTE.—(cf. section 15).—Except during periodical training in camp, a day consists of four hours of actual military drill or action and may be made up of fractions of a day not more than four in number.

VOLUNTEER FORCES (PROTECTION IN CIVIL EMPLOYMENT) ACT.

၁၂၉၉ ခုနှစ်၊ မတ်လ ၂၈ ရက်

မြန်မာနိုင်ငံတော် [BURMA ACT IX, 1940.] (28th March, 1940.)

၁၂၉၉

1. (1) This Act may be called the Volunteer Forces (Protection in Civil Employment) Act, 1940; and

(2) It shall come into force on the date on which the Volunteer Forces (Protection in Civil Employment) Ordinance, 1940, ceases to operate.

2. (1) The term "volunteer force" shall include the Burma Naval Volunteer Reserve Force, the Army in Burma Reserve of Officers, the Burma

Auxiliary Force, the Burma Territorial Force, the Auxiliary Air Squadron, and such other volunteer Naval, Military, or Air Forces as may from time to time be raised in the Union of Burma.

(2) The term "employer" shall include any body of persons, whether incorporated or not, and any managing agent of an employer and the legal representative of a deceased employer, but shall not include the Government, and, for the purpose of section 4 of this Act, shall mean the employer by whom the employee was employed when the said employee was called to Navy, Army or Air Force service.

3. No employer shall dismiss, discharge or otherwise remove from his employment or discontinue his employment of an employee merely on the ground that the employee by virtue of his membership of a volunteer force has been called or is liable to be called to Navy, Army or Air Force service, or that the unit of the volunteer force to which the employee belongs has been or is liable to be embodied.

4. No employer shall refuse to reinstate an employee, who by virtue of his membership of a volunteer force has been called to Navy, Army or Air Force service, in his employment at the termination of that service in an occupation and under conditions not less favourable to the employee than those which would have been applicable to him had he not been called to service as aforesaid :

Provided that refusal to reinstate an employee shall not be an offence under this section if—

- (i) the employee does not within one month of the expiry of his Navy, Army or Air Force service, *plus* such period of leave as may be granted to him under the Naval, Army or Air Force regulations to which he is subject, apply to the employer for reinstatement, or
- (ii) the employee having been offered reinstatement by the employer at the expiry of his period of Navy, Army or Air Force service, *plus* such period of leave as may be granted to him under the Naval, Army or Air Force regulations to which he is subject, fails to present himself for employment at the time and place notified to him by the employer, or
- (iii) by reason of a change of circumstances (other than the engagement of some other person in the employee's place) it is not reasonably practicable for the employer to reinstate the employee in an occupation and under circumstances not less favourable to him than those which would have been applicable to him if he had not been called to service as aforesaid and the employer has offered to reinstate the employee in the most favourable occupation and under the most favourable circumstances reasonably practicable.

5. An employer who contravenes the provisions of section 3 or section 4 of this Act shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to rupees one thousand, or with both ; and the Court may also order the payment to an employee by an employer who has been convicted of an offence under either section 3 or section 4 of a sum in compensation not exceeding six months' salary at the rate at which the employee's salary was last payable to him by the employer.

6. Offences under this Act shall be triable only by the District Magistrate or by an Additional District Magistrate of the District in which the employee was last employed by the employer.

7. * * *

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

3/3221/2065 (47-7532)
3032-2065 (102-7532)

THE SOLDIERS LITIGATION ACT

[INDIA ACT IV, 1925.] (1st April, 1925.)

1. * * * *

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Court" means a civil or revenue Court ;
- (b) "Burman soldier" means any person subject to the Burma Army Act ;
- (c) "prescribed" means prescribed by rules made under this Act ; and
- (d) "proceeding" includes any suit, appeal or application.

Circumstances in which Burman soldier shall be deemed to be serving under special conditions.

3. For the purposes of this Act, a Burman soldier shall be deemed to be or as the case may be, to have been serving—

- (a) under special conditions—when he is or has been serving under war conditions, or overseas, or at any place [outside the Union]¹ ;
- (b) under war conditions—when he is or has been, at any time during the continuance of any hostilities declared by the President of the Union by notification in the Gazette to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,—
 - (i) serving out of the Union of Burma,
 - (ii) under orders to proceed on field service,
 - (iii) serving with any unit which is for the time being mobilised, or
 - (iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the President of the Union by notification in the Gazette to be service under war conditions ; and
- (c) overseas—when he is or has been serving in any place the journey between which and the Union of Burma is ordinarily undertaken wholly or in part by sea.

Particulars to be furnished in plaints, applications or appeals to Court.

4. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is a Burman soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal.

Power of Collector to intervene in case of unrepresented Burman soldier.

5. If any Collector has reason to believe that any Burman soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court.

Notice to be given in case of unrepresented Burman soldier.

6. If a Collector has certified under section 5, or if the Court has reason to believe, that a Burman soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority :

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

- (a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or
- (b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

7. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions, and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Postponement of proceedings.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Court may proceed when no certificate received.

9. When any document purporting to be signed by the commanding officer of a Burman soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

Postponement of proceedings against Burman soldier on leave.

- (a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or
- (b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall in any other case, be postponed in the manner provided in section 7.

10. (1) In any proceeding before a Court in which a decree or order has been passed against any Burman soldier whilst he was serving under war conditions or under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

Power to set aside decrees and orders passed against a Burman soldier serving under war or special conditions.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions:

Provided that the provisions of section 5 of the Limitation Act shall apply to such applications.

(3) When the decree or order in respect of which an application under subsection (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

Modification of law of limitation where Burman soldier serving under war or special conditions is a party.

11. In computing the period of limitation prescribed by the Limitation Act, or any other law for the time being in force, for any suit, appeal or application to any Court any party to which is or has been a Burman soldier, the time during which the soldier has been serving under war conditions [since the 3rd day of September 1939]¹ shall be excluded :

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

Power of Court to refer question as to whether service was under war or other special conditions.

12. If any Court is in doubt whether, for the purposes of section 10 or section 11, any Burman soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

Rule-making power.

13. The President of the Union, after consulting the High Court, may, by notification in the Gazette, make rules to provide for all or any of the following matters, namely :—

- (a) the manner and form in which any notice or certificate under this Act shall be given ;
- (b) the period for which proceedings or any class of proceedings shall be postponed under section 7 ;
- (c) the persons who shall be the prescribed authorities for the purposes of this Act ;
- (d) any other matter which is to be or may be prescribed ; and
- (e) generally, any matters incidental to the purposes of this Act.

Power to apply the provisions of the Act to other persons in the service of the Government.

14. The President of the Union may, by notification in the Gazette, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of [the Government]¹ specified in such notification in the same manner as they apply to Burman soldiers.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

THE BURMA NAVAL VOLUNTEER RESERVE (DISCIPLINE) ACT.

[BURMA ACT XV, 1940.] (6th September, 1940.)

1. (1) This Act may be called the Burma Naval Volunteer Reserve (Discipline) Act.

(2) It extends to the whole of the Union of Burma and applies to members of the Burma Naval Volunteer Reserve wherever they may be.

2. The President of the Union may make rules¹ for the government, discipline and regulation of the Burma Naval Volunteer Reserve.

3. (1) Subject to the provisions of section 4, the Naval Discipline Act shall apply to the Burma Naval Volunteer Reserve and ships raised and provided by the President of the Union as if that Act were in the form in which it is set forth in the Schedule to this Act.

29 & 30
Vict., c.
109.

(2)

4. Every member of the Burma Naval Volunteer Reserve while undergoing training or serving on board any vessel or otherwise, in pursuance of rules made under section 2, shall be subject to the Naval Discipline Act as set out in the Schedule to this Act and shall continue to be so subject until duly released from such training or service, as the case may be.

29 & 30
Vict., c.
109.

5. (1) If any member of the Burma Naval Volunteer Reserve, when required, in pursuance of rules made under section 2, to attend on board any vessel or at any place for the purpose of undergoing training, fails without reasonable excuse to attend in accordance with such requirement, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any member of the Burma Naval Volunteer Reserve, when called into service and required by such call to join any vessel or attend at any place, fails without reasonable excuse to comply with such requirement at or within such time as the President of the Union may, by order, direct, he shall be liable to be apprehended and punished in the same manner as a person in or belonging to [the Burma Navy]² deserting or improperly absenting himself from duty, except that the punishment shall not exceed imprisonment which may extend to two years.

6. Where any member of the Burma Naval Volunteer Reserve is required, in pursuance of rules made under section 2, to attend on board any vessel or at any place for the purpose of undergoing training, or is called into service, a certificate purporting to be signed by an officer appointed in this behalf under the said rules and stating that the said member failed to attend in accordance with such requirement or call shall, without proof of the signature or appointment of such officer, be evidence of the matter stated therein.

7. No Court inferior to that of a Magistrate of the first class shall try an offence punishable under section 5.

* 8. *

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
² For rules made under the Burma Naval Volunteer Reserve Force (Discipline) Ordinance, 1939 (Ordinance VI of 1939), now repealed by s. 8 of this Act, see *Burma Gazette*, 1940, Part I, p. 691.

³ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

THE SCHEDULE.

THE NAVAL DISCIPLINE ACT.

(29 & 30 Vict., c. 109.)

(As modified for application to the Burma Naval Volunteer Reserve.)

An Act to make Provision for the Discipline of the Navy.

1 * * * *

* * * *

PART I.

ARTICLES OF WAR.

Public Worship.

Facilities for the performance of religious duties. 1. All officers in command of ships of the Burma Naval Volunteer Reserve shall give reasonable facilities for the performance of religious duties by the officers and members of the crews of their respective ships to each man according to his religion.

Misconduct in the presence of the Enemy.

Penalty for misconduct in action. 2. Every flag officer, captain, commander or officer commanding subject to this Act who upon signal of battle, or on sight of a ship of an enemy which it may be his duty to engage, shall not,

- (1) use his utmost exertions to bring his ship into action ;
- (2) or shall not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously ;
- (3) or who shall surrender his ship to the enemy when capable of making a successful defence, or who in time of action shall improperly withdraw from the fight ;

shall, if he has acted traitorously, suffer death ; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned ; and if he has acted from negligence or through other default, he shall be dismissed from service, with or without disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for not pursuing the enemy, and of not assisting a friend in view. 3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist a known friend in view to the utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death ; if he has acted from cowardice, suffer death or such other punishment as is hereinafter mentioned ; if he has acted from negligence or through other default, shall be dismissed from service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for delaying or discouraging the service or deserting his post, etc. 4. When any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch shall suffer death or such other punishment as is hereinafter mentioned.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

5. Every person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for misconduct of subordinate officers and men in action.

Communications with the Enemy.

6. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for spies.

7. Every person subject to this Act who shall—

- (1) traitorously hold correspondence with or shall give intelligence to the enemy;
- (2) or fail to make known to the proper authorities any information he may have received from the enemy;
- (3) or who shall relieve the enemy with any supplies;

Penalty for corresponding, etc., with the enemy.

shall suffer death, or such other punishment as is hereinafter mentioned.

8. Every person subject to this Act who shall without any treacherous intention hold any improper communication with the enemy, shall be dismissed with disgrace from service, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for improper communication with the enemy.

Neglect of Duty.

9. Every person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall be dismissed from service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for abandoning post.

Mutiny.

10. Where mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death or such other punishment as is hereinafter mentioned; and every person subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is hereinafter mentioned; if he has acted from cowardice, shall suffer penal servitude¹ or such other punishment as is hereinafter mentioned; if he has acted from negligence, he shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for mutiny accompanied by acts of violence.

11. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is hereinafter mentioned; and all other persons who shall join in such mutiny, or shall not use their utmost exertions to suppress the same, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for mutiny not accompanied by acts of violence.

12. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or [allegiance to the Constitution]² or endeavour to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for inciting to mutiny.

¹ See footnote to s. 52 (2) at p. 70.

² Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Penalty for civilians endeavouring to seduce from allegiance.

13. Every person, not otherwise subject to this Act, who, being on board any Government ship, shall endeavour to seduce from his duty or [allegiance to the Constitution]¹ any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for making mutinous assemblies or uttering seditious words.

14. Every person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly, or shall utter any words of sedition or mutiny, shall suffer penal servitude² or such other punishment as is hereinafter mentioned.

Penalty for concealing any traitorous or mutinous practice, design, or words.

15. Every person subject to this Act who shall wilfully conceal any traitorous or mutinous practice or design or any traitorous or mutinous words spoken against the Government, or any words, practice, or design tending to the hindrance of the service, shall suffer penal servitude² or such other punishment as is hereinafter mentioned.

Punishment for striking or attempting to strike, etc., superior officer.

16. Every person subject to this Act who shall strike or attempt to strike or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer, whether or not such superior officer is in the execution of his office, shall be punished with penal servitude² or such other punishment as is hereinafter mentioned.

Insubordination.

Penalty for disobedience or using threatening language to superior officer.

17. Every person subject to this Act who shall wilfully disobey any lawful command of his superior officer, or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal, with disgrace, from service, or suffer such other punishment as is hereinafter mentioned.

Penalty for quarrelling, etc., or using reproachful speech or gestures.

18. Every person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Desertion and Absence without Leave.

Penalty for desertion.

19. Every person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances, when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,

- (1) if he has deserted to the enemy, he shall be punished with death or such other punishment as is hereinafter mentioned;
- (2) if he has deserted under any other circumstances, he shall be punished with penal servitude² or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him and all annuities, pensions, gratuities, medals and decorations that may have been granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried or the President of the Union shall otherwise direct.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² See footnote to s. 52 (2) at p. 70.

20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for inducing any person to desert.

21. Every officer in command of any Government ship who shall receive or entertain any deserter from the Burma Naval, Military or Air Forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from the Burma Naval Forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the President of the Union or to the Commanding Officer of the Burma Naval Volunteer Reserve, or, in case of a deserter from the Burma Military or Air Forces, give notice to the President of the Union or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from service, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for entertaining a deserter.

22. If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is hereinafter mentioned, and to such other punishment by forfeiture of wages or of other benefits as the President of the Union from time to time by regulations prescribes.

Punishment for breaking out of ship.

23. Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable in time of war to imprisonment or such other punishment as is hereinafter mentioned, and at other times to imprisonment or detention for any period not exceeding ten weeks, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the President of the Union from time to time by regulations prescribes.

Penalty for absence without leave.

24. If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not), but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the President of the Union from time to time by regulations prescribes, and the President of the Union may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on board ship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the President of the Union may direct; and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the President of the Union may, if it seems fit on sufficient cause being shown at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

Forfeiture of effects for absence without leave.

25. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs or continues to employ any person subject to this Act, who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, * * * * * to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the President of the Union directs.

Penalty for assisting, etc., desertion.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

Penalty for
persuading
to desertion,
etc.

26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, * * * *¹ to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the President of the Union directs.

Miscellaneous offences.

Penalty for
profane
swearing
and other
immoralities.

27. Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness or other scandalous action * * * *¹ and corruption of good manners, shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty on
officer for
cruelty or
oppression.

28. Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from service; and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from service.

Penalty for
suffering
ships or
aircraft to be
improperly
lost.

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard or suffer to be lost, stranded, or hazarded, any ship of the Government or in Government service, or lose or suffer to be lost any aircraft of the Government or in Government service, shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for
not taking
care of and
defending
ships under
convoy.

30. The officers of all Government ships appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or extract any money or other reward from any merchant or master for convoying any ships or vessels entrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

Master of
merchant
vessel to
obey orders
of convoying
officer.

31. Every master or other officer in command of any merchant or other vessel under the convoy of any Government ship shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy; and shall take such precautions for avoiding the enemy as may be directed by such commanding officer, and if he shall fail to obey such directions such commanding officer may compel obedience by force of arms without being liable for any loss of life or of property that may result from his using such force.

Penalty for
taking any
goods on
board other
than for the
use of the
vessel except
gold, silver,
jewels, etc.

32. Every officer in command of any of Government ships who shall receive on board or permit to be received on board such ship any goods or merchandise whatsoever, other than for the sole use of the ship, except gold, silver or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Amended *ibid.*

ordered to take or receive on board by order of the President of the Union or his superior officer, shall be dismissed from service, or suffer such other punishment as is hereinafter mentioned.

33. Every person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell or receive any ammunition, provisions, or other public stores, and every person subject to this Act who shall knowingly permit any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for
embezzling
public stores.

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores or to any ship, vessel, hoy, barge, boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for
burning any
magazine or
vessel, etc.,
not belong-
ing to an
enemy.

35. Every person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for
making or
signing false
muster.

36. Every person subject to this Act who shall wilfully do any act or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for
misconduct
in hospital.

37. Every person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or to the commanding officer of the Burma Naval Volunteer Reserve, and the said superior, captain, or officer, shall, as far as he is able, cause the same to be presently remedied; and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a Court-martial may think fit to inflict, according to the degree of offence.

Penalty for
endeavour-
ing to stir
up any dis-
turbance on
account of
unwhole-
someness of
the victuals
or other just
grounds.

38. All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other Court or commissioners as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

Penalty for
not sending
to the Court
of Admiralty
all papers
found aboard
prize ships.

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of Government ships and vessels of war, before the same be adjudged lawful prize in some Admiralty Court; but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the capture.

Penalty for
taking
money or
other effects
out of any
prize before
the same
shall be
condemned.

Penalty for stripping of ill-using persons taken on board as prize.

40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty on commanders capturing as prize by collusion or collusively restoring ships or goods.

41. If the commanding officer of any of Government ships does any of the following things, namely,

- (1) by collusion with the enemy takes as prize any vessel, goods, or thing;
- (2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize; or
- (3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize;

he shall be liable to dismissal from service, with disgrace, or to such other punishment as is hereinafter mentioned.

Penalty for breaking bulk on board prize ship with a view to embezzlement.

42. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the customs, with intent to embezzle anything therein or belonging thereto, he shall be liable to dismissal from service, with disgrace, or to such other punishment as is hereinafter mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for offences against naval discipline not particularly mentioned.

43. Every person subject to this Act who shall be guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Crimes to be punished according to laws and customs in use.

44. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death or penal servitude¹, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

Offences punishable by Ordinary Law.

Penalty for offences punishable by ordinary law.

45. Every person subject to this Act who shall be guilty of an offence punishable under sections 302, 304, 304A, 377, 377 read with 511, 379, 380, 381, 382, or 392 of the Penal Code shall be punishable with the punishment provided in that Code for the offence.

If any such person shall be guilty of any other criminal offence which if committed in the Union of Burma would be punishable by the law of the Union of Burma, he shall, whether the offence be or be not committed in the Union of Burma, be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in the Union of Burma.

Offences when punishable.

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of the Union of Burma, or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of the Union of Burma, or in any of

¹ See footnote to s. 52 (2) at p. 70.

Government dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to the Government, or in any other premises held by or on behalf of the Government for naval or military purposes, or in any canteen or sailors' home or any place of recreation placed at the disposal of or used by officers or men of the Burma Navy which may be prescribed by the President of the Union, whether in or out of the Union of Burma, the offender may be tried and punished under this Act; and for all offences hereinbefore specified under the headings "misconduct in the presence of the enemy", "communications with the enemy", "neglect of duty", "mutiny", "insubordination", "desertion and absence without leave", or "miscellaneous offences", if committed by any person subject to this Act at any place on shore, whether in or out of the Union of Burma, the offender may be tried and punished under this Act.

46A. (1) Where an offence under this Act has been committed by any person while subject to this Act, such person may be taken into and kept in custody and tried and punished for such offence although he has ceased to be subject to this Act in like manner as he might have been taken into and kept in custody, tried, or punished if he had continued so subject:

Provisions where offender has ceased to be subject to the Act.

Provided that where a person has since the commission of an offence ceased to be subject to this Act, he shall not be tried for such offence except in case of offences of mutiny or desertion, unless proceedings against him are instituted within three months after he has ceased to be subject to this Act, but this section shall not affect the jurisdiction of a civil Court in the case of any offence triable by such Court as well as by Court-martial.

(2) Where a person subject to this Act is sentenced under this Act to penal servitude,¹ imprisonment, or detention, this Act shall apply to him during the term of his sentence notwithstanding that he is discharged or dismissed from service, or has otherwise ceased to be subject to this Act, and he may be kept in custody, removed, imprisoned, made to undergo detention and punished accordingly, as if he had continued to be subject to this Act.

PART II.

GENERAL PROVISIONS.

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any person is charged with having committed such offence with an intent involving a greater degree of punishment, a Court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly.

Power of Court-martial to find intent with which offence committed.

48. Where any person shall be charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment.

Power of Court-martial to find prisoner guilty of lesser offence on charge of greater.

¹ See footnote to s. 52 (2) at p. 70.

Rebels and mutineers to be deemed enemies.

Power to arrest offenders.

49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

50. Every officer in command of a fleet or squadron of Government ships, or of one of Government ships, or the senior officer present at a port, or an officer having by virtue of sub-section (3) of section fifty-six of this Act power to try offences, may, by warrant under his hand, authorize any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of Government ships; and any person so authorized may use force, if necessary, for the purpose of effecting such apprehensions towards any person subject to this Act.

Penalty for not assisting in detection of prisoners

51. Every person subject to this Act who shall not use his utmost endeavours to detect, apprehend and bring to punishment all offenders against this Act, and shall not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

PART III.

REGULATIONS AS TO PUNISHMENTS.

Punishments.

52. The following punishments may be inflicted in the Burma Navy :—

- (1) Death ;
- (2) Penal servitude¹ ;
- (3) Dismissal with disgrace from service ;
- (4) Imprisonment or corporal punishment ;
- (4A) Detention ;
- (5) Dismissal from service ;
- (6) Forfeiture of seniority as an officer for a specified time, or otherwise ;
- (7) Dismissal from the ship to which the offender belongs ;
- (8) Severe reprimand, or reprimand ;
- (9) Disrating a subordinate or petty officer ;
- (10) Forfeiture of pay, head money, bounty, salvage, prize money, and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to, the offender, or of any one or more of the above particulars ; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs ;
- (11) Such minor punishments as are now inflicted according to the custom of the Navy, or may from time to time be allowed by the President of the Union.

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to infliction of punishments.

53. The following regulations are hereby made with respect to the infliction of punishments in the Burma Navy :—

- (1) The powers to suspend, remit or commute sentences or punishment shall be the powers conferred by and shall be exercised in accordance with

¹ The Union of Burma (Adaptation of Laws) Order, 1948, directs that in this Act all references to penal servitude as a punishment shall be deemed to have no effect.

the provisions of sections 401 and 402 of the Code of Criminal Procedure, and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed with such modification by the Court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification;

(2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the Court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence;

(3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the President of the Union;

(4) The punishment of penal servitude¹ may be inflicted for the term of life or for any other term of not less than three years;

(5) The punishment of penal servitude¹ shall in all cases involve dismissal with disgrace from service;

(6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to, the offender, and an incapacity to serve the Government again in any military, naval, air force, or civil service, and may also in all cases be accompanied by a sentence of imprisonment;

(7) The punishment of imprisonment may be inflicted for any term not exceeding two years and may be accompanied with a sentence of dismissal from service;

(8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term, not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement; and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods;

(9) A sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple, and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour or either of them;

(9A) The punishment of detention may be inflicted for any term not exceeding two years:

Provided that until naval detention quarters shall have been set apart and declared to be such by the President of the Union by notification in the Gazette no sentence of detention shall be awarded;

(10) The punishment of imprisonment, or detention, whether on board ship or on shore, shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment or detention;

Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention;

¹ See footnote to s. 52 (2) at p. 70.

(11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted: no officer shall be subject to detention or to corporal punishment: no petty or non-commissioned officer shall be subject to corporal punishment: except in case of mutiny.

All other punishments authorized by this Act may be inflicted in the manner heretofore in use in the Navy.

53A.

Limitation
of time for
trials.

54. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence or within one year after the return of such offender to the Union of Burma, where he has been absent from the Union of Burma during such period of three years.

Scale of
punishment.

55. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments, inferior in degree to the specified punishment, according to the scale hereinbefore mentioned; but corporal punishment shall be deemed equal in degree to imprisonment, and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.

Authorities
having
power to try
offences.

56. (1) Any offence triable under this Act may be tried and punished by Court-martial.

(2) Any offence not capital which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the President of the Union from time to time issue, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude¹ or to award imprisonment or detention for more than three months.

(3) The power by this section vested in an officer commanding a ship may—

- (a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and
- (b) as respects persons on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and
- (c) as respects persons subject to this Act on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law, * * * *² be exercised by the officer in immediate command of those persons; and
- (d) as respects persons subject to this Act quartered in naval barracks, be exercised by the officer in command of those barracks.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

² See footnote to s. 52 (2) at p. 70.

(4) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the person charged reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

57. The President of the Union may impose the punishment of forfeiture of time or seniority of not more than twelve months on any subordinate officer.

Forfeiture of time or seniority.

57A. (1) Where any officer borne on the books of any of Government ships in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-seven or forty-three of this Act, the officer having power to order a Court-martial may, if he considers that the offence is of such a character as not to necessitate trial by Court-martial, in lieu of ordering a Court-martial order a disciplinary Court constituted as hereinafter mentioned.

Trial of officers for disciplinary offences in time of war.

(2) A disciplinary Court shall be composed of not less than three nor more than five officers, of whom one shall be a commander or of higher rank.

(3) A disciplinary Court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(4) The President of the Union may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary Courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary Courts the provisions of sections sixty-two to sixty-four and sections sixty-six to sixty-nine of this Act relating to Courts-martial, and the regulations shall provide for evidence being taken on oath and empower the Court to administer oaths for that purpose.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-martial.

58. The following regulations are hereby made with respect to Courts-martial :—

Constitution of Courts-martial.

- (1) A Court-martial shall consist of not less than five not more than nine officers ;
- (2) No officer shall be qualified to sit as a member of any Court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of the Burma Navy on full pay ;
- (3) A Court-martial shall not be held unless at least two of Government ships, not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of the Burma Navy on full pay, are together at the time when such Court-martial is held ;
- (4) No officer shall sit on a Court-martial who is under twenty-one years of age ;
- (5) No Court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the Court are of the rank of captain, or of higher rank ;

- (6) No Court-martial for the trial of a captain in the Burma Navy shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the Court are commanders or officers of higher rank ;
- (7) No Court-martial for the trial of a person below the rank of captain in the Burma Navy shall be duly constituted unless the president is a commander or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the president two other members of the Court are of the rank of commander or of higher rank ;
- (8) The prosecutor shall not sit on any Court-martial for the trial of a person whom he prosecutes ;
- (9) The President of the Union shall have power to order Courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of the Burma Navy authorizing him to order Courts-martial to be held for the trial of such offences ;
- (10) An officer holding a commission from the President of the Union to order Courts-martial shall not be empowered to do so if there is present at the place where such Court-martial is to be held any officer superior in rank to himself in command of one or more of Government ships or vessels, although such last-mentioned officer may not hold a commission to order Courts-martial ; and in such a case such last-mentioned officer may order a Court-martial, although he does not hold any commission for the purpose ;
- (11) If any officer holding a commission from the President of the Union to order Courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the President of the Union, have the same power to order Courts-martial as the first-mentioned officer was invested with ;
- (12) If any officer holding a commission from the President of the Union to order Courts-martial and having the command of any fleet or squadron of Government ships in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of Government ships on the division of the station from which he is absent, to order Courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to the Union of Burma, or until he comes into the presence of a superior officer, empowered to order Courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires ;

- (13) The officer ordering a Court-martial shall not sit thereon ;
- (14) The president of every Court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president ;
- (15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any Court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the Court-martial is to be holden (but the regularity or validity of any Court-martial, or of the proceedings thereof, shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances) ; and when any commander, lieutenant-commander or lieutenant sits on any Court-martial the members of it shall not exceed five in number ;
- (16) Subject to the foregoing regulations, whenever a Court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the Court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete ; subject to this proviso, that the admirals and captains being superintendents of Government dockyards shall not be summoned to sit on Courts-martial unless specially directed to do so by orders from the President of the Union.

59. A Court-martial under this Act shall be held on board one of Government ships or vessels of war, unless the President of the Union or the officer who ordered the Court-martial in any particular case for reasons to be recorded on the proceedings otherwise directs, in which case the Court-martial shall be held at a port at such convenient place on shore as the President of the Union or the officer who ordered the Court-martial shall direct.

Where
Court-
martial to
be held.

60. A Court-martial held in pursuance of this Act may, if it appears to the Court that an adjournment is desirable, be adjourned for a period not exceeding six days, but except where such an adjournment is ordered shall sit from day to day, with the exception of Sundays, until sentence is given unless prevented from so doing by stress of weather or unavoidable accident, and its proceedings shall not be delayed by the absence of any member, so that not less than four are present ; and no member shall absent himself unless compelled so to do by sickness or other just cause, to be approved of by the other members of the Court, and if any member of a Court-martial shall absent himself therefrom, in contravention of this section, he shall be dismissed from service, or shall suffer such other punishment as may be awarded by a Court-martial.

As to time
of sittings
of Courts-
martial.

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the President of the Union or by the commanding officer of the Burma Naval Volunteer Reserve, the officer who is to be the president of the Court-martial shall appoint a person to officiate as deputy judge advocate at the trial ; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

Appointment
of officiating
judge
advocate.

62. As soon as the Court is assembled, the names of the officers composing the Court shall be read over to the person charged, who shall be asked if he objects to being tried by any member of the Court ; if the person charged shall

Proceedings
at trial.

object to any member, the objection shall be decided by the Court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the Court-martial, subject to the regulations hereinbefore contained.

The person charged may then raise any other objection which he desires to make respecting the constitution of the Court-martial, and the objection shall then be decided by the Court, which decision shall be final, and the constitution of the Court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

Oaths to be administered to members of Courts-martial.

63. Before the Court shall proceed to try the person charged, the judge advocate of the fleet, or his deputy or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the Court the following oath; that is to say,

"I do swear, that I will duly administer justice according to law, without partiality, favour, or affection; and I do further swear, that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this Court-martial, unless thereunto required in due course of law":

Provided that an affirmation to the same effect in such terms as the President of the Union may prescribe in this behalf may be substituted for such oath.

Oaths to be administered to judge advocate, etc.

64. As soon as the said oath shall be administered to the members of the Court-martial, the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath:

"I do swear, that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the Court-martial, unless thereunto required in due course of law":

Provided that an affirmation to the same effect in such terms as the President of the Union may prescribe in this behalf may be substituted for such oath.

Power to President to make general orders for practice of Courts-martial. Summoning witnesses.

65. The President of the Union may make such general orders regulating procedure and practice of Courts-martial as may from time to time be necessary.

66. Every person, civil, naval and military, or belonging to the air force, who may be required to give evidence before a Court-martial shall be summoned by writing under the hand of a Secretary to the Government of the Union of Burma or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial, and all persons so summoned and attending as witnesses before any Court-martial shall, during their necessary attendance in or on such Court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the Court out of which the writ or process issued by which such witness was arrested, * * * or, if the Court-martial shall think fit, in case any such person, who is subject to this Act, being called upon to give evidence at any Court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence or behave with contempt to the Court, such Court-martial may punish every such offender by imprisonment, or, if the offender is a person liable to be sentenced to detention under this Act, by detention not longer than three

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Omitted *ibid*.

months in case of such refusal, neglect, or prevarication, nor longer than one month in case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the President of the Union, or of the president of the Court-martial on a foreign station.

67. Every person who, upon any examination on oath or upon affirmation before any Court-martial held in pursuance of this Act, shall make any statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence of giving false evidence; and every such offence, wheresoever committed, shall be triable and punishable in the Union of Burma.

Penalty on persons giving false evidence.

68. Where it shall appear upon the trial by Court-martial of any person charged with an offence that such person is insane, the Court shall find specially the fact of his insanity and shall order such person to be kept in strict custody in such place and in such manner as the Court shall deem fit until the directions of the President of the Union thereupon are known, and it shall be lawful for the President of the Union to give orders for the safe custody of such person [for such time]¹ in such place and in such manner as he shall think fit.

Where persons are insane at the time of offence or trial.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every Court-martial attended by him, to the commanding officer of the Burma Naval Volunteer Reserve or senior officer; who shall transmit them to the President of the Union for the time being, and any person tried by a Court-martial shall be entitled, on demand, to a copy of such proceedings and sentence (upon payment for the same at the rate of three annas per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such Court.

Report of proceedings of Court-martial to be transmitted.

69A. A Navy List or Gazette, purporting to be published by authority and * * * printed by a Government printer, * * * shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is proved.

Evidence of rank, etc., of officers.

PART V.

PENAL SERVITUDE² AND PRISONS.

Penal Servitude.³

70.	*	*	*	*
71.	*	*	*	*
72.	*	*	*	*

73. Whenever sentence shall be passed by a Court-martial on an offender⁴ already under sentence either of detention, imprisonment, or penal servitude passed upon him under this Act for a former offence, the Court may award sentence of detention, imprisonment, or penal servitude³ for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude³ to which he has been previously sentenced, although the aggregate of

Imprisonment of offender already under sentence for previous offence.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Deleted *ibid.*

³ See footnote to s. 52 (2) at p. 70.

the terms of detention, imprisonment, or penal servitude¹ may exceed the term for which any of those punishments could be otherwise awarded :

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for any period exceeding in the aggregate two consecutive years, and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

Prisons.

Term and place of imprisonment.

74. (1) Every term of penal servitude¹, imprisonment, or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment or detention, whether the imprisonment or detention was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the Court or the commanding officer awarding the punishment, or which may from time to time be appointed by the President of the Union, and may, in the case of imprisonment, be one of the naval prisons appointed under this Act, or naval detention quarters, or any common gaol, house of correction, or military prison or detention barrack, and may in the case of detention by any naval detention quarters or a military detention barrack * * * * *

(2) Where, by reason of a ship being at sea or off a place at which there is no proper prison or naval detention quarters, a sentence of imprisonment, or detention, as the case may be, cannot be duly executed, then subject as hereinafter mentioned, an offender under sentence of imprisonment or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters, or, in the case of an offender under sentence of detention, to some place at which there are naval detention quarters, in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner as if the date of such arrival were the day on which the sentence was awarded, and that notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of imprisonment or detention, as the case may be, shall be reckoned accordingly, subject however to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

(3) Where in pursuance of this Act a person is sentenced to imprisonment or detention the order of the President of the Union or of the commanding officer of the Burma Naval Volunteer Reserve or of the officer ordering the Court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, there to undergo his sentence according to law, and until he reaches such place of imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to imprisonment in any civil prison or place of confinement.

Power to suspend sentences.

74A. Where a person has been sentenced to penal servitude¹ or imprisonment or detention the President of the Union or officer who by virtue of subsection (3) of section seventy-four of this Act has power to issue an order of committal (hereinafter in this section referred to as "the committing authority") may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

(a) notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued ;

¹ See footnote to s. 52 (2) at p. 70.

² Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (b) the case may at any time, and shall at intervals of not more than three months, be reconsidered by the President of the Union or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, and if on any such reconsideration it appears to the President of the Union or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the President of the Union or committing authority or officer shall remit the whole or any part of it ;
- (c) subject to regulations made by the President of the Union, the President of the Union or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended ;
- (d) where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to penal servitude¹ or imprisonment or detention for any other offence, then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment or detention for a period exceeding the aggregate of two consecutive years, and where the sentence of such other offence is a sentence of penal servitude¹, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided.

Where a person has been sentenced to penal servitude¹ or imprisonment or detention and an order of committal has been issued, the President of the Union or the committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, may order the sentence to be suspended and in such case the person whose sentence is suspended shall be discharged and the currency of the sentence shall be suspended until he is again committed under the same sentence, and the foregoing paragraphs (b), (c) and (d) of this section shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

Where a sentence is suspended under this section, whether before or after committal, the President of the Union or, subject to any regulation or direction which may be issued by the President of the Union, the committing authority or officer by whom the sentence is suspended may, notwithstanding anything in section fifty-three of this Act, direct that any penalty which is involved by the punishment of penal servitude¹ or imprisonment or detention either shall be or shall not be remitted or suspended.

75. Whenever it is deemed expedient it shall be lawful for the President of the Union, the commanding officer of the Burma Naval Volunteer Reserve, or senior naval officer present, by any order in writing, from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody

Place of imprisonment may be changed, etc.

¹ See footnote to s. 52 (2) at p. 70.

for the purpose of the offender being removed to such prison or naval detention quarters; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with a copy of such order of removal, attested by a Secretary to the Government of the Union of Burma for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

Expenses of removal or subsistence of prisoners.

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding twelve annas a mile, and when any offender is not confined in a naval prison or naval detention quarters the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the President of the Union shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence, and such sum shall be paid to the said gaoler or other person under the authority of the President of the Union upon the application in writing made to the President of the Union by the District Magistrate within whose jurisdiction such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the offender is confined.

77. * * *

Proviso for discharge or removal of prisoners.

78. Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the President of the Union or, where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the President of the Union to give an order in writing directing that the offender be discharged; and it shall also be lawful for the President of the Union, and any officer commanding any of Government ships, by order in writing, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a Court-martial, either as a witness, or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

Proviso as to time of detention in naval custody.

79. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence for whatever purpose he is so detained; and the governor, gaoler, keeper, or superintendent who shall deliver over such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

In case of insanity prisoners to be removed to some lunatic asylum.

80. If any person imprisoned or undergoing detention by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the President of the Union shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the Union of Burma as he may judge proper for the unexpired term of his imprisonment or detention; and if any such person shall in the same manner be certified again of sound mind, the President of the Union may issue a warrant for his being removed to such prison or place of confinement or, in the case of a person sentenced to detention, such naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly.

1 * * *

The President may set apart

81. (1) The President of the Union may set apart any buildings or vessels, or any part thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or vessels, so set apart as naval prisons or naval

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters, respectively, within the meaning of this Act.

buildings and ships as naval prisons.

(2) The President of the Union shall have the same power and authority in respect to naval prisons and naval detention quarters respectively as one of His Britannic Majesty's Principal Secretaries of State has in relation to military prisons and detention barracks respectively under section one hundred and thirty-three of the Army Act, 1881, and that section shall apply as if it were herein re-enacted with the substitution of "the President of the Union" for "a Secretary of State", and of "naval" for "military" and of "naval detention quarters" for "detention barrack", and rules and regulations may be made accordingly by the President of the Union.

82. If any person shall convey or cause to be conveyed into any such naval prison or any such naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention or by any means whatever shall aid any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, such person shall be punished with imprisonment which may be either rigorous or simple, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years; and if any person shall bring or attempt to bring into such prison or naval detention quarters, in contravention of the rules, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding two hundred rupees and not less than one hundred rupees; and if any person shall bring into such prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison or naval detention quarters to be in the possession of a prisoner or person undergoing detention, or shall throw into the said prison or naval detention quarters any such articles, or by desire of any prisoner or person undergoing detention, without the sanction of the said officer, shall carry out of the prison or naval detention quarters any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding fifty rupees; and if any person shall interrupt any officer of such prison or naval detention quarters in the execution of his duty, or shall aid or excite any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding fifty rupees, or if the offender be a prisoner or person undergoing detention, he shall be punished with imprisonment, which may be either rigorous or simple, for any time not exceeding six calendar months, in addition to so much of the time for which he was originally sentenced as may be then unexpired, and every such penalty shall be applied as the President of the Union shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

Penalties on aiding escape or attempt to escape of prisoners and on breach of prison regulations.

83. Every governor, gaoler, and keeper of any prison, gaol or house of correction or of any naval detention quarters, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one thousand rupees, and every such penalty shall be applied as the President of the Union shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

Penalty as regards gaolers, etc.

¹ See footnote to s. 52 (2) at p. 70.

PART VI.

SUPPLEMENTAL PROVISIONS.

- Short title. 84. This Act may be cited for all purposes as the Naval Discipline Act.
85. * * *
- Definition of terms. 86. In the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction,—
 “Admiralty” shall mean such authority as may be appointed by the President of the Union in this behalf;
 “Officer” shall mean an officer belonging to the Burma Navy and shall also include an officer in the Burma Naval Volunteer Reserve during and in respect of the time when he is subject to the provisions of this Act, but shall not extend to petty and non-commissioned officers;
 When the words “superior officer” are used in this Act they shall be held to include all officers, warrant officers, petty and non-commissioned officers.
- Persons subject to this Act. 87. Every person in or belonging to the Burma Navy and every member of the Burma Naval Volunteer Reserve to the extent specified in section 4 of the Burma Naval Volunteer Reserve (Discipline) Act shall be subject to this Act; and all other persons hereby or by any other Act made liable thereto shall be triable and punishable under the provisions of this Act.
- Land and air forces embarked as passengers. 88. The Burma land and air forces, when embarked on board any Government ship in commission, shall be subject to the provisions of this Act to such extent and under such regulations as the President of the Union may prescribe.
- Other persons embarked as passengers. 89. All other persons ordered to be received or being passengers on board any of Government ships shall be deemed to be persons subject to this Act, under such regulations as the President of the Union may from time to time direct.
- Provisions for subjecting certain persons to naval discipline in time of emergency. 90. (1) If any person who would not otherwise be subject to this Act enter into an engagement with the Admiralty to serve the Government—
 (a) in a particular ship, or
 (b) in a particular ship or in such ships as the Admiralty may from time to time determine,
 and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person as if, while subject to this Act, he belonged to the Burma Navy and were borne on the books of one of Government ships in commission.
 (2) [The President of the Union may, by Order,¹ direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Admiralty, persons of any such class as may be specified in the Order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified * * *²

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.² Substituted *ibid.*

90A. (1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of the Burma military forces, acting with, or is attached to, any body of the Burma naval forces under such conditions as may be prescribed by regulations made by the Admiralty and Army authorities, then, for the purposes of command and discipline and for the provisions of this Act relating to superior officers, he shall, in relation to such body of the Burma naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

Relations between military, naval, and air forces acting together

(1A) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of the Burma air force acting with any body of the Burma naval forces under such conditions as may be prescribed by regulations made by the Admiralty and Air authorities and such officer or non-commissioned officer is not borne on the books of any of Government ships in commission, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of the Burma naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

(2) Where any naval officer or seaman is a member of a body of the Burma naval forces acting with or is attached to any body of the Burma military forces under such conditions as may be prescribed by regulations made by the Admiralty and Army authorities, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such military body shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(2A) Where any naval officer or seaman is a member of a body of the Burma naval forces acting with any body of the Burma air force under such conditions as may be prescribed by regulations made by the Admiralty and Air authorities, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such body of the air force shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(3) The relative rank of naval and military and air force officers, petty officers, and non-commissioned officers shall for the purpose of this section be such as is provided by the Army Regulations and Admiralty Instructions for the time being in force.

90B.-90C. * * *

91. When any one of Government ships shall be wrecked or lost or destroyed or taken by the enemy, such ship shall for the purposes of this Act be deemed to remain in commission until her crew shall be regularly removed into some other of Government ships of war, or until a Court-martial shall have been held, pursuant to the custom of the Navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

Crews of ships lost or destroyed.

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew, of any such ship together, before one and the same Court, and to call upon all or any of them when upon their trial to give evidence

All the officers and crew of lost ship may be tried by one Court.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

on oath or affirmation before the Court touching any of the matters then under inquiry, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

Trial by
separate
Court.

93. When deemed necessary by the President of the Union or any officer authorized to order Courts-martial, separate Courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

For sub-
sequent
offence,
separate
Court.

94. For any offence or offences committed by any officer or seaman, or officers and seamen after the wreck, loss, destruction, or capture of any such ship, a separate Court-martial shall be held for the trial of such offender or offenders.

Pay of
crews of
ships lost
or taken.

95. When any Government ship shall be wrecked, lost, or otherwise destroyed or taken by the enemy, if it shall appear by the sentence of a Court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well, and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other Government ships, or dying.

When ship
of senior
officer is
lost he may
dispose of
crews and
crew of lost
ship.

96. If the ship of any officer ordered to command any two or more of Government ships shall be wrecked, lost or otherwise destroyed, such officer shall continue in the command of any ship or ship which at the time of his ship being wrecked, lost, or destroyed was or were under his command, and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ships to join any other ship under his command, or to distribute them among the other ships under his command, if more than one, and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respects as if his ship had not been wrecked, lost or destroyed.

Restriction
on arrest
of seamen,
etc., for
debt.

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine, belonging to any Government ship, by any warrant, process, or writ * * * *¹ for any debt, unless the debt was contracted at a time when the debtor did not belong to Government service, nor unless before the issuing of the warrant, process or writ, the plaintiff in the suit or some person on his behalf has made an affidavit in the Court out of which it is issued that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to Government service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ.

Discharge
from arrest.

98. If any petty officer or seaman, non-commissioned officer of marines or marine is arrested in contravention of the provisions of the last foregoing section, the Court out of which the warrant, process, or writ issues, or any Judge thereof, may, on complaint by the party arrested, or by his superior officer,

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

investigate the case on oath or otherwise, and, if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour with costs.

98A. (1) A person subject to this Act shall be liable to contribute to the maintenance of his wife and of his children legitimate or illegitimate, to the same extent as if he were not so subject; but execution in respect of such liability or of any decree or order in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, or clothing.

Liability of seamen, etc., for maintenance of wives and children.

(2) Where—

- (a) it appears to the satisfaction of the President of the Union or any person deputed by him for the purpose that a person subject to this Act has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age; or
- (b) any decree or order is made under any law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of the cost of any relief given to his wife or child by way of loan, and a copy of such decree or order is sent to the President of the Union or any person deputed by him for the purpose;

the President of the Union or the person so deputed may direct to be deducted from the pay of the person so subject to this Act, and to be appropriated towards the maintenance of his wife or children, or in liquidation of the sum adjudged to be paid by such decree or order, as the case may be, in such manner as the President of the Union or the person so deputed may think fit, a portion of such pay, at his discretion, but the amount deducted shall not exceed the amount fixed by the decree or order (if any), and shall not be a higher rate than the rates fixed by rules made in this behalf by the President of the Union:

Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by a decree or order as aforesaid shall be ordered, unless the President of the Union, or the person deputed by him, is satisfied that the person against whom the decree or order was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorized legal representative, to defend the case before the Court by which the decree or order was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

Where any arrears have accumulated in respect of sums adjudged to be paid by any such decree or order as aforesaid whilst the person against whom the decree or order was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the Court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so.

(3) Where a proceeding under any law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving, or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may, after not less than three weeks' notice to the President of the Union, be served by being sent to a Secretary to the Government of the Union of Burma for transmission to such commanding officer, but such service shall not be valid unless there is left therewith in the hands of such commanding officer or President of the Union such sum of money, if any (to be adjudged as costs incurred in obtaining the decree or order, if made against the person on whom the process is issued), as may be fixed by the President of the Union as being necessary to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served unless the contrary is proved.

Where, by a decree or order sent to the President of the Union or officer in accordance with sub-section (2) of this section, the person against whom the decree or order is made is adjudged to pay as costs incurred in obtaining the decree or order any sum so left with the process as aforesaid, the President of the Union may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the President of the Union shall be a public debt from the person against whom the decree or order was made, and, without prejudice to any other method of recovery, may be recovered by deductions from his pay, in addition to those mentioned in sub-section (2) of this section.

(4) This section shall not apply to persons subject to this Act where such persons are officers.

(5) In this section the expression "pay" includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions and clothing.

PART VII.

SAVING CLAUSE.

99. * * *

¹ 100. * * *

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any Court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, * * * ¹ in respect of any offence mentioned in this Act which may be punishable or cognizable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act.

Act not to
supersede
authority of
ordinary
Courts.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

THE NAVAL ARMAMENT ACT.

[INDIA ACT VII, 1923.] (10th November, 1923.)

WHEREAS it is expedient to give effect in the Union of Burma to the Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of His Britannic Majesty on the twenty-fifth day of March, 1936; It is hereby enacted as follows:—

1. * * * *
2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

 - (a) "competent Court" means the High Court or such other Court having unlimited original civil jurisdiction as the President of the Union may declare to be a competent Court for the purposes of this Act;
 - (b) "ship" means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating on water, and includes all equipment belonging to any ship; and
 - (c) "the Treaty" means the Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of His Britannic Majesty on the twenty-fifth day of March, 1936.
3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,—

Restriction on building or equipping vessels of war.

 - (a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war; or
 - (b) despatch or deliver, or allow to be despatched or delivered, from any place in the Union of Burma any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Britannic Majesty's Dominions or in a State in India or Pakistan otherwise than under and in accordance with any law for the time being in force in that part or State.
4. (1) A licence under this Act for any of the purposes specified in section 3 may be granted by the President of the Union, and shall not be refused unless it appears to the President of the Union that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty; and, where a licence is granted subject to conditions, the conditions shall be such only as the President of the Union may think necessary for the purpose aforesaid.

Licences.

 - (2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the President of the Union may, by general or special order, require.
5. (1) If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Offences against the Act.

 - (2) Where an offence punishable under sub-section (1) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

(3) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure shall be deemed to authorize the destruction or confiscation under the order of any criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

Liability of
ships to
forfeiture.

6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in the Union of Burma in contravention of section 3, or in any part of His Britannic Majesty's Dominions or in India or Pakistan in contravention of any like provision of law in force in that part or India or Pakistan, shall, if found in the Union of Burma, be liable to forfeiture under this Act,

Seizure,
detention
and search
of ships.

7. (1) Where a ship is liable to forfeiture under this Act,—

- (a) any Magistrate of the first class, or
- (b) any commissioned officer on full pay in the military, naval or air service of the Government, or
- (c) any officer of customs or police-officer not below such rank as may be designated in this behalf by the President of the Union,

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of the Union of Burma, may bring it to any convenient port in the Union of Burma.

(2) Any officer taking any action under sub-section (1) shall forthwith report the same through his official superiors to the President of the Union.

(3) The President of the Union shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as he thinks suitable.

Procedure
in forfeiture
of ships.

8. (1) An application for the forfeiture of a ship under this Act may be made by or under authority from the President of the Union to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure and any order made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to the Government :

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof :

Provided further that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the President of the Union, to such condition as not to render it liable to forfeiture under this Act.

(5) The President of the Union or any person aggrieved by any order of a Court, other than the High Court, under this section may, within three months of the date of such order, appeal to the High Court.

9. Where a ship has been forfeited to the Government under section 8, it may be disposed of in such manner as the President of the Union directs : Disposal of forfeit.

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

10. If in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the President of the Union, whose decision shall be final and shall not be questioned in any Court. Special proof of relevant facts.

11. (1) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent. Penalties for proceeding to sea after seizure.

(2) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(3) Any expenses ordered to be paid under sub-section (2) may be recovered in the manner provided in the Code of Criminal Procedure for the recovery of a fine.

12. (1) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries. Power to enter dockyards, etc.

(2) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure shall apply in the case of all searches made under this section.

13. No Court inferior to that of a Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the President of the Union. Courts by which and conditions subject to which offences may be tried.

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Indemnity.

THE BURMA VOLUNTEER AIR FORCE (DISCIPLINE) ACT.

[BURMA ACT III, 1941.] (26th March, 1941.)

1. (1) This Act may be called the Burma Volunteer Air Force (Discipline) Act, 1941.

(2) It extends to the whole of the Union of Burma and applies to members of the Burma Volunteer Air Force wherever they may be.

(3) It shall come into force at once.

2. The President of the Union may make rules¹ for the government, discipline and regulation of the Burma Volunteer Air Force.

7 & 8
Geo. 5,
c. 51.

3. Every member of the Burma Volunteer Air Force while undergoing training in pursuance of rules made under section 2, or when called into actual service in pursuance of the said rules, shall be subject to the Air Force Act, with such modifications as are set out in the Schedule, and shall continue to be so subject until duly released from such training or service, as the case may be.

4. (1) If any member of the Burma Volunteer Air Force, when required, in pursuance of rules made under section 2 to join a unit or attend at any place for the purpose of undergoing training, fails without reasonable excuse to join or attend in accordance with such requirement he shall be punishable with fine which may extend to two hundred rupees.

7 & 8
Geo. 5,
c. 51.

(2) If any member of the Burma Volunteer Air Force, when called into actual service and required by such call to join any unit or attend at any place, fails without reasonable excuse to comply with such requirement at or within such time as the President of the Union may, by order, direct, he shall be liable to be apprehended and punished in accordance with the provisions of the Air Force Act relating to the apprehension and punishment of a person deserting or improperly absenting himself from duty, subject to such modifications as are set out in the Schedule, except that the punishment shall not exceed imprisonment which may extend to two years.

5. When any member of the Burma Volunteer Air Force is required, in pursuance of rules made under section 2, to join any unit or attend at any place for the purpose of undergoing training, or is called into actual service, a certificate purporting to be signed by an officer appointed in this behalf under the said rules and stating that the said member failed to join or attend in accordance with such requirement or call shall, without proof of the signature or appointment of such officer, be evidence of the matter stated therein.

6. No Court inferior to that of a Magistrate of the first class shall try an offence punishable under sub-section (1) of section 4.

* 6A-7. *

¹ For rules made under Ordinance VIII of 1940, now repealed by this Act, see *Burma Gazette*, 1940, Part I, pp. 1112 and 1217.

² S. 6A was inserted by Act XXII, 1946; but both s. 6A and s. 7 were deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

THE SCHEDULE.

MODIFICATIONS IN THE AIR FORCE ACT AS MADE APPLICABLE TO THE BURMA VOLUNTEER AIR FORCE.

Section 6 (3) (c) is omitted.

The following is substituted for section 13 (1) (a) :—

"When belonging to the Burma Volunteer Air Force without having obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the regular air force or in any air force raised in the Union of Burma ; or "

The following is substituted for section 13 (1) (b) :—

"When belonging to the Burma Volunteer Air Force without having fulfilled the conditions enabling him to enlist, enrol or enter, enrolls himself or enlists in the air force reserve or the auxiliary air force, or any of the military forces, or enters the Burma Naval Volunteer Reserve,"

In section 21 (2) —

(i) the words "provost marshal, or assistant provost marshal" wherever they occur are omitted ; and

(ii) the word "or" is inserted between the words "officer" and "non-commissioned officer" wherever they occur.

In the proviso to section 28 the words "suffer imprisonment" are substituted for the words "be imprisoned, with or without hard labour".

Section 30 is omitted.

Section 31 is omitted.

In section 39A the words "President of the Union" are substituted for the words "Air Council".

In section 41 (5) the words "the Union of Burma" are substituted for the word "England" wherever it occurs.

In section 42 the words "President of the Union" are substituted for the words "Air Council" and a full stop is substituted for the comma after the words "obtain justice". The following words are omitted :—

"who are hereby required to examine into such complaint and (if so required by the officer) through a Secretary of State make their report to His Majesty in order to receive the directions of His Majesty thereon."

In section 44 (c) and (k) the words "with or without hard labour" are omitted.

In section 44 (kk) the words "twenty-eight days" are substituted for the words "two years".

Provisos (5), (9) and (10) to section 44 are omitted.

In proviso (11) to section 44 the words "prescribed by the President of the Union" are substituted for the words "provided by Royal Warrant; but shall not, save as may be provided by Royal Warrant, be liable to any forfeiture under the Regimental Debts Act, 1893, as applied to the Air Force, or under any Act relating to the military savings banks as so applied or any regulations made in pursuance of either of the abovementioned Acts as so applied".

56 & 57
Vict.,
c. 5.

In section 45 (4) the words "or a provost marshal or assistant provost marshal" and the words "provost marshal or assistant provost marshal" are omitted and the word "or" is inserted between the word "officer" and the words "non-commissioned officer".

In section 46 (1) the following words are omitted :—

"or, in the case of an officer below the rank of squadron-leader or of a warrant officer may refer the case to be dealt with summarily by an air or general officer under the provisions of this Act."

In section 46 (2) (d) the following words are omitted :—

"may award to the offender field punishment within the meaning of section forty-four of this Act for any period not exceeding twenty-eight days, and".

In section 46 (3) the word "district" is omitted.

In section 46 (8) the word "district" is omitted wherever it occurs.

The following is substituted for section 46 (9) :—

"The power of dealing summarily with a case may be delegated by the commanding officer to any officer under his command in accordance with such provisions as may be prescribed :

Provided that such officer shall not have power to inflict any punishment other than a minor punishment, or such fines for drunkenness as may be prescribed."

Section 47 is omitted.

The following is substituted for section 48 :—

"The following rules are enacted with respect to Courts-martial :—

- (i) A Court-martial shall be convened by the President of the Union.
- (ii) A Court-martial shall consist of not less than five nor more than nine officers who shall be selected by the President of the Union from officers of the Army in the Union of Burma not below the rank of Captain and from officers of the regular Air Force and of the Burma Volunteer Air Force not below the rank of Flight Lieutenant.
- (iii) Sentence of death shall not be passed on any person without the concurrence of two-thirds at least of the officers serving on the Court-martial by which he is tried.
- (iv) The president of a Court-martial shall be appointed by the President of the Union, but he shall not be under the rank of Squadron-Leader if he is an officer of the regular Air Force or of the Burma Volunteer Air Force and he shall not be under the rank of Major if he is an officer of the Army in the Union of Burma.
- (v) A Court-martial shall be held at such place as the President of the Union may direct."

Section 49 is omitted.

Section 50 (1) and section 50 (2) are omitted.

In section 50 (3) the following words are omitted :—

"save in the case of a field general Court-martial."

The following is substituted for section 54 :—

"(1) Subject to the provisions of this section with respect to the finding of acquittal, the finding and sentence of a Court-martial shall not be valid except in so far as the same may be confirmed by the President of the Union.

(2) The President of the Union may send back a finding and sentence submitted to him for confirmation, or either of them, for revision once, but not more than once and it shall not be lawful for the Court on any revision to receive any additional evidence ; and where the finding only is sent back for revision, the Court shall have power without any direction to revise the sentence also. In no case shall the President of the Union recommend the increase of a sentence, nor shall the Court-martial on revisal of the sentence, either in obedience to the recommendation of the President of the Union, or for any other reason, have the power to increase the sentence awarded.

(3) The finding of acquittal, whether on all or some of the offences with which the accused is charged, shall not require confirmation or be subject to be

revised, and shall be pronounced at once in open Court, and, if it relates to the whole of the offences, the accused shall be released."

The following is substituted for section 56 (6) :—

"Where an accused is charged before a Court-martial with a civil offence and the charge is one upon which, if he had been tried by a civil Court in the Union of Burma for such an offence committed in the Union of Burma, he might have been found guilty of any other offence, the Court-martial shall have power to find him guilty of that offence."

The following is substituted for section 57 :—

"(1) The President of the Union may, when confirming the sentence of any Court-martial, mitigate or remit punishment thereby awarded, or commute such punishment to which the offender might have been sentenced by the said Court-martial, or if such punishment is death awarded for the offence of murder, then for penal servitude¹ or such less punishment as is in this Act mentioned, or if such punishment is cashiering awarded for an offence under section 16 of this Act, then for dismissal from service or such less punishment as is in this Act mentioned. The President of the Union may also suspend for such time as seems expedient the execution of a sentence.

(2) The President of the Union may if he thinks fit mitigate, remit or commute the punishment of a person subject to such punishment.

(3) The provisions of this Act, with respect to an original sentence of penal servitude¹, imprisonment, or detention shall apply to a sentence of penal servitude¹, imprisonment or detention imposed by way of commutation."

The following is substituted for section 57A (1) :—

"Where an airman is sentenced to penal servitude¹, imprisonment or detention, the President of the Union may, when confirming the sentence, direct that the airman be not committed to prison or detention barracks until the orders of the commanding officer have been obtained."

The following is substituted for section 57A (2) :—

"The commanding officer may in the case of the airman so sentenced :—

- (a) direct that a committal to prison or detention barracks shall not be issued until his orders have been obtained; and
- (b) suspend the sentence whether or not the airman has already been committed to prison or detention barracks."

The following is substituted for section 57A (5) :—

"Where a sentence has been suspended under this section, the case may at any time, and shall, at intervals of not more than three months, be reconsidered by the commanding officer, and, if on any such reconsideration it appears to the commanding officer that the conduct of the airman since his conviction has been such as to justify a remission of the sentence, he shall remit it."

In section 57A (6) and in section 57A (7) the words "the commanding officer" are substituted for the words "a superior air-force authority".

Section 57A (8) and section 57A (9) are omitted.

The following is substituted for section 58 :—

"(1) Where a sentence of penal servitude¹ or of imprisonment is passed by a Court-martial, the air-force convict or air-force prisoner, as the case may be, shall undergo the term of his sentence in a civil prison where he shall be dealt with in the same manner as an ordinary civil prisoner under sentence of penal servitude¹ or of imprisonment, as the case may be.

(2) Where a sentence of detention is passed by a Court-martial or by the commanding officer the person on whom that sentence has been passed shall

¹The Union of Burma (Adaptation of Laws) Order, 1948, directs that in this Act all references to penal servitude as a punishment shall be deemed to have no effect.

undergo the term of his detention either in a detention barrack, or in air-force custody, or partly in one way and partly in the other, but not in prison."

The following is substituted for section 59 :—

"The order of the President of the Union or of the commanding officer shall be a sufficient warrant for the committal of an air-force convict or air-force prisoner to a civil prison and for his release therefrom."

The following is substituted for section 60 :—

"The order of the President of the Union or of the commanding officer shall be a sufficient warrant for the committal of an airman, on whom a sentence of detention has been passed, to air-force custody or to a detention barrack and for his release therefrom."

The following is substituted for section 61 :—

"An air-force convict or an air-force prisoner shall be kept in air-force custody after the passing of sentence for such period as the commanding officer may consider necessary for the removal of such convict or prisoner, as the case may be, to a civil prison."

The following is substituted for section 62 :—

"An air-force convict, an air-force prisoner or an airman undergoing detention may, during his conveyance from place to place, be subjected to such restraint as is necessary for his safe conduct and removal."

Sections 63, 64, 65, 66 and 67 are omitted.

Section 68 (2) (d) is omitted.

The following is substituted for section 68 (2) (e) :—

"The expression 'detention barrack' means a building or part of a building set apart as such by the President of the Union."

The following is substituted for section 68 (2) (f) :—

"The expression 'civil prison' means any prison in the Union of Burma in which offenders sentenced by a civil Court to penal servitude¹ or to imprisonment can be confined."

Section 68 (2) (g) is omitted.

Section 68 (2) (h) is omitted.

Section 68A is omitted.

The following is substituted for section 70 (1) :—

"Subject to the provisions of this Act, the President of the Union may by rules from time to time make and when made repeal, alter, or add to, provisions in respect of the following matters or any of them, that is to say,—

- (a) the assembly and procedure of Courts of enquiry ;
- (b) the convening and constituting of Courts-martial ;
- (c) the adjournment, dissolution and sittings of Courts-martial ;
- (d) the procedure to be observed in trials by Courts-martial ;
- (e) the confirmation and revision of the findings and sentences of a Court-martial, and enabling the President of the Union to substitute a valid sentence for an invalid sentence of a Court-martial ;
- (f) the carrying into effect sentences of Courts-martial ;
- (g) the forms of orders to be made under the provisions of this Act relating to Courts-martial, penal servitude¹, imprisonment, or detention ;
- (h) any matter in this Act directed to be prescribed ;
- (i) any other matter or thing expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial and punishment of offences triable or punishable by Court-martial under this Act."

¹ See footnote at p. 93.

Section 70 (4) is omitted.

In section 73 (3) the words "President of the Union" are substituted for the words "Air Council".

Section 74 is omitted.

In section 75 (1) the words "President of the Union" are substituted for the words "authority confirming the finding and sentence of such Court-martial, or the Air Council".

In section 75 (2) the words "President of the Union" are substituted for the words "confirming authority or the Air Council".

In section 75 (3) the words "President of the Union" are substituted for the words "confirming authority or the Air Council" and for the words "authority or the Air Council".

Part II is omitted.

Part III is omitted.

Section 122 is omitted.

Section 123 is omitted.

The following is substituted for section 124 :—

"Any person tried by a Court-martial shall be entitled, on demand, at any time within seven years after the confirmation of the finding and sentence of the Court or after his acquittal, to obtain from the officer or person having custody of the proceedings of such Court a copy thereof, including the proceedings with respect to the revision and confirmation thereof, upon payment for the same at the prescribed rate, and for the purposes of this section the proceedings of Courts-martial shall be preserved in the prescribed manner :

Provided that, when any person tried by Court-martial dies within the above-mentioned period of seven years, his next-of-kin shall, within a period of 12 months after his death, have the same right to obtain a copy of the proceedings."

Section 127 is omitted.

In section 128 the words "the Union of Burma" are substituted for the word "England".

In section 129 (1) the words "the High Court" are substituted for the words "His Majesty's High Court of Justice in England".

The last sentence of section 129 is omitted.

In section 130 (1), (2) and (3) the words "the President of the Union" are substituted for the words "His Majesty" wherever they occur.

In section 131 the words "Chief Jailor" are substituted for the word "Governor" wherever it occurs; the words "the President of the Union" are substituted for the words "a Secretary of State" and the words "the Union of Burma" are substituted for the words "the United Kingdom".

The following is substituted for section 132 :—

"(1) It shall be lawful for the President of the Union to set apart any building or part of a building under his control as a detention barrack.

(2) It shall be lawful for the President of the Union from time to time to make, alter, and repeal rules—

- (a) for the government, management and regulation of detention barracks;
- (b) for the appointment and removal and powers of inspectors, visitors; governors and officers thereof; and
- (c) for the safe custody of airmen undergoing detention and the maintenance of discipline among them, and the punishment by personal correction, restraint or otherwise of offences committed by such airmen;

Provided that such rules shall not authorize corporal punishment to be inflicted for any offence, nor render the detention more severe than it is under the law in force for the time being in any civil prison."

Section 133 is omitted.

In section 134 (1) the words "air-force prison or" are omitted, and the words "India or" are omitted.

In section 134 (2) the words "India or" are omitted.

Section 135 is omitted.

The following is substituted for section 136 :—

"(1) The pay of an officer or airman of the Burma Volunteer Air Force shall be paid without any deduction other than the deductions authorized by this Act or by any law for the time being in force in the Union of Burma.

(2) Notwithstanding anything in any law in force as aforesaid in the Union of Burma no part of the pay of an officer or airman of the Burma Volunteer Air Force shall be attached by direction of a Court in satisfaction of any decree or order enforceable against him :

Provided that nothing in this sub-section affects any attachment order made by a Court in the Union of Burma in respect of any liability incurred before the end of the year nineteen hundred and thirty eight."

In section 137 the words "Burma Volunteer Air Force" are substituted for the words "regular air force".

In section 137 (1) the words "President of the Union" are substituted for the words "Air Council".

The following is substituted for section 137 (4) :—

"The sum required to make good any loss, damage, or destruction of public or service property, or property belonging to the Navy, Army and Air Force Institutes which, after due investigation, appears to the President of the Union to have been occasioned by any wrongful act or negligence on the part of the officer".

In section 138 the words "Burma Volunteer Air Force" are substituted for the words "regular air force".

In section 138 (1) the words "or field punishment" are omitted.

In section 138 (3) the words "by the commanding officer dealing summarily with a charge" are substituted for the words "by the authority dealing summarily with a charge under section forty-seven of this Act".

In section 138 (4A) the words "to be held in the prescribed manner" are substituted for the words "to be held in the manner provided in the King's Regulations".

Section 138 (5) is omitted.

In section 138 (6) the words "not exceeding such amount a day for twenty-eight days as may be prescribed" are substituted for the words "not exceeding one penny a day for twenty-eight days".

In section 138 (8) the words "President of the Union" are substituted for the words "Air Council" and the words "or any officer deputed by them for the purpose" are omitted.

In proviso (a) to section 138 the words "less than such amount a day as may be prescribed" are substituted for the words "less than one penny a day".

The following is substituted for section 139 :—

"Any deduction of pay authorized by this Act may be remitted in such manner and by such authority as may be from time to time prescribed."

In section 140 (1) the words "as may be from time to time prescribed" are substituted for the words "as may be from time to time directed by any regulation or order of the Air Council".

The following is substituted for the first sentence in section 140 (2) :—

"The President of the Union may also from time to time prescribed what shall be deemed, for the purposes of the provisions of this Act relating to deductions from pay, to constitute a day of absence or a day of imprisonment or detention."

The following is substituted for section 140 (3) :—

"In cases of doubt as to the proper issue of pay or the proper deduction from pay due to any officer or airman, the pay may be withheld until the President's order respecting it has been signified, which order shall be final."

In section 141 the words "such provisions as may be prescribed" are substituted for the words "a Royal Warrant".

Section 142 is omitted.

In section 143 (1) the words "Burma Volunteer Air Force" are substituted for the words "regular air force", the word "legally" is inserted between the words "otherwise" and "demandable". The words "by virtue of any Act of Parliament already passed or hereafter to be passed, or by virtue of any Act, Ordinance, order, or direction of any legislature or other authority in India, Burma or a colony" are omitted.

Section 143 (2) is omitted.

In section 143 (3) the words "fifty rupees" are substituted for the words "five pounds" and the words "five rupees" are substituted for the words "ten shillings".

In section 144 (1) the words "Burma Volunteer Air Force" are substituted for the words "regular air force".

In section 144 (1) (b) the words "four hundred rupees" are substituted for the words "thirty pounds".

The following is substituted for section 144 (2) :—

"For the purposes of this section a crime shall mean an offence punishable according to any law in force in the Union of Burma with fine or imprisonment or both and shall not include the offence of a person absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting his contract."

Section 144 (3) is omitted.

In proviso (1) to section 144 (5) the words "Burma Volunteer Air Force" are substituted for the words "regular air force".

The second proviso to section 144 (5) is omitted.

In section 145 (1) the words "Burma Volunteer Air Force" are substituted for the words "regular air force".

In section 145 (2) the words "President of the Union" are substituted for the words "Air Council, or any officer deputed by them for the purpose" and for the words "Air Council or officer" wherever these words occur. The words "in his discretion" are substituted for the words "in their or his discretion". The words "think or" between the words "from time to time" and the words "thinks fit" are omitted.

In the proviso to section 145 (3) the words "the Union of Burma" are substituted for the words "the United Kingdom".

In the last paragraph of section 145 (3) the words "President of the Union" are substituted for the words "Air Council or officer in accordance with sub-section (2) of this section" and for the words "Air Council" wherever these words occur.

In section 145 (4) the words "Burma Volunteer Air Force" are substituted for the words "regular air force".

Section 146 is omitted.

The following is substituted for section 152:—

"Any person who falsely represents himself to any air-force, military, naval, or civil authority to be a deserter from the Burma Volunteer Air Force shall on conviction be sentenced to imprisonment of either description for any period not exceeding three months."

In section 153 the words "in the United Kingdom or elsewhere" are omitted, and the words "shall be liable on conviction to imprisonment for a term not exceeding six months" are substituted for the words "shall be liable, on summary conviction, to be imprisoned with or without hard labour, for a term not exceeding six months".

In section 153A the words "in the United Kingdom or elsewhere" are omitted, and the words "shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine" are substituted for the words "shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine".

In section 154 the words "police officer" are substituted for the word "constable" wherever it occurs.

In section 154 (1) the words "the nearest Magistrate" are substituted for the words "a Court of summary jurisdiction".

The following is substituted for section 154 (2):—

"A Magistrate may, if satisfied by evidence that a deserter or absentee without leave is or is reasonably suspected to be within his jurisdiction, issue a warrant authorizing such deserter or absentee without leave to be apprehended and brought forthwith before the nearest Magistrate."

The following is substituted for section 154 (3):—

"Where a person is brought before a Magistrate charged with being a deserter or absentee without leave under this Act, such Magistrate may deal with the case in accordance with the provisions of the Code of Criminal Procedure for the trial of warrant cases."

In section 154 (4) the word "Magistrate" is substituted for the word "Court".

The following is substituted for section 154 (5):—

"Where a person confessed himself to be a deserter or absentee without leave, and evidence of the truth or falsehood of such confession is not then forthcoming, the Magistrate shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the Magistrate shall submit to the commanding officer a return (in this Act referred to as a descriptive return) containing such particulars and being in such form as is specified in the Fourth Schedule to this Act, or as may be from time to time directed by the President of the Union."

In section 154 (6) the word "Magistrate" is substituted for the word "Court".

The following is substituted for section 154 (7):—

"Where a Magistrate causes a person either to be delivered into air-force custody or to be committed as a deserter or absentee without leave, the Magistrate shall send to the commanding officer a descriptive return in relation to such deserter or absentee without leave."

Section 154 (8) is omitted.

In section 154 (9) the words "in the United Kingdom" are omitted, the word "Magistrate" is substituted for the words "Court of summary jurisdiction", and the words "commanding officer" are substituted for the words "Air Council or as they may direct".

In section 155 the words "Burma Volunteer Air Force" are substituted for the words "regular air force", the words "one thousand rupees" are substituted for the words "one hundred pounds", and the words "on indictment or information" are omitted.

Section 156 is omitted.

In section 156A the word "summary" is omitted and the words "two hundred rupees" are substituted for the words "twenty pounds".

The following is substituted for section 159 :—

"Any person subject to this Act who, within or without the Union of Burma, commits any offence for which he is liable to be tried by Court-martial, may be tried and punished for such offence at any place which is within the jurisdiction of an officer authorized under section forty-eight of this Act in its application to the regular air force to convene general Courts-martial, and in which the offender may for the time being be, in the same manner as if the offence had been committed where the trial by Court-martial takes place, and the offender were under the command of the officer convening such Court-martial."

In section 161 the words "has performed continuous air-force service" are substituted for the words "has served continuously", the words "President of the Union" are substituted for the words "Air Council", and the words "in any corps or unit of the regular air force" are omitted.

In section 162 (3) the words "on conviction in the High Court be punishable with imprisonment or with fine or with both" are substituted for the words "on conviction in any of His Majesty's superior Courts in the United Kingdom, or in a High Court in India or Burma, be guilty of a misdemeanour", and the words "police officers" are substituted for the word "constables".

In section 162 (4) the words "President of the Union" are substituted for the words "Air Council" wherever they occur.

Section 162 (5) is omitted.

Section 163 is omitted.

In section 164 the words "and shall be allowed for such certificate a fee of three shillings" are omitted and a full stop is substituted for the comma immediately preceding these words.

In section 165 the words "the President of the Union" are substituted for the words "a Secretary of State".

Section 166 is omitted.

Section 167 (1) and section 167 (3) are omitted.

Section 167 (6) and section 167 (7) are omitted.

The following is substituted for section 168 :—

"All offences under this Act which may be prosecuted, and all fines under this Act which may be recovered, and all proceedings under this Act which may be taken before a civil Court, may be prosecuted and recovered and taken in such Courts and in such manner as may be from time to time provided by law, or if no express provision is made, then in and before the Courts and in the

manner in which the like offences and fines may be prosecuted and recovered and proceedings taken therein by law or as near thereto as circumstances admit."

Section 169 is omitted.

The following is substituted for section 170 (3) :—

"Every such action, and also every action against a member or minister of a Court-martial in respect of a sentence of such Court, or of anything done by virtue or in pursuance of such sentence, shall be brought in the High Court and in no other Court whatsoever."

In section 172 (1) the words "President of the Union" are substituted for the words "Air Council" wherever they occur.

In section 172 (5) the words "commanding officer" are substituted for the words "air-force authority".

In section 173 the word "Magistrate" is substituted for the words "justice of the peace" and "justice". The words "if known, and if not, then to the Air Council" are omitted and a full stop is substituted for the comma immediately preceding these words.

Section 174 is omitted.

Section 174A is omitted.

The following is substituted for section 175 :—

"All officers belonging to the Burma Volunteer Air Force are subject to this Act to the same extent as officers of the regular air force when attached to or doing duty with any portion of the regular, reserve or auxiliary air force outside the Union of Burma, subject, however, to such exceptions as may be prescribed by regulations made by the Air Council and the President of the Union."

The following is substituted for section 176 :—

"All non-commissioned officers and men belonging to the Burma Volunteer Air Force are subject to this Act to the same extent as non-commissioned officers and men of the regular air force, when attached to, or otherwise acting as part of or with, any portion of the regular, reserve, or auxiliary air force outside the Union of Burma, subject, however, to such exceptions as may be prescribed by regulations made by the Air Council and the President of the Union."

The following is substituted for section 177 :—

"Any law of the Union of Burma may extend to the officers, non-commissioned officers and men belonging to the Burma Volunteer Air Force whether within or without the limits of the Union of Burma; and where the Burma Volunteer Air Force is serving with part of the regular air force, then so far as the law of the Union of Burma has not provided for the government and discipline of the Burma Volunteer Air Force, this Act and any other Act for the time being amending the same shall, subject to such exceptions and modifications as may be specified in the general orders of the officer, whether military or air force, not below the rank of Colonel or Group Captain, commanding the Burma forces with which the Burma Volunteer Air Force is serving, apply to the officers, non-commissioned officers and men of such force in like manner as they apply to the officers, non-commissioned officers and men of the regular air force :

Provided that—

- (i) this section shall not apply to any officer, non-commissioned officer or man of or belonging to the Burma Volunteer Air Force who is for the time being subject to this Act by virtue of section one hundred and seventy-five and section one hundred and seventy-six of this Act ;

- (ii) powers of command, when forces are serving together, shall so far as provision in that behalf is made by regulations under section 184B of this Act, be determined by those regulations."

Section 178 is omitted.

Section 179 is omitted.

Section 179A is omitted.

Section 179B is omitted.

Section 179C is omitted.

Section 179D is omitted.

Section 180 is omitted.

Section 181 is omitted.

The following is substituted for section 182 :—

"The provisions of this Act shall apply to a warrant officer in like manner as if he were a non-commissioned officer, subject nevertheless (in addition to the modifications for a non-commissioned officer) to the modification that he shall not be punished by his commanding officer."

The following is substituted for section 183 :—

"(1) The obligation on the commanding officer to deal summarily with an airman charged with drunkenness shall not apply to a non-commissioned officer charged with drunkenness:

(2) a non-commissioned officer may, by the sentence of a Court-martial, be ordered to be reduced to the ranks, or to any lower grade, or to forfeit seniority of rank either in addition to or without any other punishment, in respect of an offence:

(3) a non-commissioned officer sentenced by Court-martial to penal servitude¹, imprisonment or detention shall be deemed to be reduced to the ranks:

Provided that an airman being an acting non-commissioned officer by virtue of his employment either in superior rank or in an appointment may be ordered by his commanding officer either for an offence or otherwise to revert to his permanent grade as a non-commissioned officer, or, if he has no permanent grade above the ranks, to the ranks."

Section 184 is omitted.

Section 184A is omitted.

Section 185 is omitted.

Section 186 is omitted.

Section 187 is omitted.

Section 187A is omitted.

Section 187C is omitted.

Section 188 (2) is omitted.

Section 189 (2) is omitted.

Section 189 (3) is omitted.

Section 189 (4) is omitted.

Section 189 (5) is omitted.

Section 189 (6) is omitted.

In section 190 (5) the words "and includes an air force schoolmaster when not a warrant officer" are omitted.

[For clause (7) of section 190 the following shall be substituted :—

"(7) The expression 'superior officer' when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer. and as regards persons placed under his orders, an officer, a warrant officer or non-commissioned officer of any of the Burma naval, military or air forces."]

¹ See footnote at p. 93.

² Inserted by Act XXII, 1946.

Section 190 (21) is omitted.
 Section 190 (21A) is omitted.
 Section 190 (21B) is omitted.
 Section 190 (26) is omitted.
 Section 190 (27) is omitted.
 Section 190 (29) is omitted.
 Section 190 (30) is omitted.

In section 190 (31) the words "and includes a Court of summary jurisdiction" are omitted, and a colon is substituted for the comma immediately preceding these words.

Section 190 (33) is omitted.
 Section 190 (34) is omitted.
 Section 190 (35) is omitted.
 Section 190 (36) is omitted.
 Section 190 (37) is omitted.
 Section 190 (38) is omitted.
 Section 190 (39) is omitted.
 Section 190 (40) is omitted.
 Section 190 (40A) is omitted.
 The First, Second and Sixth Schedules are omitted.
 The following is substituted for the Fourth Schedule :—

FOURTH SCHEDULE.

FORM OF DESCRIPTIVE RETURN.

Descriptive Return of *who* * *at*
on the *day of* *and was committed to*
confinement at *on the* *day of*
as a deserter (or absentee without leave) from the

* After the word "who" to be inserted either the words "was apprehended", or "surrendered himself", as the case may be.

Age.	...	...	...	...
Height.	...	...	...	...	Feet.	Inches.
Complexion.	...	...	...	...
Hair.	...	...	...	...
Eyes.	...	...	...	...
Marks.	...	...	...	...

In uniform or plain clothes. ...	
Probable date and place of attestation. ...	
Probable date of desertion or beginning of absence, and from what place.	
Name, occupation, and address of the person by whom or through whose means the deserter (or absentee without leave) was apprehended and secured. ¹	
Particulars of the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner and upon what grounds. The fullest possible details to be given.	
I do hereby certify that the prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he ² the above-mentioned unit, and I recommend ³ for a reward of Rs.	_____ Signature } of committing _____ Residence } Magistrate. _____ Post Town } _____ Signature of prisoner. _____ Signature of informant.

Or where the prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming:—

I hereby certify that the above named prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence from a Secretary to Government.

_____ Signature.
 _____ Residence.
 _____ Post Town.

¹ It is important for the public service, and for the interest of the deserter or absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Magistrate in his own handwriting, or, under his direction, by his clerk.

² Insert *is* or *is not*, a deserter or absentee without leave from, or belongs or does not belong to, as the case may be.

³ The Magistrate will insert the name of the person to whom the reward is due, and the amount which, in his opinion, should be granted in this particular case.

THE WORKS OF DEFENCE ACT.

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THE WORKS OF DEFENCE ACT.

[INDIA ACT VII, 1903.] (20th March, 1903.)

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition ; it is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. * * * *

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

- (a) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :
- (b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :

(c) * * * *

(d) * * * *

(e) the expression "Commanding Officer" means the officer for the time being in command of a work of defence :

(f) the expression "Collector" includes any officer specially appointed by the President of the Union to perform the functions of a Collector under this Act :

(g) the expression "Court" means a principal civil Court of original jurisdiction, unless the President of the Union has appointed (as he is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :

(h) "maintain", with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (1) and (3), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section (2) :

(i) the following persons shall be deemed "entitled to act" as and to the extent hereinafter provided, that is to say,—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same extent as the persons beneficially interested could have acted if free from disability :

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age : and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

(i) no person shall be deemed "entitled to act" whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;

(ii) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

- (iii) the provisions of Order XXXII of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and
- (iv) no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

IMPOSITION OF RESTRICTIONS.

3. (1) Whenever it appears to the President of the Union that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect.

Declaration and notice that restrictions will be imposed.

(2) The said declaration shall be published in the Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected ; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(3) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

4. It shall be lawful for such officer as the President of the Union may, by general or special order, authorize in this behalf, and for his servants and workmen, at any time after publication of the notice mentioned in section 3, subsection (2), to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether any and, if so, what restrictions should be imposed on the use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Power to do preliminary acts after publication of notice under section 3, subsection (2).

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Payment for damage.

Further powers exercisable after publication of notice under section 3, sub-section (2).

6. (1) Whenever a declaration has been made and public notice thereof has been given under section 3, it shall, subject to the provisions of sub-sections (2) to (4), be lawful for such officer as the President of the Union may, by general or special order, authorize in this behalf, and for his servants and workmen, to enter and demolish any buildings or other constructions on the surface, to cut down or grub up all or any of the trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally to level and clear the said land and do all such acts for levelling and clearing the same as he may deem necessary or proper, but in such manner nevertheless that evidence of boundaries of the lands held by different owners may be preserved.

(2) The powers conferred by sub-section (1) shall not be exercised,—

- (a) save as otherwise provided by sub-section (3), before the making of the award hereinafter referred to in section 12, nor
- (b) save as otherwise provided by sub-section (4), after the expiration of six months from the making of the said award, or any shorter period on the expiration of which the officer exercising such powers gives notice to the Collector that there will be no further exercise of them.

(3) In case of emergency, the President of the Union may, by notification in the Gazette, declare that all or any powers conferred by sub-section (1) may be exercised at any time within six months after the publication of the notice referred to in section 3, sub-section (2), and such powers may be exercised accordingly, and the said notification shall be conclusive proof of emergency.

(4) Nothing in sub-section (2) shall be deemed to preclude any such officer or his servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or other obstruction maintained, created, added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rule or order made thereunder or of any condition prescribed in accordance therewith.

Restrictions.

7. From and after the publication of the notice mentioned in section 3, sub-section (2), such of the following restrictions as the President of the Union may in his discretion declare therein shall attach with reference to such land, namely :—

(a) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (4), may extend to a distance of two thousand yards from the crest of the outer parapet of the work,—

- (i) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the General Officer Commanding the Forces in the Union of Burma and on such conditions as he may prescribe ;
- (ii) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored or otherwise accumulated :

Provided that, with the written approval of the General Officer Commanding the Forces in the Union of Burma and on such conditions as he may prescribe, road-ballast, manure and agricultural produce may be exempted from the prohibition :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to remove such road-ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer ;

- (iii) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of military authority, by the Commanding Officer and, in other cases, by the Collector with the concurrence of the Commanding Officer ; and
- (iv) where any building, wall, bank or other construction above the ground has been permitted under clause (i) of this sub-section to be maintained, erected, added to or altered, repairs shall not without the written approval of the General Officer Commanding the Forces in the Union of Burma be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(b) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restriction enumerated in clause (a) shall apply with the following additional limitations, namely :—

- (i) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the General Officer Commanding the Forces in the Union of Burma and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials easily destroyed or removed may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences, or other constructions, without compensation, upon an order in writing signed by the General Officer Commanding the Forces in the Union of Burma ; and

- (ii) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the General Officer Commanding the Forces in the Union of Burma and on such conditions as he may prescribe.

(c) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (a) and (b) shall apply with the following additional limitation, namely :—

no building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brush-wood fences may be exempted from this prohibition.

8. As soon as may be after the publication of the declaration aforesaid, the Collector shall cause the land to be marked out and measured, and shall also prepare a register and a detailed plan, which shall be on a scale not smaller than six inches to the mile, showing accurately every building, tree and other obstruction.

Land to be marked out, measured, registered and planned.

9. (1) At any time before the expiration of—

- (a) the period of eighteen months from the publication of the declaration referred to in section 3, or
- (b) such other period not exceeding three years from the said publication as the President of the Union may, by notification in the Gazette, direct in this behalf.

Notice to persons interested.

the Collector shall cause public notice to be given at convenient places on or near the land, stating the effect of the said declaration and that claims to compensation for all interests in such land affected by anything done or ordered in pursuance of such declaration may be made to him :

Provided that, where anything has been done in exercise of the powers conferred, in case of emergency, by section 6, sub-section (3), the notice prescribed by this section shall be given as soon as may be thereafter.

(2) Such notice shall state the particulars of any damage ordered to be done or, in the case referred to in section 6, sub-section (3), done in exercise of any of the powers conferred by the said section, and the particulars of any restrictions attaching to the land under section 7, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for damage to such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business.

Power to require and enforce the making of statements as to names and interests.

10. The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Application of certain sections of the Penal Code.

11. Every person required to make or deliver a statement under section 9 or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code.

Inquiry and award by Collector.

12. On the day fixed under section 9, or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into objections (if any) which any person interested has stated pursuant to a notice given under the said section to the measurements made under section 8, and into the decrease in the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

- (a) the true area of the land and the nature of the obstructions from which the land is to be kept free ;
- (b) the compensation which in his opinion should be allowed for any damage caused or to be caused under section 6 and for any restrictions imposed under section 7 ; and
- (c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether they have respectively appeared before him or not.

13. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area of the land, the nature of the said obstructions from which the land is to be kept free, the damage caused or to be caused under section 6, the value of the rights restricted under section 7, and the apportionment of the compensation among the persons interested.

Award of Collector when to be final.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

14. The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.

Adjournment of inquiry.

15. For the purpose of inquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a civil Court under the Code of Civil Procedure.

Power to summon and enforce attendance of witnesses and production of documents.

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Matters to be considered and neglected.

17. Whenever the officer exercising the powers conferred by section 6 considers it necessary that anything in respect of which any person is or may be entitled to compensation, but of which no notice has been given or compensation awarded, under sections 9 and 12, respectively, should be done in pursuance of the said powers, the Collector shall cause supplementary notice to be given, as nearly as may be, in the manner prescribed by section 9 and subject to the limit of time imposed by sub-section (1) of that section, and the provisions of sections 10 to 16 shall, so far as they are applicable, be deemed to apply to any further inquiry and award which may be held or made in consequence of such supplementary notice.

Supplementary proceedings.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested :

Reference to Court.

Provided that every such application shall be made,—

- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award :
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (2), or within six months

from the date of the Collector's award, whichever period shall first expire.

(2) The application shall state the grounds on which objection to the award is taken.

Collector's
statement to
the Court.

19. (1) In making the reference the Collector shall state for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7;
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount of compensation awarded under section 12; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of
notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day to be served on the following persons, namely:—

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

Restriction
on scope of
proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings
to be in
open Court.

22. Every such proceeding shall take place in open Court and all persons entitled to practise in any civil Court in the Union of Burma shall be entitled to appear, plead and act, as the case may be, in such proceeding.

Matters to
be con-
sidered in
determining
compensa-
tion.

23. (1) In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

- (a) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3 and any damage caused or to be caused under section 6;
- (b) the damage sustained by the person interested by reason of the removal of any standing crops in the exercise of any power conferred by section 6;
- (c) the damage (if any) sustained by the person interested by reason of ceasing to be able to use such land conjointly with his other land;
- (d) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings; and
- (e) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(2) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

24. In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

- (a) the degree of urgency which has led to the damage or the imposition of restrictions ;
- (b) any disinclination of the person interested to submit to damage or restrictions ;
- (c) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;
- (d) any increase to the value of the other land of the person interested accruing or likely to accrue from anything done under this Act ; or
- (e) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

Matters not to be considered in determining compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

Rules as to amount of compensation.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

26. Every award under this Part shall be in writing signed by the Judge and shall specify the amount awarded under section 23, sub-section (1), clause (a), and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Form of award.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid.

Costs.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

Collector may be directed to pay interest on excess compensation.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

Dispute as to apportionment.

30. Where the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 12, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2).

(2) If they do not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided, first, that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided, secondly, that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided, thirdly, that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the President of the Union, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, or by the remission of land-revenue on the same or on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in sub-section (3) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money is deposited in Court under section 31, sub-section (2), and it appears that the land in respect of which the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(a) in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money was deposited is held, or,

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as it thinks fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same are applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

- (a) the costs of such investments as aforesaid ;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities in which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and the costs of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

33. If any money is deposited in Court under this Act for any cause other than that mentioned in section 32, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it thinks fit, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the land in respect of which such money was deposited or as near thereto as may be.

Investment of money deposited in other cases.

34. When the amount of any compensation awarded under this Act is not paid or deposited within fifteen days of making the award, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the date of the award until it is so paid or deposited.

Payment of interest.

PART VI.

MISCELLANEOUS.

35. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, sub-section (2), by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the Court-house and also in some conspicuous part of the land upon which restrictions are to be imposed :

Provided that, if the Collector or Judge so directs, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

36. Whoever wilfully—

Penalties.

- (a) obstructs any person in doing any of the acts authorized by section 4, section 6 or section 8, or
- (b) destroys, damages, alters or otherwise interferes with the ground-level or any work done under section 6, or
- (c) contravenes any of the provisions of section 7 or any condition prescribed thereunder,

shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both, and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first in regard to which he is convicted of having persisted in the offence; and any expenses incurred in removing the effects of his offence may be recovered from him in the manner provided by the law for the time being in force for the recovery of fines.

Magistrate to enforce the terms of the Act.

37. If the Collector or officer authorized under section 6 is opposed or impeded in doing anything directed or permitted by this Act, he shall, if a Magistrate, enforce compliance, and, if not a Magistrate, he shall apply to a Magistrate or (within Rangoon) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce compliance.

Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.

38. (1) The President of the Union shall be at liberty to withdraw from the imposition of any declared restrictions before any of the measures authorized by section 6 have been taken.

(2) Whenever the President of the Union withdraws the imposition of any declared restrictions, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said restrictions.

(3) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

Demolition of part of house or building and imposition of restrictions on part of land.

39. (1) The provisions of this Act shall not be put in force for the purpose of demolishing or acquiring the right to demolish a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be demolished or that the right to demolish the whole of it shall be acquired:

Provided that the owner may at any time before the Collector has made his award under section 12, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be demolished, or that the right to demolish the whole of it shall be acquired:

Provided, also, that, if any question shall arise as to whether any building or other construction proposed to be demolished under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and such building or other construction shall not be demolished until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the building or other construction proposed to be demolished is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim of the kind referred to in section 23, sub-section (1), clause (c), by a person interested, on account of ceasing to be able to use the land, upon the use and enjoyment of which restrictions are to be imposed, conjointly with his other land, the President of the Union is of opinion that the claim is unreasonable or excessive, he may, at any time before the Collector has made his award, order the imposition of restrictions upon the whole of the land of which the land upon the use and enjoyment of which it was first sought to impose restrictions forms a part.

(3) In the case provided for by sub-section (2) no fresh declaration or other proceeding under sections 3 to 10 shall be necessary; but the Collector shall without delay furnish a copy of the order of the President of the Union to the person interested, and shall thereafter proceed to make his award under section 12.

(4) Notwithstanding anything contained in section 7, clause (a), any land, upon the use and enjoyment of which restrictions are imposed under this section, may be included in the outer boundary, even though its distance from the crest of the outer parapet of the work exceeds two thousand yards.

40. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption from stamp-duty and fees.

41. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Notice in case of suits for anything done in pursuance of Act.

42. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

Code of Civil Procedure to apply to proceedings before Court.

43. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceeding under this Act.

Appeals in proceedings before Court.

44. (1) The President of the Union may make rules for the guidance of officers in all matters connected with the enforcement of this Act.

Power to make rules.

(2) The power to make rules under sub-section (1) shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under sub-section (1) shall be published in the Gazette, and shall thereupon have effect as if enacted in this Act.

THE WOMEN'S AUXILIARY SERVICE (BURMA) ACT. ၁/၁၉၄၃ ခုနှစ်

[BURMA ACT VI, 1944.] (14th May, 1943.)

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WHEREAS it is expedient to constitute as part of the armed forces a women's auxiliary force known as the Women's Auxiliary Service (Burma), and to provide for the organization and discipline thereof ; * * * *

It is hereby enacted as follows :—

1. (1) This Act may be called the Women's Auxiliary Service (Burma) Act, 1944.

Short title, commencement and application.

(2) It shall be deemed to have come into force with effect from the fourteenth day of May, 1943.

(3) It applies to personnel of the Women's Auxiliary Service (Burma), wherever they may be.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) " the service " means the Women's Auxiliary Service (Burma) constituted under section 3 ;

(b) " enrolled " means enrolled under this Act ;

- (c) "prescribed" means prescribed by rules made under this Act; and
 (d) "regulations" means regulations made under section 10.

Constitution of Women's Auxiliary Service (Burma). 3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force [which shall be designated the Women's Auxiliary Service (Burma)] * * * ¹ as part of the armed forces.

Personnel of the service and appointment of officers. 4. (1) There shall be the following classes of personnel in the service namely,—
 (a) officers, and
 (b) enrolled persons.

(2) Officers shall be appointed by the President of the Union by notification in the Gazette, and they shall be female citizens of the Union above the age of seventeen.

Enrolment of personnel and their promotion. 5. (1) Any citizen of Burma, if a woman and above the age of seventeen, shall be eligible to be enrolled in the service, and, if she satisfies the prescribed conditions, may be enrolled therein in such manner and for such period as may be laid down by regulations, and thereupon shall become subject to the provisions of this Act.

(2) Any enrolled person may be promoted to warrant and non-commissioned rank in accordance with the regulations.

Liability to serve. 6. Every officer and every enrolled person shall be bound to serve until she is discharged or dismissed from the service and while so bound shall be subject to all rules and regulations that may be made under this Act relating to the service.

Dismissal from service 7. (a) The President of the Union may dismiss any officer; and
 (b) The General Officer Commanding, Burma Army, or any authority empowered by him in this behalf, may dismiss any enrolled person from the service.

Application of Army Act 8. The Burma Army Act shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to officers of, and persons enrolled in, the service as it applies to officers and men of the regular forces respectively.

Power to make rules 9. The President of the Union may, by notification in the Gazette, make rules to carry out the purposes of this Act, and without prejudice to the generality of this power, such rules may provide for any other matter which under this Act, is to be or may be prescribed.

Power to make regulations. 10. The President of the Union may, by notification in the Gazette, empower any authority to make regulations consistent with this Act and the rules made thereunder providing for all matters to be laid down by regulations and generally for all details connected with the organization and personnel of the service, and the appointment or enrolment, discharge, duties, training, clothing, equipment, pay, allowances, medical treatment and leave of persons appointed as officers or enrolled.

¹ Deleted by Act I, 1945.

THE BURMA MILITARY NURSING SERVICE ACT.

[BURMA ACT XXVI, 1945.] (13th October, 1945.)

WHEREAS it is expedient to constitute as part of the armed forces a force to be called the Burma Military Nursing Service, and to provide for the organization and discipline thereof ; * * *

It is hereby enacted as follows :--

1. This Act applies to members of the Burma Military Nursing Service Application. wherever they may be.

2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

- (a) " the service " means the Burma Military Nursing Service constituted under section 3 ;
- (b) " prescribed " means prescribed by rules made under this Act ; and
- (c) " regulations " means regulations made under section 10.

3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force, which shall be designated the Burma Military Nursing Service, for service with forces and persons subject to the Burma Army Act.

Constitution of the Burma Military Nursing Service.

4. All members of the service shall be of commissioned rank and shall be appointed as officers of the service by the President of the Union by notification in the Gazette.

Personnel of the service.

5. Any citizen of the Union, if a woman and above the age of twenty-one, shall be eligible for appointment as a member of the service, *provided that* she satisfies the prescribed conditions ; and upon appointment she shall become subject to the provisions of this Act.

Eligibility for appointment.

6. Every member of the service shall be bound to serve until she relinquishes her commission or is dismissed from the service, and while so bound shall be subject to rules and regulations that may be made under this Act relating to the service.

Liability to serve.

7. The President of the Union may dismiss any member of the service.

Dismissal from service.

8. The Burma Army Act shall, subject to such adaptations and modifications as may be prescribed, apply to members of the service as it applies to officers of the regular forces, except such provisions thereof as are manifestly inapplicable to women.

Application of the Army Act.

9. The President of the Union may make rules¹ to carry out the purposes of this Act ; and without prejudice to the generality of such powers, such rules may provide for the medical examination of persons offering themselves for appointment in the service.

Power to make rules.

10. The President of the Union may, by notification in the Gazette empower any authority to make regulations, consistent with this Act and the rules made thereunder, to provide for all matters to be governed by regulations, including details of organization, personnel of the service, and the appointment, dismissal, duties, training, clothing, equipment, pay, allowances, medical treatment, and leave of persons appointed as members of the service.

Power to make regulations.

¹ For such rules, see *Burma Gazette*, 1946, Part I, p. 92.

THE BURMA AIR FORCE (DISCIPLINE) ACT.

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THE BURMA AIR FORCE (DISCIPLINE) ACT.

[BURMA ACT XLV, 1947.] (15th December, 1947.)

WHEREAS it is expedient to make provision for the administration and discipline of the Burma Air Force and for matters connected therewith ;

* * * *

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Burma Air Force (Discipline) Act, 1947. Short title and commencement.
- (2) It shall come into force on such date¹ as the President of the Union may, by notification in the official Gazette, appoint.
2. (1) The following persons shall be subject to this Act, namely,— Persons subject to this Act.
 - (a) officers and warrant officers of the Burma Air Force raised in the Union of Burma by the President of the Union ;
 - (b) persons enrolled under this Act ;
 - (c) persons not otherwise subject to military, naval or air force law, who, on active service, in camp, on the march, or at any frontier post specified by the President of the Union, by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the Burma Air Force.
- (2) Every person who becomes subject to this Act under sub-section (1), clause (a) or (b), shall remain so subject until duly discharged or dismissed.
3. (1) The President of the Union may, by notification, direct that any person or class of persons subject to this Act under section 2, sub-section (1), clause (c), shall be so subject as officers, warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction. Special provision as to rank in certain cases.

¹ 15th December 1947. See *Burma Gazette*, 1947, Part I, p. 846.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

Commanding
officers of
certain
persons.

4. Every person subject to this Act under section 2, sub-section (1), clause (c), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, unit or detachment (if any) to which he is attached, and if he is not attached to any corps, unit or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force :

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

Officers to
exercise
powers in
certain cases.

5. (1) Whenever persons subject to this Act are serving whether within or without the Union of Burma under an officer not subject to this Act the President of the Union may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding units, shall, as regards such persons, be exercised.

(2) The President of the Union may confer such powers either absolutely or subject to such restrictions, reservations, exceptions and conditions as it may think fit.

Definitions.

6. In this Act, unless there is something repugnant in the subject or context,—

- (1) "active service", as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is in operations against an enemy, or is engaged in warlike operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country, and includes in respect of a person subject to this Act attached to or forming part of a force which is about to be or has recently been on such active service, such time as the President of the Union may, by notification in the official Gazette, declare to be active service in respect of such force ;
- (2) "air force custody" means the arrest or confinement of a person according to the usages of Burma military and air forces, and includes military custody ;
- (3) "air force reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other air force pecuniary reward ;
- (4) "air force offence" means any act or omission made punishable by this Act ;
- (5) "airman" means any person subject to this Act other than an officer ;
- (6) "civil offence" means an offence which, if committed in the Union of Burma, would be triable by a criminal Court ;
- (7) "commanding officer", used in relation to a person subject to this Act, means the officer for the time being in command of the unit or detachment to which such person belongs or is attached ;
- (8) "corps" means any body of the Burma Air Force which is prescribed as a corps for the purposes of all or any of the provisions of this Act ;
- (9) "court-martial" means a court-martial held under this Act ;

- (10) "criminal Court" means a court of ordinary criminal justice in the Union of Burma, or established elsewhere by the authority of the President of the Union ;
- (11) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to naval, military or air force law to act ;
- (12) "non-commissioned officer" means a person attested under this Act holding a non-commissioned rank in the Burma Air Force, and includes an acting non-commissioned officer ;
- (13) "notification" means a notification published in the official Gazette ;
- (14) "offence" means any act or omission made punishable by any law for the time being in force ;
- (15) "officer" means an officer of any of Burma naval, military or air forces, but does not include a warrant officer or non-commissioned officer ;
- (16) "officer of the Burma Air Force" means a person commissioned, gazetted or in pay as an officer of the Burma Air Force ;
- (17) "prescribed" means prescribed by rules made under this Act ;
- (18) "superior officer", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer ; and as regards persons placed under his order, an officer, a warrant officer or non-commissioned officer of any of Burma naval, military or air force ;
- (19) "unit" means any body of the Burma Air Force which is prescribed as a unit for the purposes of all or any of the provisions of this Act ;
- (20) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer in the Burma Air Force ; and
- (21) all words and expressions used herein and defined in the Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II.

ENROLMENT, ATTESTATION, DISMISSAL, DISCHARGE AND REDUCTION.

7. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled ; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Procedure
before enrol-
ling officer.

8. If, after complying with the provisions of section 7, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign and shall cause the person to sign the enrolment paper, and such person shall be then deemed to be enrolled.

Enrolment.

9. Every person who has for the space of six months been in the receipt of any air force pay and been borne on the rolls of any unit raised in the Union of Burma by the President of the Union shall be deemed to have been duly enrolled, notwithstanding any illegality or irregularity in his enrolment,

Presumption
of enrolment
in certain
cases.

- Persons to be attested.** **10.** The following persons shall be attested, namely,—
 (a) all persons enrolled as combatants ;
 (b) all other enrolled persons prescribed by the President of the Union.
- Mode of attestation.** **11.** (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his unit or such portion thereof as may be present, or by any other prescribed person.
 (2) The form of oath or affirmation shall be as prescribed by the President of the Union from time to time and shall contain a promise that the person to be attested will serve in the Burma Air Force and go wherever he is ordered by air, land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.
 (3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by his signature and by the signature of the officer administering the oath or affirmation.
- Dismissal by President.** **12.** The President of the Union may at any time dismiss from the service any person subject to this Act.
- Dismissal by the Officer Commanding or prescribed officer.** **13.** The Officer Commanding the Burma Air Force, or any prescribed officer, may at any time dismiss from the service any person subject to this Act other than an officer.
- Discharge.** **14.** The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.
- Certificate to person dismissed or discharged.** **15.** Any enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate setting forth—
 (a) the authority dismissing or discharging him ;
 (b) the cause of his dismissal or discharge ; and
 (c) the full period of his service in the Burma Air Force.
- Discharge and dismissal out of the Union of Burma.** **16.** (1) Any enrolled person who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of the Union of Burma, and requests to be sent to the Union of Burma shall, before being discharged, be sent to the Union of Burma with all convenient speed.
 (2) Any person subject to this Act who is dismissed from the service and who, when he is so dismissed, is serving out of the Union of Burma, shall be sent to the Union of Burma with all convenient speed ;
 Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment, a portion of such other punishment, may be inflicted before he is sent to the Union of Burma.
- Reduction.** **17.** (1) The Officer Commanding the Burma Air Force, or any prescribed officer, may at any time reduce any warrant officer or any non-commissioned officer to a lower grade or to a lower rank or to the ranks, or any airman other than a warrant officer or non-commissioned officer to a lower class in the ranks.
 (2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer, or if he has no permanent grade above the ranks, to the ranks.

CHAPTER III.

PUNISHMENTS AND PENAL DEDUCTIONS.

18. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say,—

Punishment.

- (a) death ;
- (b) imprisonment, which shall be of two degrees, namely :—
 - (i) long imprisonment, which shall be rigorous and for a term not less than three years and not exceeding fourteen years, and
 - (ii) short imprisonment, which may be rigorous or simple, for a term not exceeding two years ;
- (c) in the case of airmen, detention for a term not exceeding two years ;
- (d) dismissal from the service ;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowances for a period not exceeding two months ;
- (f) reduction, in the case of warrant officer, or a non-commissioned officer, to a lower grade, or to a lower rank or to the ranks ;
- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank ;
- (h) in the case of officers, warrant officers and non-commissioned officers, reprimand or severe reprimand ;
- (i) forfeitures and stoppages as follows, namely :—
 - (i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose ;
 - (ii) forfeiture of any military, naval or air force decoration or military, naval or air force reward ;
 - (iii) forfeiture, in the case of a person sentenced to dismissal from the service, of all arrears of pay and allowances due to him at the time of such dismissal ;
 - (iv) stoppages of pay and allowances until proved loss or damage occasioned by the offence of which he is convicted is made good ;
 - (v) on active service, forfeiture of pay and allowances for a period not exceeding three months.

19. Where in respect of any offence under this Act there is specified a particular punishment, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

Power to award lower punishments.

20. (1) Where any person, subject to this Act and under the rank of warrant officer on active service, is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

Field punishments.

(2) Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishment next below dismissal.

21. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f), (h) and (i) of section 18.

Combination of punishments.

Reduction
of non-
commissioned
officers and
warrant
officers to
ranks.

22. A warrant officer or non-commissioned officer sentenced by court-martial to imprisonment, detention, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

Retention
in the ranks
of person
convicted on
active ser-
vice.

23. When any enrolled person on active service has been sentenced by court-martial to dismissal or to imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to imprisonment, such service shall be reckoned as part of his term of imprisonment.

Minor
punishments.

24. (1) The President of the Union may prescribe the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

(2) Detention and, in the case of persons subject to this Act on active service, any prescribed field punishment may be specified as minor punishments :

Provided that—

(a) the term of such detention or field punishment shall not exceed twenty-eight days ; and

(b) detention or field punishment shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

(3) The provisions of sections 76, 77 and 78 shall apply to the proceedings of officers empowered to award minor punishments under this section as if such officers were courts-martialled.

Deductions
from pay and
allowance.

25. (1) The following penal deductions may be made from the pay and allowances of an officer of the Burma Air Force, that is to say,—

(a) all pay and allowances due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted to him, unless a satisfactory explanation has been given to his commanding officer and has been approved by the President of the Union ;

(b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence ;

(c) any sum required to make good the pay of any officer or airman which he has unlawfully retained or unlawfully refused to pay ;

(d) any sum required to make good any loss, damage or destruction of public or service property which, after due investigation, appears to the President of the Union to have been occasioned by any wrongful act or negligence on the part of the officer.

(2) The following penal deductions may be made from the pay and allowances of an airman, that is to say,—

(a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment or detention awarded by a criminal Court, a court-martial or an officer exercising authority under section 24, or of field punishment awarded by a court-martial or such officer ;

- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal Court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment, detention or field punishment by an officer exercising authority under section 24 ;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him ;
- (d) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be prescribed ;
- (e) all pay and allowances ordered by a court-martial to be suspended or forfeited ;
- (f) any sum ordered by a court-martial to be stopped ;
- (g) any sum required to make good such compensation for any expences caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, service necessities, or military decoration, or to any buildings or property, as may be awarded by his commanding officer ;
- (h) any sum required to pay a fine awarded by a criminal Court, a court-martial exercising jurisdiction under section 57 or an officer exercising authority under section 24 :

Provided that the total deduction from the pay and allowances of a person subject to this Act made under clauses (c) to (g), both inclusive, shall not (except in the case of a person sentenced to dismissal) exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (a) and (b) —

- (i) no person shall be treated as absent, imprisoned, or detained, unless the absence, imprisonment, or detention has lasted six hours or upwards, except where the absence prevented the absentee from fulfilling any air force duty which was thereby thrown on some other person ;
- (ii) a period of absence, imprisonment, or detention which commences before and ends after midnight may be reckoned as a day ;
- (iii) the number of days shall be reckoned as from the time when the absence, imprisonment, or detention commences ; and
- (iv) no period of less than twenty-four hours shall be reckoned as more than one day.

26. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Deductions from public money other than pay.

27. Any deduction from pay and allowances authorized by this Act may be remitted in such manner and to such extent and by such authority as may from time to time be prescribed.

Remission of deductions.

28. In the case of all persons subject to this Act being prisoners of war, whose pay and allowances have been forfeited under section 25, but in respect of whom a remission has been made under section 27, it shall be lawful notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such person and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

Provision for dependants of prisoners of war.

Unauth-
orized deduc-
tions
forbidden.

29. The pay of an officer or airman of the Burma Air Force shall be paid without any deduction other than the deductions authorized by this Act or by any other enactment for the time being in force or prescribed by the President of the Union.

CHAPTER IV.

AIR FORCE OFFENCES.

Service
offences
punishable
with death.

30. Any person subject to this Act who—

- (a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend, or
- (b) shamefully casts away his arms, ammunition or tools in the presence of the enemy, or
- (c) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy, or
- (d) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or
- (e) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or
- (f) voluntarily does when on active service any act calculated to imperil the success of Burma Forces or any part thereof, or
- (g) treacherously or shamefully causes the capture or destruction by the enemy of any of the Government's aircraft, or
- (h) treacherously gives any false air signal or alters or interferes with any air signal, or
- (i) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect,

shall be punishable with death.

Service-
offences
punishable
with long
imprison-
ment.

31. Any person subject to this Act who, on active service,—

- (a) without orders from his superior officer leaves the ranks in order to secure prisoners or horses, or on pretence of taking wounded men to the rear, or
- (b) without orders from his superior officer wilfully destroys or damages any property, or
- (c) is taken prisoner by want of due precaution or through disobedience of orders or wilful neglect of duty, or, having been taken prisoner, fails to rejoin Burma Defence Service when able to do so, or
- (d) without due authority either holds correspondence with or gives intelligence, or sends a flag of truce to the enemy, or
- (e) by word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or
- (f) in action, or previously to going into action, uses words calculated to create alarm or despondency, or
- (g) negligently causes the capture or destruction by the enemy of any of the Government's aircraft, or
- (h) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, negligently or through other default fails to use his utmost exertions to carry such orders into effect, or
- (i) misbehaves before the enemy in such manner as to show cowardice

shall be punishable with long imprisonment.

32. (1) Any person subject to this Act who treacherously makes known the watchword to any person not entitled to receive it, or treacherously gives a watchword different from what he received, shall, if he commits the offence on active service, be punishable with death, and, if he commits the offence not on active service, with short imprisonment.

Service offences punishable more severely if committed on active service.

(2) Any person subject to this Act who—

- (a) without due authority alters or interferes with any air signal, or
- (b) forces a safeguard, or
- (c) forces or strikes a sentinel, or
- (d) breaks into any house or other place in search of plunder, or
- (e) being an airman acting as sentinel, sleeps or is intoxicated, or
- (f) without orders from his superior officer leaves his guard, picquet, patrol or post, or
- (g) by discharging firearms, making signals, using words or by any means whatever, intentionally occasions false alarms, or
- (h) being an airman acting as sentinel, leaves his post before he is regularly relieved,

shall, if he commits the offence on active service, be punishable with long imprisonment and, if he commits the offence not on active service, with short imprisonment.

33. Any person subject to this Act who—

- (a) by discharging firearms, making signals, using words, or by any means whatever, negligently occasions false alarms, or
- (b) makes known the watchword to any person not entitled to receive it, or, without good and sufficient cause, gives a watchword different from what he received, or
- (c) impedes the provost-marshal or any assistant provost-marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost-marshal, or, when called on, refuses to assist in the execution of his duty the provost-marshal, the assistant provost-marshal, or any such officer, non-commissioned officer or other person, or
- (d) uses criminal force to or commits an assault on any person bringing provisions or supplies to the forces, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or
- (e) irregularly detains or appropriates to his own unit or detachment any provisions or supplies proceeding to the forces, contrary to orders issued in that respect,

Service offences punishable with short imprisonment.

shall be punishable with short imprisonment.

34. Any person subject to this Act who—

- (a) begins, incites, causes or conspires with any other persons to cause any mutiny in any of Burma naval, military or air forces, or
- (b) joins in, or, being present, does not use his utmost endeavours to suppress, any such mutiny, or
- (c) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny, or of any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer,

Mutiny.

shall be punishable with death.

35. Any person subject to this Act who—

- (a) uses criminal force to or assaults his superior officer, being in the execution of his office, or

Insubordination punishable with long imprisonment.

- (b) disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office,

shall be punishable with long imprisonment.

Insubordination punishable more severely if committed on active service.

36. Any person subject to this Act who—

- (a) uses criminal force to or assaults his superior officer, or
(b) uses threatening or insubordinate language to his superior officer, or
(c) disobeys any lawful command given by his superior officer, shall, if he commits the offence on active service, be punishable with long imprisonment, and, if he commits the offence not on active service, with short imprisonment.

Insubordination punishable with short imprisonment.

37. Any person subject to this Act who—

- (a) being concerned in any quarrel, affray or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or uses criminal force to or assaults any such officer, or
(b) uses criminal force to or assaults any person, whether subject to this Act or not, in whose custody he is placed, whether he is or is not his superior officer, or
(c) resists an escort whose duty it is to apprehend him or to have him in charge, or
(d) being an airman, breaks out of barracks, camp or quarters, or
(e) neglects to obey any general, local or other orders (not being orders in the nature of a rule or regulation published for a general information and guidance of the Burma Air Force),

shall be punishable with short imprisonment.

Desertion.

38. Any person subject to this Act who deserts or attempts to desert the service shall, if he commits the offence when on active service or under orders for active service, be punishable with long imprisonment, and, if he commits the offence under any other circumstances, with short imprisonment.

Fraudulent enlistment.

39. Any person subject to this Act who, when belonging to the Burma Air Force, without having obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist, enrol or enter, enrolls himself, or enlists in or enters any other of air forces, or any of Burma military or naval forces or re-enrolls himself in the Burma Air Force, shall be deemed to be guilty of fraudulent enlistment, and shall be punishable with short imprisonment.

Connivance at desertion.

40. Any person subject to this Act who, being cognisant of any desertion or intended desertion of a person subject to this Act, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be apprehended, shall be punishable with short imprisonment.

Absence from duty without leave.

41. Any person subject to this Act who—

- (a) absents himself without leave, or
(b) fails to appear at the time fixed at a parade or place appointed for exercise or duty, or goes from thence without leave before he is relieved, or without necessity quits his duty or duties, or
(c) being an airman, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general, local or other order, without a pass or written leave from his superior officer, or
(d) being an airman, without leave from his superior officer, or without due causes, absents himself from any school when duly ordered to attend there,

shall be punishable with short imprisonment.

42. Any officer or warrant officer subject to this Act who behaves in a manner unbecoming his position and character shall, notwithstanding anything contained in section 19, be dismissed from the service.

Scandalous
conduct of
officer.

43. Any person subject to this Act who—

- (a) steals any property of the Government, or dishonestly misappropriates or converts to his own use any property of the Government entrusted to him, or
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, or
- (c) wilfully destroys or damages any property of the Government entrusted to him, or
- (d) steals any property of any air force mess, band or institution, or of any person subject to this Act or serving with or attached to the Burma Air Force, or dishonestly misappropriates or converts to his own use any such property entrusted to him, or
- (e) dishonestly receives or retains any property in respect of which an offence under clause (d) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted,

Scandalous
conduct
punishable
with long
imprison-
ment

shall be punishable with long imprisonment.

44. Any person subject to this Act who—

- (a) does any act, not otherwise specified in this Act, with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person, or
- (b) malingers or feigns or produces disease or infirmity himself, or intentionally delays his cure or aggravates his disease or infirmity, or
- (c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person, or
- (d) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission,

Scandalous
conduct
punishable
with short
imprison-
ment.

shall be punishable with short imprisonment.

45. Any person subject to this Act who is found in a state of intoxication, whether on duty or not on duty, shall be punishable, if an officer, with dismissal from the service, and, if an airman, with short imprisonment:

Intoxication.

Provided that where the offence of being intoxicated is committed by an airman not on active service or on duty, the sentence imposed shall not exceed detention for a period of six months.

46. Any person subject to this Act who—

- (a) when in command of a guard, picquet, patrol or post, releases without proper authority, whether voluntarily or otherwise, any person committed to his charge, or
- (b) voluntarily or negligently allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

Permitting
escape of
prisoner.

shall be punishable, if he has acted voluntarily, with long imprisonment, and, if he has not acted voluntarily, with short imprisonment.

Irregular
keeping in
custody.

47. Any person subject to this Act who—

- (a) unnecessarily detains a person in arrest or confinement without bringing him to trial or fails to bring his case before the proper authority for investigation, or
- (b) having committed a person to the custody of any officer, non-commissioned officer, provost-marshal, or assistant provost-marshal, fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to the officer, non-commissioned officer, provost-marshal, or assistant provost-marshal, into whose custody the person is committed, an account in writing signed by himself of the offences with which the person so committed is charged, or
- (c) being in command of the guard, does not as soon as he is relieved from his guard or duty, or if he is not sooner relieved, within twenty-four hours after a person is committed to his charge, give in writing to the officer to whom he may be ordered to report that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom he was charged, accompanied, if he has received the account as above in this section mentioned, by that account, shall be punishable with short imprisonment.

Es : p from
custody.

48. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall be punishable with short imprisonment.

Offences in
relation to
property.

49. Any person subject to this Act who—

- (a) commits extortion, or without proper authority exacts from any person carriage, portage or provisions, or
- (b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property, or
- (c) voluntarily or negligently kills, injures, makes away with, ill-treats or loses any animal used in the public service, or
- (d) makes away with, or is concerned in making away with, any arms, ammunition, equipments, instruments, tools, clothing or service necessaries issued to him or required to be maintained by him, or
- (e) loses by neglect anything mentioned in clause (d), or
- (f) wilfully damages anything mentioned in clause (d) or any property belonging to the Government, or to any air force mess, band or institution, or to any person subject to air force law, or serving with, or attached to the Burma Air Force, or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall be punishable with short imprisonment.

False accusa-
tions and
offences
relating to
documents.

50. Any person subject to this Act who—

- (a) makes a false accusation against any person subject to this Act, knowing such accusation to be false, or
- (b) in making any complaint under section 119, knowingly makes any false statement affecting the character of any person subject to this Act, or knowingly and wilfully suppresses any material fact, or
- (c) obtains or attempts to obtain for himself or for any other person any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any document or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement, or

- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to the Government or to any person in or attached to the Burma Air Force, or who, wilfully or negligently, omits or refuses to make or send any return or report of the matters aforesaid,

shall be punishable with short imprisonment.

51. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer shall be punishable with short imprisonment. False answer on enrolment.

52. Any person subject to this Act who—

- (a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any document or other thing which he may have been duly warned and called upon to produce or deliver up, or
- (b) intentionally offers any insult or causes any interruption or disturbance to or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of a court-martial while sitting, or
- (c) having been duly sworn or affirmed before any court-martial or other court or officer authorized by this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punishable with short imprisonment.

Offences relating to courts-martial.

53. Any person subject to this Act who—

- (a) voluntarily or negligently damages, destroys or loses any of the Government's aircraft or aircraft material, or
- (b) is guilty of any act or omission likely to cause such damage, destruction or loss, or
- (c) is guilty of any act or omission (whether voluntary or otherwise) which causes damage to or destruction of any public property by fire, or
- (d) without lawful authority disposes of any of the Government's aircraft or aircraft material, or
- (e) is guilty of any act or omission in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material which causes or is likely to cause loss of life or bodily injury to any person, or
- (f) during a state of war voluntarily and without proper occasion or negligently causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State, of any of the Government's aircraft,

Offences relating to aircraft.

shall be punishable, if he has acted voluntarily, with long imprisonment, and, if he has not acted voluntarily, with short imprisonment.

54. Any person subject to this Act who—

- (a) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position, or
- (b) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation

Miscellaneous air force offences.

- made to the injured person or to report the case to the proper authority, or
- (c) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person, or
 - (d) attempts to commit suicide and does any act towards the commission of such offence, or
 - (e) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazaar, carrying a sword, bludgeon or other offensive weapon, or
 - (f) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service, or
 - (g) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and air force discipline,

shall be punishable with short imprisonment.

Attempts. **55.** Any person subject to this Act who attempts to commit an air force offence or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence.

Abetment. **56.** Any person subject to this Act who abets the commission of any air force offence, or of any offence punishable under the Burma Army Act, the Burma Naval Discipline Act, the Burma Naval Volunteer Reserve Discipline Act, 1940, which is of the same nature as an air force offence, shall be punishable with the punishment provided in this Act for such air force offence.

Civil offences. **57. (1)** Any person subject to this Act who at any place in or beyond the Union of Burma commits any civil offence shall be deemed to be guilty of an air force offence, and, if charged therewith under this section, shall be liable to be tried by court-martial and to be punished as follows, that is to say,—

- (a) if the offence is one which would be punishable under the law of the Union of Burma with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of the Union of Burma; and
- (b) in other cases, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of the Union of Burma, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and air force discipline.

* * * *

(2) The powers of a court-martial to charge and to punish any person under this section shall not be affected by reason of the civil offence with which such person is charged being also an air force offence.

¹ The proviso to this section was deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

CHAPTER V.

ARREST AND PROCEEDINGS BEFORE TRIAL.

58. (1) Any person subject to this Act who is charged with an offence may be taken into air force custody. Custody of offenders.

(2) Any such person may be ordered into air force custody by any superior officer.

(3) The charge against every person taken into air force custody shall, without unnecessary delay, be investigated by the proper authority, and as soon as may be, either proceedings shall be taken for punishing the offender, or such person shall be discharged from custody.

59. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or officer shall aid in the apprehension and delivery to air force custody of such person upon receipt of a written application to that effect signed by his commanding officer. Arrest by civil authorities.

60. (1) Whenever any person subject to this Act deserts, his commanding officer shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to air force custody. Capture of deserters.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to Law.

61. (1) When any person subject to this Act has been absent without due authority from his duty for a period of twenty-one days, a court of inquiry shall, as soon as practicable, be assembled, and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessities; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the unit to which the person belongs shall enter in the court-martial book of the unit a record of the declaration. Inquiry on absence without leave.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

62. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Officer Commanding the Burma Air Force and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service. Provost-marshal.

63. The duties of a provost-marshal so appointed are to take charge of persons in air force custody, to preserve good order and discipline and to prevent breaches thereof by persons subject to this Act. He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may Duties and powers.

also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.

CHAPTER VI.

CONSTITUTION, JURISDICTION AND POWERS OF COURTS-MARTIAL.

Kinds of courts-martial.

64. For the purposes of this Act there shall be three kinds of courts-martial¹ that is to say,—

- (1) general courts-martial ; (2) district courts-martial ; and (3) field general courts-martial.

Powers to convene general courts-martial.

65. A general court-martial may be convened by the President of the Union, or by any officer empowered in this behalf by warrant of the President of the Union.

Power to convene district courts-martial.

66. A district court-martial may be convened by any authority having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such authority.

Limitation of powers of convening authorities.

67. A warrant issued under section 65 or section 66 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Convening of field general courts-martial.

68. The following authority shall have power to convene a field general court-martial, that is to say,—

- (a) an authority empowered in this behalf by an order of the President of the Union ;
(b) on active service, the commanding officer of the forces in the field or any officer empowered by him in this behalf ;
(c) the commanding officer of any detached portion of the Burma Air Force on active service, when in his opinion it is not practicable, with due regard to discipline or the exigencies of the service, that an offence should be tried by a general court-martial, and circumstances prevent a reference to higher authority.

Composition of general courts-martial.

69. A general court-martial shall consist of not less than five officers each of whom must have held a commission during not less than three whole years and of whom not less than four must be of a rank not below that of a [flying officer.]¹

Composition of district courts-martial.

70. A district court-martial shall consist of not less than three officers.

Composition of field general courts-martial.

71. A field general court-martial shall consist of not less than three officers.

¹ Substituted by Act II, 1950.

72. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved. Dissolution of courts-martial.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

73. Save as otherwise provided by or under this Act, courts-martial shall have— Jurisdiction and powers of courts-martial generally.

(a) jurisdiction to try and to punish all air force offences, and all civil offences, committed by persons subject to this Act ;

(b) exclusive jurisdiction to try all air force offences which are not also civil offences ; and

(c) exclusive power to award the punishments specified in this Act.

74. A general or field general court-martial shall have power to try any person subject to this Act for any offence made punishable therein, and to pass any sentence authorized by this Act. Jurisdiction and powers of general and field general courts-martial.

75. A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death or imprisonment for a term exceeding two years. Jurisdiction and powers of district courts-martial.

76. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal Court, or has been summarily dealt with for an offence under section 24, he shall not be liable to be tried again for the same offence by a court-martial. Prohibition of second trial.

77. No trial by court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enlistment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enlistment shall be commenced if the offender has served continuously in an exemplary manner for not less than three years with any portion of Burma Forces. Limitation of trial.

Explanation.—For the purposes of this section “ mutiny ” means any of the offences specified in section 34.

78. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever. Place of trial.

79. When a criminal Court and a court-martial have each jurisdiction in respect of a civil offence, it shall be in the discretion of the prescribed air force authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in air force custody. Order in case of concurrent jurisdiction of criminal Court and court-martial.

Power of
criminal
Court to
require deli-
very of
offender.

80. (1) When a criminal Court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any civil offence, it may, by written notice, require the prescribed air force authority at the option of such authority either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the President of the Union.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the President of the Union, whose order upon such reference shall be final.

Trial by
court-martial
no bar to
subsequent
trial by
criminal
Court.

81. (1) Notwithstanding anything contained in section 26 of the Burma [General] ¹ Clauses Act or in section 403 of the Code of Criminal Procedure, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal Court for the same offence or on the same facts.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal Court for the same offence or on the same facts, that Court shall, in awarding punishment, have regard to the air force punishment he may already have undergone.

CHAPTER VII.

PROCEDURE OF COURTS-MARTIAL.

President.
Judge
Advocate.

82. At every court-martial the senior member shall sit as president.

83. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General or, if no such officer is available, a fit person appointed by the convening officer.

Challenges.

84. (1) At all trials by courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

Voting of
members.

85. (1) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused:

Provided that no sentence of death shall be passed without the concurrence of two-thirds at the least of the members of the court.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

¹ Inserted by Act II, 1950.

86. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate at the beginning of the trial.

Oaths of president and members.

87. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

Oaths of witnesses.

88. (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

The summoning of witnesses and production of documents.

(2) In the case of a witness amenable to air force, naval or military authority, the summons shall be sent to the officer commanding the corps, ship, unit, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

(5) Nothing in this section shall be deemed to affect the Evidence Act sections 123 and 124, or to apply to any document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate or Court.

89. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General or the prescribed officer in order that a commission to take the evidence of such witness may be issued.

Issue of commission.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the

witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure.

(4) When the witness resides out of the Union of Burma, the commission may be issued to any consular officer, Magistrate or other official competent to administer an oath or affirmation in the place where such witness resides.

(5) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or official to whom the commission is issued shall examine the witness upon such interrogatories.

(6) The prosecutor and the accused person may appear before such Magistrate or official by pleader or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(7) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General or the prescribed officer.

(8) On receipt of a commission and deposition returned under sub-section (7), the Judge Advocate General or the prescribed officer shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(9) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Conviction
of one offence
permissible
on charge of
another.

90. (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A person charged before a court-martial with using criminal force may be found guilty of assault.

(4) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(5) A person charged before a court-martial with any of the offences specified in clause (a), clause (b), clause (d) or clause (e) of section 43, may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a court-martial with an offence punishable under section 57 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure were applicable.

(7) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(8) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.

91. The Evidence Act shall, subject to the provisions of this Act, apply to all proceedings before a court-martial. General rule as to evidence.

92. A court-martial may take judicial notice of any matter within the general naval, military or air force knowledge of the members. Judicial notice.

93. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown. Presumption as to signatures.

94. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper. Enrolment paper as evidence.

95. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of Burma Forces, or respecting the circumstances of any person not having served in, or belonged to, any portion of Burma Forces, if purporting to be signed by or on behalf of the President of the Union or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document. Presumption as to certain documents.

(2) An Army List, Navy List, Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, unit, ship, battalion, arm, branch or department of the service to which such officers or warrant officers belong.

(3) Where a record is made in any service book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of air force duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any service book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a provost-marshal, assistant provost-marshal, or other officer, or by the commanding officer of that portion of Burma Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

Reference by
accused to
Government
officer.

96. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer, is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

Evidence of
previous
convictions
and service
character.

97. (1) When any person subject to this Act has been convicted by a court-martial of any offence such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial established under this Act or any other enactment or by a criminal Court, and may further inquire into and record the service character of such person.

(2) Evidence received under this section may be either oral or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or service character will be received.

Order for
custody or
disposal of
property
pending trial.

98. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

CHAPTER VIII.

CONFIRMATION, REVISION, PARDON AND REMISSION OF SENTENCES.

Finding and
sentence
invalid
without
confirmation.

99. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Power to
confirm find-
ing and
sentence of
general
court-martial

100. The findings and sentences of general courts-martial may be confirmed by the President of the Union or by any officer empowered in this behalf by warrant of the President of the Union.

Power to
confirm find-
ing and
sentence of
district court-
martial.

101. The findings and sentences of district courts-martial may be confirmed by any authority having power to convene a general court-martial or by any officer empowered in this behalf by warrant of any such authority.

102. A warrant issued under section 100 or section 101 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Limitation of powers of confirming authorities.

103. (1) Save as provided in sub-sections (2) and (3), a finding and sentence of a field general court-martial shall not require to be confirmed, and may be carried out forthwith.

Confirmation of finding and sentence of field general court-martial.

(2) The finding and sentence of a field general court-martial shall require to be confirmed—

- (a) in the case of the trial of an officer,
- (b) in the case of a sentence of death or of imprisonment for a term exceeding two years, and
- (c) in any other case if so ordered by the convening authority.

(3) Such finding and sentence may be confirmed by the convening authority, or, if the convening authority so directs, by an authority superior to the convening authority.

104. Subject to such restrictions as may be contained in any warrant issued under section 100 or section 101, a confirming authority may, if it confirms the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale provided in section 18.

Power of confirming authority to mitigate, remit or commute sentences.

105. When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Confirmation of finding and sentence on board ship.

106. (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority; and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

Revision of finding or sentence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a district court-martial, of three officers.

107. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority which would have had power under section 109 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence:

Substitution of valid for invalid sentence.

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

108. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged, but was by

Provision where accused is a lunatic.

reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the court shall record a finding accordingly, and the president of the court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming authority, or, in the case of a field general court-martial, to the prescribed officer.

(2) A confirming authority to whom a case is reported under sub-section (1) may, if it does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming authority confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the President of the Union.

(4) On receipt of a report under sub-section (1) or sub-section (3), the President of the Union may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

- (a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or
- (b) if such person is detained under sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a criminal Court.

(6) Where any person is in custody, under sub-section (3) or under detention under sub-section (4),—

- (a) if such person is in custody under sub-section (3), on the report of a medical officer, or
- (b) if such person is detained under sub-section (4), on a certificate from any of the authorities empowered to grant a certificate under section 473 of the Code of Criminal Procedure,

that, in the judgment of such officer or authority, such person may be released without danger of his doing injury to himself or to any other person, the President of the Union may thereupon order such person to be released, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum.

(7) Where any relative or friend of any person who is in custody under sub-section (3) or under detention under sub-section (4) desires that he shall be delivered to his care and custody, the President of the Union may, upon the application of such relative or friend and on his giving security to the satisfaction of the President of the Union that the person delivered shall—

- (a) be properly taken care of and prevented from doing injury to himself or to any other person, and
 - (b) be produced for the inspection of such officer, and at such times and places, as the President of the Union may direct,
- order such person to be delivered to such relative or friend.

(8) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the President of the Union.

109. (1) When any person subject to this Act has been convicted by a court-martial of any offence, the President of the Union or the prescribed officer may— Pardons and remissions.

- (a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded ; or
- (b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted :

Provided that, in the case of a person sentenced to imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 22 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of this section, be treated as a punishment awarded by sentence of a court-martial.

CHAPTER IX.

EXECUTION OF SENTENCES AND DISPOSAL OF PROPERTY.

110. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death. Sentence of death.

111. Whenever any person is sentenced under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president. Commencement of sentence of imprisonment.

112. Whenever any sentence of imprisonment is passed under this Act, or whenever any sentence so passed is commuted to imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer-in-charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant : Execution of sentence of imprisonment.

Provided that, in the case of a sentence of imprisonment for a period not exceeding three months, the confirming authority, or in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in air force custody :

Provided further that on active service a sentence of imprisonment may be carried out by confinement in such places as the officer commanding the forces in the field may, from time to time, appoint.

113. Whenever, in the opinion of the Officer Commanding the Burma Air Force, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 112, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place. Execution of sentence of imprisonment in special cases.

Execution of sentence of detention.

114. When any sentence of detention is passed under this Act or when any sentence so passed is commuted to detention, the punishment shall be carried out by detaining the offender in any military or air force detention barracks, detention cells or other military or air force custody.

Communication of certain orders to civil prison officers.

115. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer-in-charge of the prison in which such person is confined.

Offenders sentenced to transportation how dealt with until transported.

116. Where a sentence of transportation is imposed by a court-martial under section 57, the offender, until he is transported, shall be dealt with in the same manner as if he had been sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.

Execution of sentence of fine.

117. When a sentence of fine is imposed by a court-martial under section 57, whether the trial was held within the Union of Burma or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in the Union of Burma, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure for the levy of fines as if it was a sentence of fine imposed by such Magistrate.

Order for disposal of property regarding which offence committed.

118. (1) After the conclusion of a trial before any court-martial, the court or the authority confirming its finding or sentence, or any authority superior to such authority, or, in the case of a finding or sentence which does not require confirmation, the officer commanding the unit within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within the Union of Burma or not, be sent to a Magistrate in any district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure.

Explanation.—In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

CHAPTER X.

SPECIAL RULES RELATING TO PERSONS AND PROPERTY.

Complaints against superior officers and airmen.

119. (1) If an officer of the Burma Air Force thinks himself wronged by his commanding officer, or other superior officer, and on due application made to his commanding officer does not receive the redress to which he may consider himself entitled, he may complain to the President of the Union in order to obtain justice.

(2) If any airman thinks himself wronged in any matter by any officer other than the officer under whose command or orders he is serving, or by any airman, he may complain thereof to the officer under whose command or orders he is serving, and if he thinks himself wronged by the officer under whose command or orders he is serving, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the prescribed officer; and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

120. (1) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

Privileges of
persons
attending
court-
martial.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

121. (1) No officer or person enrolled in the Burma Air Force shall be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue Court or revenue officer.

Exemption
from arrest
for debt.

(2) The judge of any such Court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the Court by the complainant.

122. Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue Court or any revenue officer, in satisfaction of any decree or order enforceable against him.

Property
exempted
from attach-
ment.

123. Every person belonging to the Burma Air Force Reserve shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 121 and 122 to a person subject to this Act.

Application
to reservists.

124. (1) On the presentation to any Court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such Court, the Court shall, on the application of such person, arrange, so far as may be possible for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

Priority of
hearing by
Courts of
cases in
which per-
sons subject
to this Act
are con-
cerned.

(2) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the Court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the Court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the Court to an officer commanding a unit, whose decision shall be final.

Property of
deceased
persons and
deserters.

125. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts :—

- (1) The commanding officer of the unit to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.
- (2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper official of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.
- (3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the service or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.
- (4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the service and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).
- (5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or, in the event of no claim to such surplus being established within twelve months after the death, be remitted to the prescribed person.
- (6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to the Government, unless the deserter shall in the meantime have surrendered or been apprehended.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of twenty-one days and has not subsequently surrendered or been apprehended.

126. Property deliverable and money payable to the representative of a deceased person under section 125 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Government from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Disposal of certain property without production of probate, etc.

127. The provisions of section 125 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane, or, who, being on active service, is officially reported missing:

Application to lunatics and persons missing on active service.

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (2) to (5), inclusive, of the said section, until one year has elapsed from the date of such report.

CHAPTER XI.

SUPPLEMENTAL.

128. (1) The President of the Union may make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the discharge from the service of persons subject to this Act;
- (b) the specification of the punishments which may be awarded as field punishments under sections 20 and 24;
- (c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;
- (d) the convening and constituting of courts-martial;
- (e) the adjournment, dissolution and sittings of courts-martial;
- (f) the procedure to be observed in trials by courts-martial;
- (g) the confirmation and revision of the findings and sentences of courts-martial;
- (h) the carrying into effect sentences of courts-martial;
- (i) the forms of orders to be made under the provisions of this Act relating to courts-martial and imprisonment;
- (j) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 28, and the due carrying out of such decisions; and
- (k) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the official Gazette, and, on such publication, shall have effect as if enacted in this Act.

THE BURMA NAVAL DISCIPLINE ACT.

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PART VI.

- 85. Persons subject to this Act.
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- 96. Restriction on arrest of seamen, etc., for debt.
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- 100. Act not to supersede authority of ordinary Courts.

SCHEDULE.—TABLE SHOWING RELATIVE RANKS.

THE BURMA NAVAL DISCIPLINE ACT.

[BURMA Act LXXXI, 1947.] (24th December, 1947.)

It is hereby enacted as follows :—

1. This Act shall come into force on such date ¹ as the President of the Union may, by notification in the Gazette, appoint. Commence-
ment.

PART I.

ARTICLES OF WAR.

Public Worship.

2. All officers in command of ships of the Burma Navy shall give reasonable facilities for the performance of religious duties by the officers and members of the crews of their respective ships to each man according to his religion. Facilities
for the per-
formance of
religious
duties.

Misconduct in the Presence of the Enemy.

3. Every flag officer, captain, commander or officer commanding, subject to this Act, who upon signal of battle or on sight of a ship of an enemy which it may be his duty to engage,— Penalty for
misconduct
in action.

- (1) does not use his utmost exertions to bring his ship into action ;
- (2) or does not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously ;
- (3) or who surrenders his ship to the enemy when capable of making a successful defence, or who in time of action improperly withdraws from the fight,

shall, if he has acted traitorously, suffer death ; if he has acted from cowardice, shall suffer death or such other punishment as is hereinafter mentioned ; and if he has acted from negligence or through other default, he shall be dismissed from naval service, with or without disgrace, or shall suffer such other punishment as is hereinafter mentioned.

¹ 24th December 1947.—See *Burma Gazette*, 1947, Part I, p. 865.

Penalty for not pursuing the enemy, and of not assisting a friend in view.

4. Every officer subject to this Act who fails to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or does not relieve and assist a known friend in view to the utmost of his power, or who improperly forsakes his station, shall, if he has therein acted traitorously, suffer death; if he has acted from cowardice, suffer death or such other punishment as is hereinafter mentioned; if he has acted from negligence or through other default, shall be dismissed from naval service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for delaying or discouraging the service or deserting his post, etc.

5. When any action or any service is commanded, every person subject to this Act who attempts to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy deserts his post or sleeps upon his watch shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for misconduct of subordinate officers and men in action.

6. Every person subject to this Act, and not being a Commanding Officer who does not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

Penalty for spies.

7. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for correspondence, etc., with the enemy.

8. Every person subject to this Act who—

- (1) traitorously holds correspondence with or gives intelligence to the enemy;
- (2) or fails to make known to the proper authorities any information he may have received from the enemy;
- (3) or who relieves the enemy with any supplies,

shall suffer death, or such other punishment as is hereinafter mentioned.

Penalty for improper communication with the enemy.

9. Every person subject to this Act who, without any treacherous intention, holds any improper communication with the enemy, shall be dismissed with disgrace from naval service, or shall suffer such other punishment as is hereinafter mentioned.

Neglect of duty.

Penalty for abandoning post, etc.

10. Every person subject to this Act who deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, shall be dismissed from naval service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Mutiny.

Penalty for mutiny accompanied by acts of violence.

11. Where mutiny is accompanied by violence, every person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned; and every person subject to this Act who does not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is hereinafter mentioned; if he has acted from cowardice, shall suffer [transportation or such other punishment]¹ as is hereinafter mentioned; if he has acted from negligence, he shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

¹ Inserted by Act I, 1953.

12. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is hereinafter mentioned; and all other persons who join in such mutiny, or do not use their utmost exertions to suppress the same, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for mutiny not accompanied by acts of violence.

13. Every person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to the Government, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for inciting to mutiny.

14. Every person, not otherwise subject to this Act, who, being on board any Government ship in commission, endeavours to seduce from his duty or allegiance to the Government any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for civilians endeavouring to seduce from allegiance.

15. Every person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly or utters any words of sedition or mutiny, shall suffer [transportation or such other punishment]¹ as is hereinafter mentioned.

Penalty for making mutinous assemblies or uttering seditious words.

16. Every person subject to this Act who wilfully conceals any traitorous or mutinous practice or design or any traitorous or mutinous words spoken against the Government, or any words, practice, or design tending to the hindrance of the service, shall suffer [transportation or such other punishment]¹ as is hereinafter mentioned.

Penalty for concealing any traitorous or mutinous practice, design, or words.

17. Every person subject to this Act who strikes or attempts to strike, or draws or lifts up any weapon against, or uses or attempts to use any violence against his superior officer, whether or not such superior officer is in the execution of his office, shall be punished with [transportation or such other punishment]¹ as is hereinafter mentioned.

Punishment for striking or attempting to strike, etc., superior officer.

Insubordination.

18. Every person subject to this Act who wilfully disobeys any lawful Command of his superior officer, or uses threatening or insulting language, or behaves with contempt to his superior officer, shall be punished with dismissal, with disgrace, from naval service, or suffer such other punishment as is hereinafter mentioned.

Penalty for disobedience or using threatening language to superior officer.

19. Every person subject to this Act who quarrels or fights with any other person, whether such other person be or be not subject to this Act, or uses reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for quarrelling, etc., or using reproachful speech or gestures.

Desertion and absence without Leave.

20. Every person subject to this Act who absents himself from his ship, or from the place where his duty requires him to be, with an intention of not returning

Penalty for desertion.

¹ Inserted by Act I, 1953.

to such ship or place, or who at any time and under any circumstances when absent from his ship or place of duty, does any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,—

- (1) if he has deserted to the enemy, he shall be punished with death or such other punishment as is hereinafter mentioned;
- (2) if he has deserted under any other circumstances, he shall be punished with [transportation or such other punishment]¹ as is hereinafter mentioned;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him and all annuities, pensions, gratuities, medals, and decorations that may have been granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried, or the President of the Union shall otherwise direct.

Penalty for inducing any person to desert.

21. Every person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for entertaining a deserter.

22. Every officer in command of any Government ship in commission who receives or entertains any deserter from the Burma naval, military, or air forces, after discovering him to be a deserter, and does not with all convenient speed, in the case of a deserter from the Burma naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the President of the Union or the Officer Commanding the Burma Navy; or, in case of a deserter from the Burma military or air forces, give notice to the President of the Union or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from naval service, or shall suffer such other punishment as is hereinafter mentioned.

Punishment for breaking out of ship.

23. If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is hereinafter mentioned, and to such other punishment by forfeiture of wages or of other benefits as the President of the Union from time to time by regulations prescribes.

Penalty for absence without leave.

24. Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) is absent without leave shall be liable in time of war to imprisonment or such other punishment as is hereinafter mentioned, and at other times to imprisonment or detention for any period not exceeding ten weeks, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the President of the Union from time to time by regulations prescribes.

Forfeiture of effects for absence without leave.

25. If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not), but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the President of the Union from time to time by regulations prescribes, and the President of the Union may by an order containing a statement of the absence without leave direct that the clothes

¹ Inserted by Act I, 1953.

and effects (if any) left by him on board ship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the President of the Union may direct ; and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named ; but in any case the President of the Union may, if it seems fit on sufficient cause being shown at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale, or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

26. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs or continues to employ any person subject to this Act, who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall, for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure to a penalty not exceeding two hundred rupees ; and every such penalty shall be applied as the President of the Union directs.

Penalty for assisting, etc., desertion.

27. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty; he shall, for every such offence, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, to a penalty not exceeding two hundred rupees ; and every such penalty shall be applied as the President of the Union directs.

Penalty for persuading to desertion, etc.

Miscellaneous offences.

28. Every person subject to this Act who is guilty of any profane oath, cursing, execration, drunkenness, uncleanness or other scandalous action or corruption of good manners, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for swearing and other immoralities.

29. Every officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from naval service ; and every officer subject to this Act who is guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from naval service.

Penalty on officer for cruelty or oppression.

30. Every person subject to this Act who either designedly or negligently or by any default loses, strands, or hazards, or suffers to be lost, stranded, or hazarded, any Government ship in commission or in Government service, or loses or suffers to be lost any aircraft of the Government or in Government service, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for suffering ships or aircraft to be improperly lost.

31. The officers of all ships of the Government in commission appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf ; and every officer who fails in his duty in this respect, and does not defend the ships and goods under his convoy, without deviation to any other objects, or refuses to fight in their defence if they are assailed, or cowardly abandons and exposes the ships in his convoy to hazard, or demands or exacts any money or other reward from any merchant or master for convoying any ships or vessels entrusted to his care, or

Penalty for not taking care of and defending ships under convoy.

misuses the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the High Court exercising Admiralty jurisdiction may adjudge; and shall also be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

Master of merchant vessel to obey orders of convoying officer.

32. Every master or other officer in command of any merchant or other vessel under the convoy of any ship of the Government in commission shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy; and shall take such precautions for avoiding the enemy as may be directed by such commanding officer, and if he fails to obey such directions, such commanding officer may compel obedience by force of arms without being liable for any loss of life or of property that may result from his using such force.

Penalty for taking any goods on board other than for the use of the vessel, except gold, silver, jewels, etc.

33. Every officer in command of any of the Government ships in commission who receives on board or permits to be received on board such ship any goods or merchandise whatsoever, other than for the sole use of the ship, except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the President of the Union or his superior officer, shall be dismissed from naval service, or suffer such other punishment as is hereinafter mentioned.

Penalty for embezzling public stores.

34. Every person subject to this Act who wastefully expends, embezzles, or fraudulently buys, sells or receives any ammunition, provisions, or other public stores, and every person subject to this Act, who knowingly permits any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for burning any magazine or vessel, etc., not belonging to an enemy.

35. Every person subject to this Act who unlawfully sets fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for making or signing false musters.

36. Every person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels, or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for misconduct in hospital.

37. Every person subject to this Act who wilfully does any act or wilfully disobeys any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who feigns any disease, infirmity, or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for endeavouring to stir up any disturbance on account of

38. Every person subject to this Act who has any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or to the officer commanding the Burma Navy, and the said superior, captain, or officer shall, as far as he is able, cause the same to be presently remedied; and no person subject

to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence.

unwholesomeness of the victuals or other just grounds.

39. All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the High Court exercising Admiralty jurisdiction or such court or commissioners as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from naval service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

Penalty for not sending to the Government all papers found aboard prize ships.

40. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of the Government ships in commission and vessels of war, before the same be adjudged lawful prize by the High Court exercising Admiralty jurisdiction; but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the capture.

Penalty for taking money or other effects out of any prize before the same shall be condemned.

41. If any ship or vessel is taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for stripping or ill-using persons taken on board as prize.

42. If the commanding officer of any of the Government ships in commission does any of the following things, namely,

- (1) by collusion with the enemy takes as prize any vessel, goods, or thing;
- (2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize; or
- (3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize,

Penalty on commanders capturing as prize by collusion or collusively restoring ships or goods.

he shall be liable to dismissal from naval service, with disgrace, or to such other punishment as is hereinafter mentioned.

43. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the Customs, with intent to embezzle anything therein or belonging thereto, he shall be liable to dismissal from naval service, with disgrace, or to such other punishment as is hereinafter mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for breaking bulk on board prize ship with a view to embezzlement.

44. Every person subject to this Act who is guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for offences against naval discipline not particularly mentioned.

Crimes to be punished according to laws and customs in use.

45. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death [or transportation]¹, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

Offences Punishable by Ordinary Law.

Penalty for offences punishable by ordinary law.

46. Every person subject to this Act who is guilty of an offence punishable under section 302, 304, 304A, 377, 377 read with 511, 379, 380, 381, 382, or 392 of the Penal Code shall be punishable with the punishment provided in that Code for the offence.

If any such person is guilty of any other criminal offence which if committed in the Union of Burma would be punishable by the law of the Union of Burma, he shall, whether the offence be or be not committed in the Union of Burma, be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in the Union of Burma.

Offences when punishable.

47. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of the Union of Burma, or anywhere within the Admiralty jurisdiction of the High Court, or at any place on shore out of the Union of Burma, or in any of the Government dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to the Government or in any other premises held by or on behalf of the Government for naval or military purposes, or in any canteen or sailors' home or any place of recreation placed at the disposal of or used by officers or men of the Burma Navy which may be prescribed by the President of the Union, whether in or out of the Union of Burma, the offender may be tried and punished under this Act; and for all offences hereinbefore specified under the headings "misconduct in the presence of the enemy", "communications with the enemy", "neglect of duty", "mutiny", "insubordination", "desertion and absence without leave", or "miscellaneous offences", if committed by any person subject to this Act at any place on shore, whether in or out of the Union of Burma, the offender may be tried and punished under this Act.

Provisions where offender has ceased to be subject to the Act.

48. (1) Where an offence under this Act has been committed by any person while subject to this Act, such person may be taken into and kept in custody and tried and punished for such offence although he has ceased to be subject to this Act in like manner as he might have been taken into and kept in custody, tried, or punished if he had continued so subject;

Provided that where a person has since the commission of an offence ceased to be subject to this Act, he shall not be tried for such offence, except in case of offences of mutiny or desertion, unless proceedings against him are instituted within three months after he has ceased to be subject to this Act, but this section shall not affect the jurisdiction of a civil Court in the case of any offence triable by such Court as well as by court-martial.

(2) Where a person subject to this Act is sentenced under this Act [to transportation,¹ imprisonment, or detention, this Act shall apply to him during the term of his sentence notwithstanding that he is discharged or dismissed from naval service, or has otherwise ceased to be subject to this Act, and he may be kept in custody, removed, imprisoned, made to undergo detention and punished accordingly, as if he had continued to be subject to this Act.

¹ Inserted by Act I, 1953.

PART II.

GENERAL PROVISIONS.

49. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any person is charged with having committed such offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly.

Power of court-martial to find intent with which offence committed.

50. Where any person is charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment.

Power of court-martial to find prisoner guilty of lesser offence on charge of greater.

51. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Rebels and mutineers to be deemed enemies.

52. Every officer in command of a fleet or squadron of the Government ships in commission, or of one of the Government ships in commission, or the senior officer present at a port, or an officer having by virtue of sub-section (3) of section 58 of this Act power to try offences, may, by warrant under his hand, authorize any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension if the warrant so directs, be taken on board the ship to which he belongs, or some other of the Government ships in commission; and any person so authorized may use force, if necessary, for the purpose of effecting such apprehensions towards any person subject of this Act.

Power to arrest offenders.

53. Every person subject to this Act who does not use his utmost endeavours to detect, apprehend and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for not assisting in detection of prisoners.

PART III.

PROVISIONS AS TO PUNISHMENTS.

54. The following punishments may be inflicted in the Burma Navy:—

Punishment

- (1) Death;
- (1A) Transportation;
- (2) Dismissal with disgrace from naval service;
- (3) Imprisonment or corporal punishment;
- (4) Detention;
- (5) Dismissal from naval service;
- (6) Forfeiture of seniority as an officer for a specified time, or otherwise;
- (7) Dismissal from the ship to which the offender belongs;
- (8) Severe reprimand, or reprimand;
- (9) Disrating a subordinate or petty officer;

- (10) Forfeiture of pay, head money, bounty, salvage, prize money, and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs;
- (11) Such minor punishments as are now inflicted according to the custom of the Navy, or may, from time to time, be allowed by the President of the Union.

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Provisions as
to inflict-
tion of
punishments.

55. The following provisions are hereby made with respect to the infliction of punishments in the Burma Navy :—

- (1) The powers to suspend, remit or commute sentences or punishment shall be the powers conferred by and shall be exercised in accordance with the provisions of sections 401 and 402 of the Code of Criminal Procedure, and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed with such modification by the court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification;
- (2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence;
- (3) No finding of sentence or a court-martial or a disciplinary court shall be valid except so far as it may be confirmed by the President of the Union or by any officer empowered in this behalf by commission of the President of the Union, which may contain such restrictions or conditions as the President of the Union may think fit to prescribe;
- ¹(3A) The punishment of transportation may be inflicted for the term of life or for any other term of not less than seven years;
- ²(3B) Where a sentence of transportation is passed, the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to be undergoing his sentence of transportation during the term of his imprisonment;
- ³(3C) The punishment of transportation shall in all cases involve dismissal with disgrace from the naval service;
- (4) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to the offender, and an incapacity to serve the Government again in any military, naval, air force, or civil service, and may also in all cases be accompanied by a sentence of imprisonment;
- (5) The punishment of imprisonment may be inflicted for any term not exceeding [five]¹ years and may be accompanied with a sentence of dismissal from naval service;

¹ Substituted by Act I, 1953.

² Inserted *ibid.*

- (6) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement; and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods;
- (7) A sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple, and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour or either of them;
- (8) The punishment of detention may be inflicted for any term not exceeding two years:

Provided that, until naval detention quarters shall have been set apart and declared to be such by the President of the Union by notification in the Gazette, no sentence of detention shall be awarded;

- (9) The punishment of imprisonment, or detention whether on board ship or on shore, shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marine, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment or detention;

Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention;

- (10) In any case of corporal punishment not more than forty-eight lashes shall be inflicted: no officer shall be subject to detention or to corporal punishment: no petty or non-commissioned officer shall be subject to corporal punishment: except in case of mutiny.

All other punishments authorized by this Act may be inflicted in the manner heretofore in use in the Navy.

56. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence or within one year after the return of such offender to the Union of Burma, where he has been absent from the Union of Burma during such period of three years.

Limitation of
time for
trials.

57. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale hereinbefore mentioned; but corporal punishment shall be deemed equal in degree to imprisonment, and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.

Scale of
punishment.

Authorities
having
power to try
offences.

58. (1) Any offence triable under this Act may be tried and punished by court-martial.

(2) Any offence not capital which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the President of the Union from time to time issues, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power [to award transportation or] ¹ to award imprisonment or detention for more than three months.

(3) The power by this section vested in an officer commanding a ship may—

- (a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and, in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and
- (b) as respects persons on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and
- (c) as respects persons subject to this Act, on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law, be exercised by the officer in immediate command of those persons; and
- (d) as respects persons subject to this Act, quartered in naval barracks, be exercised by the officer in command of those barracks.

(4) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the person charged reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

Forfeiture of
time or
seniority.

59. The President of the Union may impose the punishment of forfeiture of time or seniority of not more than twelve months on any subordinate officer.

Trial of
officer for
disciplinary
offences in
time of war.

60. (1) Where any officer borne on the books of any of the Government ships in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section 18, 19, 20, 23, 24, 28 or 44 of this Act, the officer having power to order a court-martial may, if he considers that the offence is of such a character as not to necessitate trial by court-martial, in lieu of ordering a court-martial order a disciplinary court constituted as hereinafter mentioned.

(2) A disciplinary court shall be composed of not less than three nor more than five officers, of whom one shall be [a lieutenant-commander] ² or of higher rank.

¹ Inserted by Act I, 1953.

² Substituted *ibid*.

(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(4) The President of the Union may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections 65 to 67 and sections 69 to 72 of this Act relating to courts-martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-Martial.

61. The following provisions are hereby made with respect to courts-martial:—

Constitution
of courts-
martial.

- (1) A court-martial shall consist of not less than five nor more than nine officers ;
- (2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of the Burma Navy on full pay ;
- (3) A court-martial shall not be held unless at least two of the Government ships in commission not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of the Burma Navy on full pay, are together at the time when such court-martial is held ;
- (4) No officer shall sit on a court-martial who is under twenty-one years of age ;
- (5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank ;
- (6) No court-martial for the trial of a captain in the Burma Navy shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the court are commanders or officers of higher rank ;
- (7) No court-martial for the trial of a commander in the Burma Navy shall be duly constituted unless the president and one other member of the court are of the rank of commander or of higher rank ;
- ¹(7A) No court-martial for the trial of a person below the rank of a commander in the Burma Navy shall be duly constituted unless the president is a lieutenant-commander or of higher rank ;
- (8) The prosecutor shall not sit on any court-martial for the trial of a person whom he prosecutes ;
- (9) The President of the Union shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of the Burma Navy authorizing him to order courts-martial to be held for the trial of such offences ;
- (10) An officer holding a commission from the President of the Union to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself on full pay and in command of

¹ Substituted by Act XLV, 1949.

one or more of the Government ships in commission, or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose;

- (11) If any officer holding a commission from the President of the Union to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the President of the Union, have the same power to order courts-martial as the first-mentioned officer was invested with;
- (12) If any officer holding a commission from the President of the Union to order courts-martial and having the command of any fleet or squadron of the Government ships in commission in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of the Government ships in commission on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to the Union of Burma or until he comes into the presence of a superior officer, empowered to order courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires;
- (13) The officer ordering a court-martial shall not sit thereon;
- (14) The president of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president;
- (15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be held (but the regularity or validity of any court-martial, or of the proceedings thereof, shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander, lieutenant-commander or lieutenant sits on any court-martial the members of it shall not exceed five in number;
- (16) Subject to the foregoing regulations, whenever a court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where

the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete.

Proceedings of Courts-Martial.

62. A court-martial under this Act shall be held on board one of the Government ships in commission or vessels of war, unless the President of the Union or the officer who ordered the court-martial in any particular case for reasons to be recorded on the proceedings otherwise direct, in which case the court-martial shall be held at a port at such convenient place on shore as the President of the Union or the officer who ordered the court-martial shall direct.

Where courts-martial to be held.

63. A court-martial held in pursuance of this Act may, if it appears to the court that an adjournment is desirable, be adjourned for a period not exceeding six days, but except where such an adjournment is ordered shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident, and its proceedings shall not be delayed by the absence of any member, so that not less than four are present; and no member shall absent himself unless compelled so to do by sickness or other just cause, to be approved of by the other members of the court, and if any member of a court-martial absents himself therefrom, in contravention of this section, he shall be dismissed from naval service, or shall suffer such other punishment as may be awarded by a court-martial.

As to time of sittings of courts-martial.

64. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the President of the Union, or by the Officer Commanding the Burma Navy, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

Appointment of officiating judge advocate

65. As soon as the court is assembled, the names of the officers composing the court shall be read over to the person charged, who shall be asked if he objects to being tried by any member of the court; if the person charged objects to any member, the objection shall be decided by the court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations hereinbefore contained.

Proceedings at trial.

The person charged may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final, and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

66. Before the court proceeds to try the person charged, the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the court the following oath; that is to say,

Oaths to be administered to members of courts-martial.

"I do swear, that I will duly administer justice according to law, without partiality, favour, or affection; and I do further swear, that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law":

Provided that an affirmation to the same effect in such terms as the President of the Union may prescribe in this behalf may be substituted for such oath.

Oaths to be administered to judge advocate, etc.

67. As soon as the said oath is administered to the members of the court-martial, the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath :

" I do swear, that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless thereunto required in due course of law":

Provided that an affirmation to the same effect in such terms as the President of the Union may prescribe in this behalf may be substituted for such oath.

Power to President to make orders for procedure and practice of courts-martial.

68. The President of the Union may make such general orders regulating procedure and practice of courts-martial as he may from time to time deem necessary.

Summoning witnesses.

69. Every person, civil, naval, and military, or belonging to the air force, who may be required to give evidence before a court-martial shall be summoned by writing under the hand of a Secretary to the Government of the Union of Burma, or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial; and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the Court out of which the writ or process issued by which such witness was arrested, or, if the court-martial thinks fit, in case any such person, who is subject to this Act, being called upon to give evidence at any court-martial, refuses or neglects to attend to give his evidence upon oath or affirmation, or prevaricates in his evidence, or behaves with contempt to the court, such court-martial may punish every such offender by imprisonment, or, if the offender is a person liable to be sentenced to detention under this Act, by detention not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the President of the Union or of the president of the court-martial on a foreign station.

Penalty on persons giving false evidence.

70. Every person who, upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act, makes any statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence of giving false evidence; and every such offence, wheresoever committed, shall be triable and punishable in the Union of Burma.

71. Where it appears upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the President of the Union thereupon are known, and it shall be lawful for the President of the Union to give orders for the safe custody of such person for such time, in such place, and in such manner as he thinks fit.

Where persons are insane at the time of offence or trial.

72. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the Officer Commanding the Burma Navy * * * * and any person tried by a court-martial shall be entitled on demand, to a copy of such proceedings and sentence (upon payment for the same at the rate of three annas per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court.

Report of proceedings of courts-martial to be transmitted.

73. A Navy List or the Defence Services List or Gazette, purporting to be published by authority and printed by a Government printer, shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is provided.

Evidence of rank, etc., of officers.

73A. Subject to such restrictions or conditions as may be contained in any commission issued under section 55 (3), the confirming officer may, when confirming the sentence of a court-martial or a disciplinary court, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial or the disciplinary court.

Power of confirming officer to mitigate, remit or commute sentences.

73B. (1) Any finding or sentence of a court-martial or a disciplinary court which requires confirmation may be once revised by order of the confirming officer; and on such revision, the court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that it consists of not less than the minimum number of officers prescribed by this Act.

73C. (1) Where a finding of guilty by a court-martial or a disciplinary court, which has been confirmed, is found for any reason to be invalid or cannot be supported by the evidence, the President of the Union or the officer empowered by him in this behalf may substitute a new finding, if the new finding could have been validly made by the court on the charge and if it appears that the court must have been satisfied of the facts establishing the offence specified or involved in the new finding, and may pass a sentence for the said offence.

Substitution of a valid finding or sentence for an invalid finding or sentence.

(2) Where a sentence passed by a court-martial or a disciplinary court, which has been confirmed, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the President of the Union or the officer empowered by him in this behalf may pass a valid sentence.

¹ In section 72, the words "or senior officer, who shall transmit them to the President of the Union for the time being" were deleted by Act I, 1953.

² Inserted *ibid*.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of the punishments awarded by, the sentence for which a new sentence is substituted under this section.

PART V.

PRISONS.

Transportation or imprisonment of offender already under sentence for previous offence.

¹ 74. Whenever sentence is passed by a court-martial on an offender already under sentence either of detention, imprisonment or transportation passed upon him under this Act for a former offence, the court may award sentence of detention, imprisonment or transportation for the offence of which he is under trial to commence at the expiration of the detention, imprisonment or transportation to which he has been previously sentenced, although the aggregate of the terms of detention, imprisonment or transportation may exceed the term for which any of those punishments could be otherwise awarded :

Provided that nothing in this section shall cause a person to undergo imprisonment for any period exceeding in the aggregate five consecutive years or to undergo detention for any period exceeding in the aggregate two consecutive years, and so much of any term as would prolong the total term of imprisonment beyond five consecutive years or the total term of detention beyond two consecutive years shall be deemed to be remitted.

Term and place of imprisonment.

75. (1) Every term of [transportation or imprisonment]¹ or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of [transportation or imprisonment]¹ or detention, whether the [transportation or imprisonment]¹ or detention was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the President of the Union, and may, in the case of [transportation or imprisonment],¹ be one of the naval prisons appointed under this Act, or naval detention quarters, or any common gaol, house of correction, or military prison or detention barrack, and may in the case of detention be any naval detention quarters or a military detention barrack.

(2) Where, by reason of a ship being at sea or off a place at which there is no proper prison, or naval detention quarters, a sentence of [transportation or imprisonment]¹ or detention, as the case may be, cannot be duly executed, then, subject as hereinafter mentioned, an offender under sentence of [transportation or imprisonment]¹ or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters, or, in the case of an offender under sentence of detention, to some place at which there are naval detention quarters, in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner, as if the date of such arrival were the day on which the sentence was awarded, and that notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of [transportation or imprisonment]¹ or detention, as the case may be, shall be reckoned accordingly, subject however to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

(3) Where in pursuance of this Act a person is sentenced to [transportation or imprisonment]¹ or detention the order of the President of the Union or of the Officer Commanding the Burma Navy, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced

¹ Substituted by Act I, 1953.

by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of [transportation or imprisonment]¹ or detention, there to undergo his sentence according to law, and until he reaches such place of [transportation or imprisonment]¹ or detention for detaining him in naval custody, or in the case of a person sentenced to [transportation or imprisonment]¹ in any civil prison or place of confinement.

76. Where a person has been sentenced to [transportation or]¹ imprisonment or detention the President of the Union or officer who by virtue of sub-section (3) of section 75 of this Act has power to issue an order of committal (hereinafter in this section referred to as "the committing authority") may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

Power to
suspend
sentences.

- (a) notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued;
- (b) the case may at any time, and shall at intervals of not more than three months, be reconsidered by the President of the Union, or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, and if on any such reconsideration it appears to the President of the Union or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the President of the Union or committing authority or officer shall remit the whole or any part of it;
- (c) subject to regulations made by the President of the Union the President of the Union or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;
- (d) where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to transportation or imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment for a period exceeding the aggregate of five consecutive years or to undergo detention for a period exceeding the aggregate of two consecutive years, and where the sentence of such other offence is a sentence of transportation, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided.

[Where a person has been sentenced to transportation or imprisonment]¹ or detention and an order of committal has been issued, the President of the Union or the committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, may order the sentence to be suspended, and in such case the person whose sentence is suspended shall be discharged and

¹ Substituted by Act I, 1953.

² Inserted *ibid.*

the currency of the sentence shall be suspended until he is again committed under the same sentence, and the foregoing paragraphs (b), (c) and (d) of this section shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

Where a sentence is suspended under this section, whether before or after committal, the President of the Union or, subject to any regulation or direction which may be issued by the President of the Union, the committing authority or officer by whom the sentence is suspended may, notwithstanding anything in section 55 of this Act, direct that any penalty which is involved by [the punishment of transportation or imprisonment or detention]¹ either shall be or shall not be remitted or suspended.

Place of
imprisonment
may be
changed,
etc.

77. Whenever it is deemed expedient it shall be lawful for the President of the Union, the Officer Commanding the Burma Navy, or senior naval officer present, by any order in writing, from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison or naval detention quarters; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with a copy of such order of removal, attested by a Secretary to the Government of the Union of Burma for the time being, receive him to his custody and shall confine pursuant to such sentence or order every such offender.

Expenses of
removal or
subsistence
of prisoners.

78. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding twelve annas a mile, and when any offender is not confined in a naval prison or naval detention quarters the gaoler or other person in whose custody any such offender may be, shall receive such an allowance as the President of the Union shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence, and such sum shall be paid to the said gaoler or other person under the authority of the President of the Union upon the application in writing made to the President of the Union by the District Magistrate within whose jurisdiction such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the offender is confined.

Proviso for
discharge or
removal of
prisoners.

79. Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the President of the Union or, where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the President of the Union to give an order in writing directing that the offender be discharged; and it shall also be lawful for the President of the Union, and any officer commanding any of the Government ships in commission, by order in writing, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness, or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

¹ Substituted by Act I, 1953.

80. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence for whatever purpose he is so detained; and the governor, gaoler, keeper, or superintendent who shall deliver over any such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

Proviso as to time of detention in naval custody.

81. If any person imprisoned or undergoing detention by virtue of this Act becomes insane, and a certificate to that effect is given by two physicians or surgeons, the President of the Union shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the Union of Burma as he may judge proper for the unexpired term of his imprisonment or detention; and if any such person is in the same manner certified to be again of sound mind, the President of the Union may issue a warrant for his being removed to such prison or place of confinement or, in the case of a person sentenced to detention, such naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly.

In case of insanity prisoners to be removed to some lunatic asylum.

82. (1) The President of the Union may set apart any buildings or vessels or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessel, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters, respectively, within the meaning of this Act.

The President may set apart buildings and ships as naval prisons.

(2) The President of the Union may make rules providing—

- (a) for the government, management and regulation of such naval prisons or detention quarters;
- (b) for the appointment and removal and powers of inspectors, visitors, superintendents and officers thereof;
- (c) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence; and
- (d) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners:

Provided that such rules shall not authorise corporal punishment to be inflicted for any offence nor render the imprisonment more severe than it is under the law for the time being in force relating to civil prisons.

(3) Rules made under this section may provide for the application to naval prisons of any of the provisions of the Prisons Act relating to the duties of officers of prisons and the punishment of persons not prisoners.

83. If any person conveys or causes to be conveyed into any such naval prison or any such naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention or by any means whatever aids any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, such person shall be punished with imprisonment, which may be either rigorous or simple, for any term not exceeding fourteen years; and if any person brings or attempts to bring into such prison or naval detention quarters, in contravention of the rules, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding two hundred rupees and not less than one hundred rupees; and if any person brings into such prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge

Penalties on aiding escape or attempt to escape of prisoners and on breach of prison regulations.

or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by rules of the prison or naval detention quarters, to be in the possession of a prisoner or person undergoing detention, or throws into the said prison or naval detention quarters any such articles, or by desire of any prisoner or person undergoing detention, without the sanction of the said officer, carries out of the prison or naval detention quarters any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding fifty rupees; and if any person interrupts any officer of such prison or naval detention quarters in the execution of his duty, or aids or excites any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding fifty rupees, or if the offender is a prisoner or person undergoing detention, he shall be punished with imprisonment, which may be either rigorous or simple, for any time not exceeding six calendar months, in addition to so much of the time for which he was originally sentenced as may be then unexpired, and every such penalty shall be applied as the President of the Union shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

Penalty as regards gaolers, etc.

84. Every governor, gaoler, and keeper of any prison, gaol, or house of correction or of any naval detention quarters, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who, without lawful excuse, refuses or neglects to receive or confines, removes, discharges or delivers up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one thousand rupees, and every such penalty shall be applied as the President of the Union shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

PART VI.

Persons subject to this Act.

85. Every person in or belonging to the Burma Navy, and borne on the books of any one of the Government ships in commission and every member of the Burma Naval Volunteer Reserve during and in respect of the time when he is serving in the Burma Navy, whether for training or exercise or having been called up for any duty or service in the Burma Navy, shall be subject to this Act; and all other persons hereby or by any other Act made liable thereto shall be triable and punishable under the provisions of this Act.

Land and air forces embarked as passengers.

86. The Burma land and air forces, when embarked on board any of the Government ships in commission, shall be subject to the provisions of this Act to such extent and under such regulations as the President of the Union, by any order or orders, shall at any time or times direct.

Other persons embarked as passengers.

87. All other persons ordered to be received or being passengers on board any of the Government ships in commission shall be deemed to be persons subject to this Act, under such regulations as the President of the Union may from time to time direct.

Provisions respecting discipline in ships in naval service in war.

88. With respect to vessels in naval service in time of war, whether belonging to the Government or not, which are not wholly manned by naval ratings, but being either armed or under the command of an officer in naval service, the following provisions shall take effect if in any case the President of the Union thinks fit so to direct, and where such direction is given the same shall be specified in the ship's article:

- (1) Every person borne on the books of any such vessel shall be subject to this Act;
- (2) Any offence committed by any such person shall be tried and punished as the like offence might be tried and punished if committed by any person in or belonging to the Burma Navy and

- borne on the books of any of the Government ships in commission ;
- (3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial ;
 - (4) On application made to the President of the Union or to the Officer Commanding the Burma Navy or senior officer of any of the Government ships in commission or vessels of war abroad authorised to assemble and hold courts-martial, the President of the Union, Officer Commanding the Burma Navy or senior officer (as the case may be) shall assemble and hold a court-martial for the trial of the offender ;
 - (5) The officer commanding every such vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of the Government ships in commission has for the time being in respect of the officers and crew thereof or other persons on board the same : Provided that in the absence of the officer commanding such vessel, the officer commanding the ship or vessel or station in which such person may for the time being be held in custody shall have such power as aforesaid ;
 - (6) The Officer Commanding the Burma Navy and senior naval officer in the naval service shall have the same powers over the officers and crew of every such vessel as they have for the time being over the officers and crew of any of the Government ships in commission.

89. (1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of the Burma military forces acting with, or is attached to, any body of the Burma naval forces under such conditions as may be prescribed by regulations made by the President of the Union, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of the Burma naval forces as aforesaid, be treated and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

Relations between military, naval and air forces acting together.

(2) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of the Burma Air Force acting with any body of the Burma naval forces under such conditions as may be prescribed by regulations made by the President of the Union, and such officer or non-commissioned officer is not borne on the books of any of the Government ships in commission, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of the Burma naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

(3) Where any naval officer or seaman is a member of a body of the Burma naval forces acting with or is attached to any body of the Burma military forces under such conditions as may be prescribed by regulations made by the President of the Union and then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such military body shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(4) Where any naval officer or seaman is a member of a body of the Burma naval forces acting with any body of the Burma Air Force under such conditions as may be prescribed by regulations made by the President of the Union, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such body of the air force shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

¹(4A) Whenever persons subject to this Act are serving whether within or without the Union of Burma under an officer not subject to this Act, the President of the Union may prescribe the officer by whom the powers, which, under this Act, may be exercised by officers commanding ships and shore establishments, shall, as regards such persons, be exercised.

¹(4B) The President of the Union may confer such powers either absolutely or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

(5) The relative rank of naval and military and air force officers, petty officers and non-commissioned officers shall, for the purposes of this section, be such as is indicated in the Schedule to this Act.

Crews of ships lost or destroyed.

90. When any one of the Government ships in commission is wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until the crew shall be regularly removed into some other of the Government ships of war, or until a court-martial shall have been held, pursuant to the custom of the Navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

All the officers and crew of lost ship may be tried by one court.

91. When no specific charge is made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew of any such ship together, before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the matters then under inquiry, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

Or by separate court.

92. When deemed necessary by the President of the Union or any officer authorised to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

For subsequent offence, separate court.

93. For any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders.

Pay of crews of ships lost or taken.

94. When any ship of the Burma Navy is wrecked, lost, or otherwise destroyed, or taken by the enemy, if it appears by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy, did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well and

¹ Inserted by Act 1, 1953.

been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of the Burma Navy, or dying.

95. If the ship of any officer ordered to command any two or more of the Government ships in commission is wrecked, lost, or otherwise destroyed, such officer shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command, and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command, or to distribute them among the other ships under his command, if more than one, and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respects as if his ship had not been wrecked, lost, or destroyed.

When ship of senior officer is lost he may dispose of officers and crew of lost ship.

96. It shall not be lawful for any person to arrest any petty officer or seaman, by any warrant, process, or writ for any debt, unless the debt was contracted at a time when the debtor did not belong to naval service, nor unless before the issuing of the warrant, process, or writ, the plaintiff in the suit or some person on his behalf has made an affidavit in the Court out of which it is issued, that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to naval service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ.

Restriction on arrest of seamen, etc., for debt.

97. If any petty officer or seaman is arrested in contravention of the provisions of the last foregoing section, the Court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior officer, investigate the case on oath or otherwise, and if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour with costs.

Discharge from arrest.

98. (1) A person subject to this Act shall be liable to contribute to the maintenance of his wife and of his children, legitimate or illegitimate, to the same extent as if he were not so subject; but execution in respect of any such liability or of any decree or order in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, or clothing.

Liability of seamen, etc., for maintenance of wives and children.

(2) Where—

- (a) it appears to the satisfaction of the President of the Union or any person deputed by him for the purpose that a person subject to this Act has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age; or
- (b) any decree or order is made under any law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of the cost of any relief given to his wife or child by way of loan, and a copy of such decree or order is sent to the President of the Union or any person deputed by him for the purpose;

the President of the Union or the person so deputed may direct to be deducted from the pay of the person so subject to this Act, and to be appropriated towards

the maintenance of his wife or children, or in liquidation of the sum adjudged to be paid by such decree or order, as the case may be, in such manner as the President of the Union or the person so deputed may think fit, a portion of such pay, at his discretion, but the amount deducted shall not exceed the amount fixed by the decree or order (if any), and shall not be a higher rate than the rates fixed by rules made in this behalf by the President of the Union :

Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by a decree or order as aforesaid shall be ordered unless the President of the Union, or the person deputed by him, is satisfied that the person against whom the decree or order was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorised legal representative, to defend the case before the Court by which the decree or order was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was or is borne that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

Where any arrears have accumulated in respect of sums adjudged to be paid by any such decree or order as aforesaid whilst the person against whom the decree or order was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the Court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so.

(3) Where a proceeding under any law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may, after not less than three weeks' notice to the President of the Union, be served by being sent to a Secretary to the Government of the Union of Burma for transmission to such commanding officer, but such service shall not be valid unless there is left therewith in the hands of such commanding officer or President of the Union such sum of money, if any (to be adjudged as costs incurred in obtaining the decree or order if made against the person on whom the process is issued), as may be fixed by the President of the Union as being necessary to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served unless the contrary is proved.

Where, by a decree or order sent to the President of the Union or officer in accordance with sub-section (2) of this section, the person against whom the decree or order is made is adjudged to pay as costs incurred in obtaining the decree or order any sum so left with the process as aforesaid, the President of the Union may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the President of the Union shall be a public debt from the person against whom the decree or order was made, and, without prejudice to any other method of recovery, may be recovered by deduction from his pay, in addition to those mentioned in sub-section (2) of this section.

(4) This section shall not apply to persons subject to this Act where such persons are officers.

(5) In this section the expression "pay" includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions and clothing.

99. (1) The President of the Union may make rules to carry out the purposes of this Act not otherwise specifically provided for. Power to make rules.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be liable to punishments mentioned in this Act.

99A. The President of the Union may dismiss from naval service any person subject to this Act. Power of dismissal.

PART VII.

SAVING CLAUSE.

100. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any Court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in respect of any offence mentioned in this Act which may be punishable or cognisable by law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act. Act not to supersede authority of ordinary Courts.

SCHEDULE.

Table showing Relative Ranks.

Naval Rank.	Relative Army Rank.	Relative Air Force Rank.
1. Commander ...	Lieutenant-Colonel ...	Wing Commander.
2. Lieutenant-Commander...	Major... ..	Squadron Leader.
3. Lieutenant ...	Captain	Flight-Lieutenant.
4. Sub-Lieutenant ...	Lieutenant	Flying Officer.
5.	Second Lieutenant ...	Pilot Officer.
6. Midshipman *	Regimental Sergeant-Major ...	* Master Pilot and Navigator.
7.	Warrant Officer Class II ...	.....
8. Chief Petty Officer ...	Company Quarter-master Sergeant.	Flight-Sergeant.
9. Petty Officer ...	Sergeant	Pilot and Navigator Grade I. Sergeant.
		Pilot and Navigator Grade II.
10. Leading Seamen *	Corporal	Corporal.
	Bombardier	Pilot and Navigator Grade III.
11. Able Seamen and equivalent ratings.	Trooper, gunner, sapper, signalman, driver, rifle-man or private.	Leading Aircraftsmen. Aircraftsmen, 1st Class. Aircraftsmen, 2nd Class. Pilot and Navigator under training.

* Junior to Army ranks.

¹ Inserted by Act I, 1953

လက်နက်ကိုင်တပ်ပေါင်းစုံ (ပြောင်းရွှေ့ရေး) အက်ဥပဒေ။

[၁၉၄၀ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၆၃၊] (၁၉၄၀ ခု၊ နိုဝင်ဘာလ ၆ ရက်)

ဤအက်ဥပဒေဖြင့် အောက်ပါအတိုင်းတရား ဥပဒေပြဋ္ဌာန်းသည်။

၁။ «(က) ဤအက်ဥပဒေကို၊ ၁၉၄၀ ခုနှစ်၊ လက်နက်ကိုင်တပ်ပေါင်းစုံ (ပြောင်းရွှေ့ရေး) အက်ဥပဒေဟု ခေါ်တွင်စေရမည်။

(ခ) ယခုထုတ်ဆင့်သည့် ဥပဒေသည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံတော်တစ်ခုလုံးနှင့်သက်ဆိုင်သည်။

(ဂ) ယခုထုတ်ဆင့်သည့် ဥပဒေသည်၊ နိုင်ငံတော်သမ္မတက၊ အသုံးပြုရဟုပြန်တမ်းတွင် ကျေညာသည့်အချိန်ကာလအထိ အတည်ဖြစ်စေရမည်။

၂။ အဓိပ္ပါယ်ဖော်ပြချက်—

စစ်ဘက်ဆိုင်ရာ
အာဏာပိုင်။

“စစ်ဘက်ဆိုင်ရာ အာဏာပိုင်” ဆိုသည်မှာ၊ စစ်ရုံး၊ စစ်ဦးစီးချုပ်၊ သို့မဟုတ် စစ်ဦးစီးချုပ်က မိမိ၏ ကိုယ်စား အခွင့်အာဏာအပ်နှံထားသော အရာရှိ တဦးဦးကိုဆိုလိုသည်။

၃။ မည်သူမဆိုအတည်ပြုထားသည့် တရားဥပဒေအရ၊ လက်နက်ကိုင်တပ်ပေါင်းစုံ တပ်သားတဦးအဖြစ် စာရင်းတင်သွင်းထားသည်ရှိသော်၊ မိမိစာရင်းတင်သွင်းစဉ်အခါကတည်ရှိသည့် အမှုထမ်းစည်းကမ်းချက်များနှင့် မည်သို့ပင်ဆန့်ကျင်စေကာမူ၊ ၎င်း၏သဘောတူညီချက်မရှိသော် လည်း၊ စစ်ဘက်ဆိုင်ရာအာဏာပိုင်သည်၊ ၎င်းတပ်သားအား မည်သည့်တပ်၌၊ တပ်ရင်း၊ သို့မဟုတ် မည်သည့်ဌာနမဆိုပြောင်းရွှေ့နိုင်ခွင့်ရှိစေရမည်။

၄။ ဤဥပဒေကို ရုပ်သိမ်းလိုက်သည့်အခါ၊ အပိုင်း ၃ တွင် ပြဋ္ဌာန်းထားချက်အရ၊ ပြောင်းရွှေ့ထားခြင်းခံရသည့် မည်သူမဆိုဆက်လက်၍ စစ်မှုထမ်းဆောင်နေသည်ရှိသော်၊ ၎င်းအား ပဌမမူလပြောင်းရွှေ့စဉ်အခါက အမှုထမ်းနေသောတပ်၌၊ တပ်ရင်း၊ သို့မဟုတ် ဌာနသို့အခွင့်အခါ သင့်လျော်သလို၊ ၎င်းကပြန်၍ပြောင်းရွှေ့ရန် ဆန္ဒရှိပါလျှင်၊ စစ်ဘက်ဆိုင်ရာအာဏာပိုင်သည်အမြန် ပြောင်းရွှေ့ပေးရမည်။

B.—PROTECTION OF THE CONSTITUTION.

ခ။—ဤစည်းအုပ်ချုပ်ပုံ အခြေခံ ဥပဒေကိုကာကွယ်စောင့်ရှောက်ရေး။

THE BURMA OFFICIAL SECRETS ACT.

[INDIA ACT XIX, 1923.] (2nd April, 1923.)

Application. 1. This Act applies to the whole of the Union of Burma and applies also to all citizens of the Union and all servants of the Government wherever they may be.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (1) any reference to a place belonging to [the State]¹ includes a place occupied by any department of the Government, whether the place is or is not actually vested in [the State]¹ ;
- (2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received ; expressions referring to obtaining or retaining any sketch, plan, model, article, note, or document include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document ; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document ;
- (3) " document " includes part of a document ;
- (4) " model " includes design, pattern and specimen ;
- (5) " munitions of war " includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adopted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use ;
- (6) " office under the Government " includes any office or employment in or under any department of the Government ;
- (7) " photograph " includes an undeveloped film or plate ;
- (8) " prohibited place " means—
 - (a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, [the State]¹, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied, and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war ;
 - (b) any place not belonging to [the State]¹ where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, [the Government]¹ ;
 - (c) any place belonging to or used for the purpose of [the State]¹ which is for the time being declared by the President of the Union, by notification in the Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in [Burmese]¹ and in the [language of the locality, if any]¹ ;
 - (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired or stored otherwise than on behalf of [the State]¹, which is

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

for the time being declared by the President of the Union, by notification in the Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in [Burmese]¹ and in the [language of the locality, if any]¹;

- (9) "sketch" includes any photograph or other mode of representing any place or thing; and
- (10) "Superintendent of Police" includes any police-officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the President of the Union.

Penalties for
spying.

3. (1) If any person for any purpose prejudicial to the safety or interests of the State—

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of [the State]¹ or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or password is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communica-
tions with
foreign
agents to be
evidence of
commission

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without the Union of Burma, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy. of certain offences.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person may be presumed to have been in communication with a foreign agent if—

(i) he has, either within or without the Union of Burma, visited the address of a foreign agent or consorted or associated with a foreign agent, or

(ii) either within or without the Union of Burma, the name or address of, or any other information regarding a foreign agent has been found in his possession, or has been obtained by him from any other person ;

(b) the expression "foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly for the purpose of committing an act, either within or without the Union of Burma, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without the Union of Burma, committed, or attempted to commit, such an act in the interests of a foreign power ;

(c) any address, whether within or without the Union of Burma, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (1) If any person having in his possession or control any secret official code or password or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under the Government, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under the Government, or as a person who holds or has held a contract made on behalf of the Government, or as a person who is or has been employed under a person who holds or has held such an office or contract—

Wrongful communication, etc., of information.

(a) wilfully communicates the code or password, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it ; or

(b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State ; or

(c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof ; or

- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or password or information ;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or password or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, password, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Unauthorised use of uniforms, falsification of reports, forgery, personation and false documents.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform ; or
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission ; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document ; or
- (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under the Government, or to be or not to be a person to whom an official document or secret official code or password has been duly issued or communicated, or with intent to obtain an official document, secret official code or password, whether for himself or any other person, knowingly makes any false statement ; or
- (e) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military or air force authority appointed by or acting under the authority of the Government, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp ;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

- (a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his

duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof ; or

- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or password so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or password issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police-officer ; or
- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid ;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of the State, or to any secret official code, in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police-officer, or any member of the Burma forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

Interfering
with officers
of the police
or members
of the Burma
forces.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police-officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of the Burma forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3, or under section 3 read with section 9, and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

Duty of
giving
information
as to com-
mission of
offences.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner, as if he had committed such offence.

Attempts,
incitements,
etc.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3, or under section 3 read with section 9, or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

Penalty for
harbouring
spies.

(2) It shall be the duty of every person, having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police, or other police-officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search warrants.

11. (1) If a Magistrate of the first class or Subdivisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police-officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed, which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police-officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police-officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police-officer under sub-section (2) he shall, as soon as may be, report such action to the District or Subdivisional Magistrate.

Power to arrest.

12. Notwithstanding anything in the Code of Criminal Procedure—

- (a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence ;
- (b) an offence under clause (a) of sub-section (1) of section 6 shall be a cognizable and bailable offence ; and
- (c) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction on trial of offences.

13. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the President of the Union) which is inferior to that of a District Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the President of the Union, or some officer empowered by the President of the Union in this behalf :

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in the Union of Burma in which the offender may be found.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Exclusion of public from proceedings.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

Offences by companies, etc.

THE ARMS ACT.

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THE ARMS ACT.

[INDIA ACT XI, 1878.] (1st October, 1878.)

I.—PRELIMINARY.

Savings.

1. Nothing herein contained shall apply to—
(a) arms, ammunition or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment, or

- (b) the manufacture, conversion, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government, or by a public servant or a member of either of the forces constituted by the Burma Territorial Force Act or the Burma Auxiliary Force Act, in the course of his duty as such public servant or member.

2-3. * * *

4. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

"cannon" includes also all howitzers, mortars, wall-pieces, mitrailleuses and other ordnance and machine-guns, all parts of the same, and all carriages, platforms and appliances for mounting, transporting and serving the same :

"arms" includes—

- (i) clasp-knives the blades of which are pointed and exceed three inches in length ;
- (ii) knives, with pointed blades rigidly affixed, or capable of being rigidly affixed, to the handle, and measuring in all over five inches in length which are not intended exclusively for domestic, agricultural or industrial purposes : provided that it shall be presumed until the contrary is proved that knives of this description are not intended exclusively for such purposes ;
- (iii) knives of such other kinds as the President of the Union may, by notification, prescribe ; and
- (iv) fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms ;

"ammunition" includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur and other explosive or fulminating material, gun-flint, gun-wads, percussion-caps, fuses and friction-tubes, all parts of ammunition and all machinery for manufacturing ammunition, but does not include lead, sulphur or saltpetre ;

"military stores", in any section of this Act as applied to any part of the Union of Burma, means any military stores to which the President of the Union may from time to time, by notification in the Gazette, specially extend such section in such part, and includes also all lead, sulphur, saltpetre, and other material to which the President of the Union may from time to time so extend such section :

"licence" means a licence granted under this Act, and "licensed" means holding such licence.

II.—MANUFACTURE, CONVERSION AND SALE.

5. No person shall manufacture, convert or sell, or keep, offer or expose for sale, any arms, ammunition or military stores, except under a licence and in the manner and to the extent permitted thereby. Unlicensed manufacture, conversion and sale prohibited.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same ; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section 27 of this Act shall, without unnecessary delay, give to the District Magistrate, or to the officer in charge of the nearest police-station, notice of the sale and of the purchaser's name and address.

III.—IMPORT, EXPORT AND TRANSPORT.

Unlicensed
importation
and export-
ation pro-
hibited.

Importation
and export-
ation of arms
and ammuni-
tion for
private use.

6. No person shall bring or take by sea or by land into or out of the Union of Burma any arms, ammunition or military stores except under a licence and in the manner and to the extent permitted by such licence.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the President of the Union in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the President of the Union thereon.

Explanation.—Arms, ammunition and military stores taken from one part of the Union of Burma to another by sea, or across intervening territory not being part of the Union of Burma, are taken out of and brought into the Union of Burma within the meaning of this section.

Sanction of
President
required to
warehousing
of arms, etc.

7. Notwithstanding anything contained in the Sea Customs Act, no arms, ammunition or military stores shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the President of the Union.

8-9.

Power to
prohibit
transport.

10. The President of the Union may, from time to time, by notification in the Gazette,—

(a) regulate or prohibit the transport of any description of arms, ammunition or military stores over the whole of the Union of Burma or any part thereof, either altogether or except under a licence and to the extent and in the manner permitted by such licence, and

(b)

Transship-
ment of arms.

Explanation.—Arms, ammunition or military stores transhipped at a port in the Union of Burma are transported within the meaning of this section.

Power to
establish
searching
stations.

11. The President of the Union may, at any places along the boundary-line between the Union of Burma and other territory, and at such distance within such line as he deems expedient, establish searching-posts at which all vessels, carts and baggage-animals, and all boxes, bales and packages in transit, may be stopped and searched for arms, ammunition and military stores by any officer empowered by the President of the Union in this behalf by name or in virtue of his office.

Arrest of
persons con-
veying arms,
etc., under
suspicious
circum-
stances.

12. When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him.

Procedure
where arrest
made by
person not
Magistrate
or police-
officer.

Any person so apprehended, and any arms, ammunition or military stores so taken by a person not being a Magistrate or police-officer, shall be delivered over as soon as possible to a police-officer.

All persons apprehended by, or delivered to, a police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

IV.—GOING ARMED AND POSSESSING ARMS, ETC.

13. No person shall go armed with any arms except under a licence and to the extent and in the manner permitted thereby.

Prohibition of going armed without licence.

Any person so going armed without a licence or in contravention of its provisions may be disarmed by any Magistrate, police-officer or other person empowered by the President of the Union in this behalf by name or by virtue of his office.

For the purposes of this section, "arms" includes also knives with pointed blades rigidly affixed, or capable of being rigidly affixed, to the handle, and measuring in all over five inches in length, which are intended exclusively for domestic, agricultural or industrial purposes.

14. No person shall have in his possession or under his control any cannon or fire-arms, or any ammunition or military stores, except under a licence and in the manner and to the extent permitted thereby.

Unlicensed possession of fire-arms, etc.

15. In any place to which the President of the Union may by notification specially extend this section, no person shall have in his possession any arms of any description, except under a licence and in the manner and to the extent permitted thereby.

Possession of arms of any description without licence prohibited in certain places.

16. (1) Any person possessing arms, ammunition or military stores the possession whereof has, in consequence of the cancellation or expiry of a licence or of an exemption or by the issue of a notification under section 15 or otherwise, become unlawful, shall without unnecessary delay deposit the same either with the officer in charge of the nearest police-station or, at his option and subject to such conditions as the President of the Union may by rule prescribe, with a licensed dealer.

In certain cases arms to be deposited at police-stations or with licensed dealers.

(2) When arms, ammunition or military stores have been deposited under sub-section (1) * * * *, the depositor shall, at any time before the expiry of such period as the President of the Union may by rule prescribe, be entitled—

- (a) to receive back any thing so deposited the possession of which by him has become lawful, and
- (b) to dispose, or authorize the disposal, of any thing so deposited by sale or otherwise to any person whose possession of the same would be lawful; and to receive the proceeds of any such sale:

Provided that nothing in this sub-section shall be deemed to authorize the return or disposal of any thing the confiscation of which has been directed under section 24.

(3) All things deposited as aforesaid and not returned or disposed of under sub-section (2) within the prescribed period therein referred to shall be forfeited to the State.

(4) (a) The President of the Union may make rules consistent with this Act for carrying into effect the provisions of this section.

* The words "or, before the first day of January, 1920, under the provisions of any law for the time being in force" were deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

(b) In particular, and without prejudice to the generality of the foregoing provision, the President of the Union may by rule prescribe—

- (i) the conditions subject to which arms, ammunition and military stores may be deposited with a licensed dealer, and
- (ii) the period after the expiry of which things deposited as aforesaid shall be forfeited under sub-section (3).

V.—LICENCES.

Power to
make rules
as to licences.

17. The President of the Union may, from time to time, by notification in the Gazette, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any licence shall be granted; and may by such rules among other matters—

- (a) fix the period for which such licence shall continue in force;
- (b) fix a fee payable by stamp or otherwise in respect of any such licence other than a licence for possession;
- (c) direct that the holder of any such licence other than a licence for possession shall keep a record or account, in such form as the President of the Union may prescribe, of anything done under such licence, and exhibit such record or account when called upon by an officer of Government to do so;
- (d) empower any officer of Government to enter and inspect any premises in which arms, ammunition or military stores are manufactured or kept by any person holding a licence of the description referred to in section 5 or section 6;
- (e) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any officer of Government so empowered; and
- (f) require the person holding any licence or acting under any licence to produce the same, and to produce or account for the arms, ammunition or military stores covered by the same when called upon by an officer of Government so to do.

Cancelling
and suspension
of
licence.

18. Any licence may be cancelled or suspended—

- (a) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any District Magistrate within the local limits of whose jurisdiction the holder of such licence may be, when, for reasons to be recorded in writing, such officer, authority or Magistrate deems it necessary for the security of the public peace to cancel or suspend such licence; or
- (b) by any Judge or Magistrate before whom the holder of such licence is convicted of an offence against this Act, or against the rules made under this Act; and

the President of the Union may, by notification in the Gazette, cancel or suspend all or any licences throughout the whole or any portion of the Union of Burma.

Power to
make rules
as to appeal
or revision.

18A. The President of the Union may, by notification, make rules—

- (a) providing for appeal from or revision of—
 - (i) orders refusing to issue or renew arms licences, and
 - (ii) orders cancelling or suspending licences under clause (a) of section 18; and
- (b) prescribing the procedure and the periods of limitation for such appeals and revisions.

VI.—PENALTIES.

19. Whoever commits any of the following offences (namely) :—

For breach
of sections
5, 6, 10, 13
to 17.

- (a) manufactures, converts, or sells, or keeps, offers or exposes for sale, any arms, ammunition or military stores in contravention of the provisions of section 5 ;
- (b) fails to give notice as required by the same section ;
- (c) imports or exports any arms, ammunition or military stores in contravention of the provisions of section 6 ;
- (d) transports any arms, ammunition or military stores in contravention of a regulation or prohibition issued under section 10 ;
- (e) goes armed in contravention of the provisions of section 13 ;
- (f) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section 14 or section 15 ;
- (g) intentionally makes any false entry in a record or account which, by a rule made under section 17, clause (c), he is required to keep ;
- (h) intentionally fails to exhibit anything which, by a rule made under section 17, clause (e), he is required to exhibit ; or
- (i) fails to deposit arms, ammunition or military stores, as required by section 14 or section 16 ;

shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

20. Whoever does any act mentioned in clause (a), (c), (d) or (f) of section 19, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Penal Code, or to any person employed upon a railway or to the servant of any public carrier,

For secret
breaches of
sections 5, 6,
10, 14 and 15.

and whoever, on any search being made under section 25, conceals or attempts to conceal any arms, ammunition or military stores,

For conceal-
ing arms,
etc.

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

21. Whoever, in violation of a condition subject to which a licence has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section 19 or section 20, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For breach
of licence.

22. Whoever knowingly purchases any arms, ammunition or military stores from any person not licensed or authorized under the proviso to section 5 to sell the same ; or

For know-
ingly pur-
chasing
arms, etc.,
from un-
licensed
person.

delivers any arms, ammunition or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

For deliver-
ing arms,
etc., to per-
son not
authorised
to possess
them.

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

23. Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Penalty for
breach of
rule.

Power to
confiscate.

24. When any person is convicted of an offence punishable under this Act, committed by him in respect of any arms, ammunition or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition or military stores, and any vessel, cart or baggage-animal used to convey the same, and any box, package or bale in which the same may have been concealed, together with the other contents of such box, package or bale, shall be confiscated.

VII.—MISCELLANEOUS.

Search and
seizure by
Magistrate.

25. Whenever any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition or military stores for any unlawful purpose,

or that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, although covered by a licence, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by, in the presence of, some officer specially empowered in this behalf by name or in virtue of his office by the President of the Union.

Seizure and
detention by
President.

26. The President of the Union may at any time order or cause to be seized any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as he thinks necessary for the public safety.

Power to
exempt.

27. The President of the Union may, from time to time, by notification published in the Gazette,—

(a) exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms or ammunition, or withdraw any part of the Union of Burma, from the operation of any prohibition or direction contained in this Act; and

(b) cancel any such notification, and again subject the persons or things or the part of the Union of Burma comprised therein to the operation of such prohibition or direction.

Information
to be given
regarding
offences.

28. Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest police-officer or Magistrate, and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest police-officer regarding any box, package or bale in transit which he may have reason to suspect contains arms, ammunition or military stores in respect of which an offence against this Act has been or is being committed.

29. No proceedings shall be instituted against any person in respect of an offence punishable under section 19, clause (f), without the previous sanction of the District Magistrate.

Sanction required to certain proceedings under section 19, clause (f).

30. Where a search is to be made under the Code of Criminal Procedure, in the course of any proceedings instituted in respect of an offence punishable under section 19, clause (f), such search shall, notwithstanding anything contained in the said Code, be made in the presence of some officer specially appointed by the President of the Union in this behalf, and not otherwise.

Searches in the case of offences against section 19, clause (f), how conducted.

31 * * *

32. The President of the Union may from time to time, by notification in the Gazette, direct a census to be taken of all fire-arms in any local area, and empower any person to take such census.

Power to take census of fire-arms.

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms when so required shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

33. No proceeding other than a suit shall be commenced against any person for anything done in pursuance of this Act, without having given him at least one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.

Notice and limitation of proceedings.

လက်နက် (အရေးပေါ်ဖြစ်ပေါ်ရန်) (ယာယီ) အက်ဥပဒေ။

[၁၉၄၉ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၃၁။] (၁၉၄၉ ခု၊ ဇွန်လ ၂၃ ရက်)

အောက်ပါအတိုင်းအက်ဥပဒေအဖြစ်ပြဋ္ဌာန်းလိုက်သည်။

၁။ (၁) ဤအက်ဥပဒေသည်၊ နိုင်ငံတော်သမ္မတက အမိန့်ကြော်ငြာစာထုတ်ပြန်ကြော်ငြာ၍သတ်မှတ်သည့်နေ့ရက်တွင်အာဏာတည်ရမည်။

(၂) ဤအက်ဥပဒေသည်၊ အာဏာတည်ခြင်းမှရပ်စဲရမည်ဟု နိုင်ငံတော်သမ္မတက အမိန့်ကြော်ငြာစာဖြင့်ဆင့်ဆိုသည့် နေ့ရက်တိုင်အောင် အာဏာတည်နေရမည်။

၂။ (၁) တည်ဆဲဖြစ်သော အခြားဥပဒေတစ်ခုခုတွင်မည်သို့ပင်ပါရှိစေကာမူ၊ မည်သူမဆို—

(က) အစိုးရပိုင်၊ သို့တည်းမဟုတ် ဥပဒေအရ လက်ရှိကိုင်ဆောင်ခွင့် ရှိသူပိုင် အမြောက်နှင့်ဖြစ်စေ၊ အခြားလက်နက်နှင့်ဖြစ်စေ၊ ခဲယမ်းမီးကျောက်နှင့်

၃ ဤအက်ဥပဒေသည် လက်နက်အက်ဥပဒေနှင့်သက်ဆိုင်သော ဘေးများတွင် ၁၉၄၉ ခု၊ ဇွန်လ ၂၃ ရက် နေ့မှစ၍ အာဏာတည်သည်။ မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၄၉ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၆၃၉ တွင်ကြည့်။

ဖြစ်စေ စစ်လျဉ်း၍ခိုးမှုကျူးလွန်လျှင်၊ သို့တည်းမဟုတ် ခိုးမှုကျူးလွန်ရန် ကြံစည်အားထုတ်လျှင်သော်၎င်း၊

- (ခ) အစိုးရပိုင် အမြောက်ကြိတ်စေ၊ အခြားလက်နက်ကြိတ်စေ၊ ခဲယမ်းမီးကျောက်ကြိတ်စေ၊ ရောင်းချလျှင်၊ သို့တည်းမဟုတ် ရောင်းချရန်ကြံစည် အားထုတ်လျှင်သော်၎င်း၊
- (ဂ) ဥပဒေအရ လက်ရှိကိုင်ဆောင်ခွင့်ရှိသူပိုင်အမြောက်ကြိတ်စေ၊ အခြား လက်နက်ကြိတ်စေ၊ ခဲယမ်းမီးကျောက်ကြိတ်စေ၊ ဥပဒေအရလက်ရှိကိုင် ဆောင်ခွင့် မရှိသောအခြားသူတစ်ဦးတယောက်အား ရောင်းချလျှင်၊ သို့တည်းမဟုတ် ရောင်းချရန်ကြံစည် အားထုတ်လျှင်သော်၎င်း၊
- (ဃ) အစိုးရပိုင်၊ သို့တည်းမဟုတ် ဥပဒေအရလက်ရှိကိုင်ဆောင်ခွင့်ရှိသူပိုင် အမြောက်ကြိတ်စေ၊ အခြားလက်နက်ကြိတ်စေ၊ ခဲယမ်းမီးကျောက်ကြိတ် စေ၊ ဥပဒေအရ လက်ခံရယူပိုင်ခွင့်မရှိသော အခြားသူတစ်ဦးတယောက် အားပေးအပ်လျှင်၊ သို့တည်းမဟုတ် ပေးအပ်ရန် ကြံစည်အားထုတ်လျှင် သော်၎င်း၊

ထိုသူကိုသေဒဏ်ဖြစ်စေ၊ တရားဟုတ်လုံးတကျနှိုးဒဏ်ဖြစ်စေ၊ ဆယ်နှစ်ထက်မပိုသောအလုပ်ကြမ်း နှင့်ထောင်ဒဏ်ဖြစ်စေ၊ အလုပ်မှထောင်ဒဏ်ဖြစ်စေ စီရင်ရမည်။

(၂) ပုဒ်မခွဲ (၁) တွင်ဖော်ပြထားသော ပြစ်မှုကျူးလွန်ရန် အားပေးကူညီသူတစ်ဦး တယောက်သည်၊ ထိုပြစ်မှုအတွက်ပြဋ္ဌာန်းထားသောပြစ်ဒဏ်ကိုစီရင်ခြင်းခံရမည်။

THE ARMS (TEMPORARY AMENDMENT) ACT. *

[Act LI, 1951.] (27th October, 1951.)

It is hereby enacted as follows :—

1. This Act shall remain in force until such date as the President of the Union may, by notification, direct that it shall no longer be in force; and the provisions of section 5 of the Burma General Clauses Act as respects the repeal of an enactment shall have effect when this Act ceases to be in force by virtue of such notification.

2. So long as this Act remains in force, the Arms Act shall have effect as if the following had been inserted after section 19 of the said Act as section 19A thereof, namely :—

"19A. Whoever, with the intention of committing the offence of High Treason, and, in contravention of the provisions of section 13 or section 14 or section 15, goes armed with, or has in his possession or under his control, any of the following types of arms or ammunition or military stores, namely :—

(i) Small arms, such as—

(a) Rifles,

(b) Light Automatic, Sten Gun, Bren Gun, Tommy Gun, Browning, American '300 Carbine,

* Published in *Burma Gazette*, 1951, Part I, p. 828.

- (ii) Light Machine Gun or ammunition thereof,
 - (iii) Mortar or ammunition thereof,
 - (iv) Heavy Machine Gun, such as Vickers Machine Gun, Browning Machine Gun, Besa Machine Gun, Japanese Heavy Machine Gun, Anti-Tank Weapon, and any variety of Field Artillery, Light Anti-Aircraft Gun, Aircraft Cannon or ammunition thereof,
 - (v) Live Hand Grenade,
 - (vi) Live Rifle Grenade,
 - (vii) Live Mortar Bomb,
 - (viii) Demolition Explosives,
- or any other arms or ammunition of the description which the President of the Union may, by notification, declare in this behalf, shall be punished with rigorous imprisonment for a term which may extend to seven years :

Provided that, notwithstanding anything to the contrary contained in any other law for the time being in force, it shall be presumed, until the contrary is proved, in a prosecution under this section, that the person found going armed with, or in possession of, or having under his control any of the arms, ammunition or military stores specified herein, had the intention of committing the offence of High Treason."

3. The Arms (Temporary Amendment) Act, 1949 (Act No. XXII of 1949) is hereby repealed.



THE EXPLOSIVE SUBSTANCES ACT.

[INDIA ACT VI, 1908.] (8th June, 1908.)

1. This Act extends to the whole of the Union of Burma and applies also to all citizens of the Union and all servants of the Government wherever they may be. Extent and application.

2. In this Act, the expression "explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement. Definition of "explosive substance."

3. Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment for a term which may extend to ten years, to which fine may be added. Punishment for causing explosion likely to endanger life or property.

4. Any person who unlawfully and maliciously—

- (a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in the Union of Burma of a nature likely to endanger life or to cause serious injury to property; or
 - (b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or cause serious injury to property in the Union of Burma, or to enable any
- Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

other person by means thereof to endanger life or cause serious injury to property in the Union of Burma ;

shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished with transportation for a term which may extend to twenty years, to which fine may be added, or with imprisonment for a term which may extend to seven years, to which fine may be added.

Punishment for making or possessing explosives under suspicious circumstances.

5. Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable with transportation for a term which may extend to fourteen years, to which fine may be added, or with imprisonment for a term which may extend to five years, to which fine may be added.

Punishment of abettors.

6. Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

Restriction on trial of offences.

7. No Court shall proceed to the trial of any person for an offence against this Act except with the consent of the President of the Union.

THE SEDITIOUS MEETINGS ACT.

[INDIA ACT X, 1911.] (22nd March, 1911.)

Extent.

1. This Act extends to the whole of the Union of Burma, but shall have operation only in such parts thereof as the President of the Union may notify in the Gazette.

Power of President to notify proclaimed areas.

2. (1) The President of the Union may by notification declare the whole or any part of the Union of Burma in which this Act is in operation to be a proclaimed area.

(2) A notification made under sub-section (1) shall not remain in force for more than six months, but nothing in this sub-section shall be deemed to prevent the President of the Union from making any further notifications in respect of the same area from time to time as he may think fit.

Definition.

3. (1) In this Act, the expression "public meeting" means a meeting which is open to the public or any class or portion of the public.

(2) A meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise.

Notice to be given of public meetings.

4. (1) No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or for the exhibition or distribution of any writing or printed matter relating to any such subject, shall be held in any proclaimed area—

(a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate or the Commissioner of Police, as the case may be, at least three days previously ; or

(b) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.

(2) The District Magistrate or any Magistrate of the first class authorized by the District Magistrate in this behalf may, by order in writing, depute one or more police-officers, not being below the rank of head constable, or other persons, to attend any such meeting for the purpose of causing a report to be taken of the proceedings. Power of Magistrate to cause report to be taken.

(3) Nothing in this section shall apply to any public meeting held under any statutory or other express legal authority, or to any public meetings or class of public meetings exempted for that purpose by the President of the Union by general or special order. Exception.

5. The District Magistrate or the Commissioner of Police, as the case may be, may at any time, by order in writing, of which public notice shall forthwith be given, prohibit any public meeting in a proclaimed area, if, in his opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity. Power to prohibit public meetings.

6. (1) Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area contrary to the provisions of section 4 shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both. Penalties.

(2) Any public meeting which has been prohibited under section 5 shall be deemed to be an unlawful assembly within the meaning of Chapter VIII of the Penal Code and of Chapter IX of the Code of Criminal Procedure.

7. Whoever, in a proclaimed area, in a public place or a place of public resort, otherwise than at a public meeting held in accordance with, or exempted from, the provisions of section 4, without the permission in writing of the District Magistrate or of the Commissioner of Police, as the case may be, previously obtained, delivers any lecture, address or speech on any subject likely to cause disturbance or public excitement to persons then present, may be arrested without warrant, and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both. Penalty for delivery of speeches in public places.

8. No Court inferior to that of a Magistrate of the first class or Subdivisional Magistrate shall try any offence against this Act. Cognizance of offences.

THE UNLAWFUL ASSOCIATIONS ACT.

[INDIA ACT XIV, 1908.] (11th December, 1908.)

1-14. * * * *

PART II.

UNLAWFUL ASSOCIATIONS.

15. In this Part—

- (1) "association" means any combination or body of persons, whether the same be known by any distinctive name or not; and
- (2) "unlawful association" means an association—
 - (a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or
 - (b) which has been declared to be unlawful by the President of the Union under the powers hereby conferred.

Definitions.

Power to
declare
association
unlawful.

16. If the President of the Union is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the President of the Union may, by notification in the Gazette, declare such association to be unlawful.

Penalties.

17. (1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term [which shall not be less than two years and more than three years and shall also be liable to fine] ¹.

(2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term [which shall not be less than three years and more than five years and shall also be liable to fine] ¹.

(3) * * *

Power to
notify and
take possession
of places
used for the
purposes of
an unlawful
association.

17A. (1) The President of the Union may, by notification in the Gazette, notify any place which in his opinion is used for the purposes of an unlawful association.

Explanation.—For the purposes of this section "place" includes a house or building, or part thereof, or a tent or vessel.

(2) The District Magistrate, or any officer authorized in this behalf in writing by the District Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the President of the Union :

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

Movable
property
found in a
notified
place.

17B. (1) The District Magistrate, or officer taking possession of a notified place, shall also take possession of all movable property found therein and shall make a list thereof in the presence of two respectable witnesses.

(2) If, in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to the State.

(3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as the District Magistrate may direct.

(4) The District Magistrate shall publish, as nearly as may be in the manner provided in section 87 of the Code of Criminal Procedure for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article.

¹ Substituted by Act LXI, 1954.

* Deleted *ibid*.

(5) Where any such representation is accepted by the District Magistrate, he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, and no order of forfeiture shall be made until the District Judge has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure for the investigation of claims, so far as it can be made to apply, and the decision of the District Judge shall be final.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

17C. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorized by him in this behalf, shall be deemed to commit criminal trespass. Trespass upon notified places.

17D. Before a notification under sub-section (1) of section 17A is cancelled, the President of the Union shall give such general or special directions as he may deem requisite regulating the relinquishment by Government of possession of notified places. The relinquishment of property.

17E. (1) Where the President of the Union is satisfied, after such inquiry as he may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the President of the Union may, by order in writing, declare such monies, securities or credits to be forfeited to the State. Power to forfeit funds of an unlawful association.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the President of the Union :

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the President of the Union may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Before an order of forfeiture is made under sub-section (1) the President of the Union shall give written notice to the person (if any) in whose custody the monies, securities or credits are found of his intention to forfeit, and any person aggrieved thereby may within fifteen days from the issue of such notice file an application to the District Judge in a District to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies, securities or credits concerned until such application has been disposed of, and unless the District Judge has decided that the monies, securities or credits are liable to forfeiture.

(4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure for the investigation of claims, so far as it can be made to apply, and the decision of the District Judge shall be final.

(5) Where the President of the Union has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the President of the Union may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the President of the Union. A copy of such order shall be served upon the person to whom it is directed.

(6) The President of the Union may endorse a copy of an order under sub-section (3) for investigation to any officer he may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited to the order of the President of the Union.

(9) Where any person liable under this section to pay or deliver any monies, securities or credits to the order of the President of the Union refuses or fails to comply with any direction of the President of the Union in this behalf, the President of the Union may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(10) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the President of the Union in this behalf.

(11) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government without the consent of the President of the Union.

Jurisdiction
barred.

17F. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E no proceeding purporting to be taken under section 17A, 17B, 17C, 17D, or 17E, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything

in good faith done or intended to be done under the said sections or against Government or person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act.

18. An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof. Continuance of association.

THE PICKETING ACT.¹

[INDIA ACT XXIII, 1932.] (19th December, 1932.)

1. The President of the Union may, by notification, direct that section 7 shall come into force in any area on such date as may be specified in the notification. Application.

2-6. *

7. (1) Whoever—

- (a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or
- (b) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

Molesting a person to prejudice of employment or business.

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section, is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police-officer not below the rank of officer in charge of a police-station.

8. *

9. Notwithstanding anything contained in the Code of Criminal Procedure,—

- (i) no Court inferior to that of a Magistrate of the first class shall try any offence under this Act;
- (ii) an offence punishable under section [* * *]¹ 7 shall be cognizable by the police;
- (iii) *
- (iv) an offence punishable under section 7 shall be non-bailable.

Procedure in offence under the Act.

¹ The amendments made by this Act in the Press (Emergency Powers) Act and the Unlawful Associations Act have been inserted in their appropriate places.

² Deleted by Act II, 1945.

THE EXPULSION OF OFFENDERS ACT.

[BURMA ACT I, 1926.] (16th January, 1926.)

Preamble. Whereas it is expedient to make provisions to enable the Government to expel from the Union of Burma persons who are convicted of certain offences or ordered to furnish security for good behaviour * * * * and are not citizens of the Union ; It is hereby enacted as follows :—

1. (1) * * * *
- (2) It extends to the whole of the Union of Burma.

Extent.

2. In this Act, unless there is anything repugnant in the context,—

Definitions.

(A) "Non-Burman" means any person who is not a citizen of the Union.

Non-Burman.

(B) "Offender" means any person against whom any sentence or order of the nature hereunder mentioned has been passed by any Court or Magistrate other than a Magistrate of the second or third class, which sentence or order has not been set aside on appeal or revision, that is to say,—

Offender.

- (i) sentence on conviction of any offence shewn in the First Schedule ; or
- (ii) sentence on conviction of any offence shewn in the Second Schedule after a previous conviction—

(a) where the subsequent conviction is under the Penal Code, of any offence shewn in the Second Schedule and contained in the same Chapter of the said Code, or

(b) where the subsequent conviction is under any law other than the said Code, of any offence punishable under the same law with imprisonment for three years or upwards, or

(c) of any offence shewn in the First Schedule in respect of which no order was passed under this Act ; or

- (iii) order under section 118 read with section 110 of the Code of Criminal Procedure, or under any other law which authorizes a Magistrate to deal with a person as if the information received against him were of the description mentioned in section 110 of the said Code.

For the purposes of sub-clause (ii) a previous conviction for abetment, criminal conspiracy or attempt to commit any offence mentioned in the Schedules shall be deemed to be a previous conviction of the offence in respect of which such abetment, criminal conspiracy or attempt was committed.

Expulsion of offender.

3. Any non-Burman as defined in clause (A) of the preceding section who is an offender as defined in clause (B) of the said section shall be liable to be expelled from the Union of Burma under the provisions of this Act.

Offender to be called upon to shew cause : appeal to High Court.

4. (1) When an offender becomes liable to be expelled from the Union of Burma under the preceding section, the District Magistrate of the district in which the Court passing a sentence or an order against such an offender is situate may call upon him to shew cause why he should not be expelled.

District Magistrate to make recommendation.

(2) If the said offender desires to produce evidence to shew that he is not liable to be expelled under the said section or that for any other reason he should not be so expelled, the District Magistrate shall record such evidence and the evidence of any other witnesses whom he may deem it desirable to examine in the manner prescribed in Chapter XXV of the Code of Criminal Procedure for the

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

taking and recording of evidence in the trial of warrant cases, or may direct any Magistrate of the first class to record such evidence.

(3) If after the offender has been called upon to shew cause and after evidence, if any, has been recorded, the District Magistrate is of opinion that the said offender is liable to be expelled from the Union of Burma under the provisions of section 3, and that it is desirable that he should be so expelled, he shall make a recommendation in writing for the offender's expulsion, stating his reasons therefor, and give the offender a copy of such recommendation.

(4) The offender may, within fifteen days of the receipt of the copy of the order, require the District Magistrate to refer for the determination of the High Court the question whether the offender is or is not a non-Burman or is or is not an offender within the meaning of the Act, and on receipt of such requisition the District Magistrate shall forward the proceedings together with the requisition to the High Court, which shall deal with the reference as far as possible in the manner provided by the Code of Criminal Procedure for the disposal of an appeal.

(5) If no such requisition is made or if the High Court upholds the District Magistrate's recommendation, the District Magistrate may forward the case to the President of the Union.

5. (1) No offender shall be called upon to shew cause against expulsion after the expiry of three months from the date of the sentence or order in virtue of which he is liable to be expelled.

Time within which offender to be called upon to shew cause and recommendation to be made to the President.

(2) No recommendation for the expulsion of an offender shall be forwarded to the President of the Union after the expiry of one month from the date of the receipt by the District Magistrate of the High Court's order on the reference made under sub-section (4) of section 4, or, where no such reference has been made, after the expiry of one month from the date on which a copy of the recommendation was given to the offender under sub-section (3) of section 4.

6. On receipt of the District Magistrate's recommendation the President of the Union may, at his discretion, issue an order of expulsion directing the offender to remove himself from the Union of Burma in accordance with rules made under section 9 :

Power of President to order removal.

Provided that no such order shall be issued after the expiry of six months from the date of the receipt of the District Magistrate's recommendation.

7. Every such order of expulsion shall take effect from such date as the President of the Union may direct and shall remain in force until it is revoked by the President of the Union.

Date and duration of expulsion

8. If any person against whom any such order of expulsion has been issued fails to comply with the order in any respect, or having left the Union of Burma re-enters the Union of Burma without the permission in writing of the President of the Union while the order is in force, he shall be liable to imprisonment for a term which may extend to two years or to fine or to both and shall, in addition to such penalty, be liable to be removed from the Union of Burma in pursuance of the order.

Punishment for breach of order.

9. The President of the Union may make rules¹ :—

(a) prescribing the authority or authorities who shall determine the port or place from which the vessel or other means by which, the time at which, and the manner in which any person subject to an order of expulsion under this Act shall remove himself from the Union of Burma : Provided that such person shall be allowed to go to any

Power to make rules.

¹ For rules under this section, see *Burma Gazette*, 1926, Part I, p. 1018.

port outside the Union of Burma which he may select if he pays the costs of the journey thither;

- (b) prescribing the officers by whom and the manner in which any such person shall be placed on board any vessel by which he is to remove himself;
- (c) prescribing the escort to the frontier of any person who is directed by any such order to remove himself by land;
- (d) prescribing the payment by any person of the costs of removing any person under this Act, and for the recovery of such costs as a fine under the provisions of the Code of Criminal Procedure; and
- (e) generally for carrying into effect the purposes of this Act.

Penalty for failure by carrier.

10. Any person who is a carrier, or the agent of a carrier, and who is duly required in pursuance of an order of expulsion under this Act to carry any person to any place on the usual route of carriage and for the ordinary prepaid charges, and fails to comply with such requisition without reasonable cause, shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to five hundred rupees.

THE FIRST SCHEDULE.

[See section 2, clause (B) (i) and (ii) (c).]

(1) Any offence punishable under any of the following sections of the Penal Code, *viz.*, sections 131, 132, 232, 234, 302, 304, 307, 308, 311, 328, 329, 366A, 366B, 372, 373, 395, 396, 397, 398, 399, 400, 401, 402, 412, 413, 436, 449, 450, 459, 460, 489A, 489D;

(2) Any offence punishable under any other law with death, transportation or imprisonment for seven years or upwards;

(3) Abetment of any of the aforesaid offences, where such abetment is punishable under Chapter V of the Penal Code;

(4) Criminal conspiracy to commit any of the aforesaid offences, where such criminal conspiracy is punishable under section 120B of the Penal Code; and

(5) Attempt to commit any of the aforesaid offences, where such attempt is punishable under section 511 of the Penal Code.

THE SECOND SCHEDULE.

[See section 2, clause (B) (ii).]

(1) Any offence punishable under any of the following sections of the Penal Code, *viz.*, sections 153A, 215, 216, 216A, 231, 233, 235, 237, 238, 239, 240, 325, 326, 327, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 404, 411, 419, 420, 451 (if the offence is in order to the commission of theft), 454 (if the offence is in order to the commission of theft), 457 (if the offence is in order to the commission of theft), 458, 489B, 489C;

(2) Any offence punishable under any other law with imprisonment for three years and upwards;

(3) Abetment of any of the aforesaid offences, where such abetment is punishable under Chapter V of the Penal Code;

(4) Criminal conspiracy to commit any of the aforesaid offences, where such criminal conspiracy is punishable under section 120B of the Penal Code; and

(5) Attempt to commit any of the aforesaid offences, where such attempt is punishable under section 511 of the Penal Code.

THE PRESS (REGISTRATION) ACT.

၂၀၂၃ ခုနှစ်၊ ဇူလိုင်လ ၁ ရက်နေ့
ပြည်ထောင်စုတော်ကြီး
တော်ဝင်အမိန့်ဖြင့်

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THE PRESS (REGISTRATION) ACT.

[INDIA ACT XXV, 1867.] (22nd March, 1867.)

Preamble. WHEREAS it is expedient to provide for the regulation of printing-presses and of periodicals containing news, for the preservation of copies of every book printed or lithographed in the Union of Burma, and for the registration of such books ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

- | | |
|-----------------------------|--|
| Interpreta-
tion-clause. | 1. In this Act, unless there shall be something repugnant in the subject or context,— |
| " Book." | " book " includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, plan separately printed or lithographed. |
| " Editor," | " editor " means the person who controls the selection of the matter that is published in a newspaper. |
| Magis-
trate." | " Magistrate " means a Magistrate of the first class, |

"newspaper" means any printed periodical work containing public news or comments on public news. "Newspaper."

2. *

PART II.

OF PRINTING-PRESSES AND NEWSPAPERS.

3. Every book or paper printed within the Union of Burma shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) the name of the publisher and the place of publication. Particulars to be printed on books and papers.

4. No person shall, within the Union of Burma, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the District Magistrate within whose local jurisdiction such press may be : Keeper of printing-press to make declaration.

"I, A. B., declare that I have a press for printing at——."

And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

5. No newspaper shall be published in the Union of Burma, except in conformity with the rules hereinafter laid down :— Rules as to publication of printed periodicals containing public news.

(1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper :

(2) The printer and the publisher of every such newspaper shall appear, in person or by agent authorised in this behalf in accordance with rules made under section 20, before the District Magistrate within whose local jurisdiction such newspaper shall be printed or published, or such printer or publisher resides, and shall make and subscribe, in duplicate, the following declaration :—

"I, A. B., declare that I am the printer [or publisher, or printer and publisher] of the newspaper entitled——and printed [or published, or printed and published, as the case may be] at——."

And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted :

(3) As often as the place of printing or publication is changed, a new declaration shall be necessary :

(4) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave the Union of Burma, a new declaration from a printer or publisher resident within the said territories shall be necessary :

Provided that no person who has not attained majority in accordance with the provisions of the Majority Act, or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper.

6. Each of the two originals of every declaration, so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made. Authentication of declaration.

- Deposit.** One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court, or other principal civil Court of original jurisdiction for the place where the said declaration shall have been made.
- Inspection and supply of copies.** The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.
- Office copy of declaration to be *prima facie* evidence.** 7. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations, or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor, shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, or printed on such newspaper, as the case may be, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every newspaper whereof the title shall correspond with the title of the newspaper mentioned in the declaration or the editor of every portion of that issue of the newspaper of which a copy is produced.
- New declaration by persons who have signed declaration and subsequently ceased to be printers or publishers.** 8. Provided always that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the newspaper mentioned in such declaration, may appear before the Magistrate, and make and subscribe in duplicate the following declaration :—
 “ I, A. B., declare that I have ceased to be the printer [or publisher, or printer and publisher] of the newspaper entitled—.”
- Authentication and filing.** Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration.
- Inspection and supply of copies.** The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees.
- Putting copy in evidence.** In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the newspaper therein mentioned.
- Person whose name has been incorrectly published as editor may make a declaration before a Magistrate.** 8A. If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before the District Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period.

PART III.

DELIVERY OF BOOKS.

9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in the Union of Burma after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the President of the Union shall, by notification in the Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say :—

Copies of books printed after commencement of Act to be delivered gratis to Government.

(a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,

¹ (b) within six calendar months from such date, (if the book be not proscribed by Government) [five] ² other such copies,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Nothing in the former part of this section shall apply to—

- (i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, book prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or
- (ii) any newspaper published in conformity with the rules laid down in section 5 of this Act.

10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Receipt for copies delivered under section 9.

¹ 11. Of the copies delivered pursuant to section 9, one copy each shall be transmitted to [the Chamber of Deputies Library, the Chamber of Nationalities Library,] ² the Rangoon University Library, and [the National Library] ³ and the remainder shall be disposed of as the President of the Union shall from time to time determine.

Disposal of copies delivered under section 9.

¹ Substituted by Act XII, 1950.

² Substituted by Act XXXI, 1952.

³ Substituted by Act XXV, 1953.

Copies of newspaper printed in the Union of Burma to be delivered gratis to Government.

11A. The printer of every newspaper in the Union of Burma shall deliver at such place and to such officer as the President of the Union may, by notification in the Gazette, direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.

PART IV.

PENALTIES.

Penalty for printing contrary to rule in section 3.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall, on conviction before a Magistrate, be punished by fine not exceeding two thousand rupees, or by simple imprisonment for a term not exceeding six months, or by both.

Penalty for keeping press without making declaration required by section 4.

13. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding two thousand rupees, or by simple imprisonment for a term not exceeding six months, or by both.

Punishment for making false statement.

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding two thousand rupees, and imprisonment for a term not exceeding six months.

Penalty for printing or publishing periodicals without conforming to rules.

15. Whoever shall edit, print or publish any newspaper without conforming to the rules hereinbefore laid down, or whoever shall edit, print or publish, or shall cause to be edited, printed or published, any newspaper, knowing that the said rules have not been observed with respect to that newspaper, shall, on conviction before a Magistrate, be punished with fine not exceeding two thousand rupees, or imprisonment for a term not exceeding six months, or both.

Penalty for not delivering books or not supplying printer with maps.

16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

16A. If any printer of any newspaper published in the Union of Burma neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorized by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default.

Penalty for failure to supply copies of newspapers gratis to Government.

17. Any sum forfeited to the Government under section 16 may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorized by the Code of Criminal Procedure, and within the period prescribed by the Penal Code, for the levy of a fine.

Recovery of forfeitures and disposal thereof and of fines.

All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the President of the Union shall from time to time direct.

PART V.

REGISTRATION OF BOOKS.

18. There shall be kept at such office, and by such officer as the President of the Union shall appoint in this behalf, a book to be called a Catalogue of Books printed in the Union of Burma, wherein shall be registered a memorandum of every book which shall have been delivered pursuant to clause (a) of the first paragraph of section 9 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say) :—

Registration of memoranda of books.

- (1) the title of the book and the contents of the title-page * * * ;¹
- (2) the language in which the book is written ;
- (3) the name of the author, translator or editor of the book or any part thereof ;
- (4) the subject ;
- (5) the place of printing and the place of publication ;
- (6) the name or firm of the printer and the name or firm of the publisher ;
- (7) the date of issue from the press or of the publication ;
- (8) the number of sheets, leaves or pages ;
- (9) the size ;
- (10) the first, second or other number of the edition ;
- (11) the number of copies of which the edition consists ;
- (12) whether the book is printed or lithographed ;
- (13) the price at which the book is sold to the public ; and
- (14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copy thereof pursuant to clause (a) of the first paragraph of section 9.

19. The memoranda registered during each quarter in the said Catalogue shall be published in the Gazette as soon as may be after the end of such quarter

Publication of memoranda registered.

* * * * *

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

PART VI.

MISCELLANEOUS.

Power to make rules. 20. The President of the Union shall have power to make such rules¹ as may be necessary or desirable for carrying out the objects of this Act.

Publication. All such rules shall be published in the Gazette.

Power to exclude any class of books from operation of Act. 21. The President of the Union may by notification exclude² any class of books or papers from the operation of the whole or any Part or Parts of this Act.

THE PRESS (EMERGENCY POWERS) ACT.

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¹ For such rules, see *Burma Gazette*, 1938, Part I, p. 951.

² For a list of exemptions, see *Burma Gazette*, 1938, Part I, p. 1039.

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THE PRESS (EMERGENCY POWERS) ACT.

[INDIA ACT XXIII, 1931.] (9th October, 1931.)

1. * * * *

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

- (1) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;
- (2) "document" includes also any painting, drawing or photograph or other visible representation;
- (3) * * *
- (4) "Magistrate" means a District Magistrate;
- (5) "newspaper" means any periodical work containing public news or comments on public news;
- (6) "news-sheet" means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (1) of section 4;
- (7) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;
- (8) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;
- (9) "unauthorised newspaper" means—
 - (a) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press (Registration) Act, and
 - (b) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;
- (10) "unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and
- (11) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press (Registration) Act.

CONTROL OF PRINTING PRESSES AND NEWSPAPERS.

Deposit of security by keepers of printing-presses.

3. (1) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press (Registration) Act may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose :

Provided that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the President of the Union under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the President of the Union that any printing-press kept in any place in the Union of Burma, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees, as the President of the Union may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to declare security or press forfeited in certain cases.

4. (1) Whenever it appears to the President of the Union that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which—

(a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(b) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,

or which tend, directly or indirectly,—

(c) to seduce any officer, soldier, sailor or airman in the military, naval or air force or any police-officer from his allegiance or his duty, or

¹ (d) to bring into hatred or contempt the Government established by law in the Union of Burma or the administration of justice in the Union of Burma or any class or section of persons resident in the Union of Burma or to excite disaffection towards the said Government, or

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of [persons resident in the Union of Burma]¹, or
- (i) to prejudice the recruiting of persons to serve in any of the Burma forces, or in any police force, or to prejudice the training, discipline or administration of any such force,
- *(j) * * *

the President of the Union may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in his opinion are of the nature described above,—

- (i) where security has been deposited, declare such security, or any portion thereof, to be forfeited to [the State]¹, or
- (ii) where security has not been deposited, declare the press to be forfeited to [the State],¹

and may also declare all copies of such newspaper, book or other document wherever found in the Union of Burma to be forfeited to [the State]¹.

Explanation 1.—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a).

Explanation 2.—Comments expressing disapprobation of the measures of the Government or Administration with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) * * * of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government or Administration without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) * * * of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of [persons resident in the Union of Burma]¹ shall not be deemed to be words of the nature described in clause (h) of this sub-section.

*(2) * * *
(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made in respect of such press under section 4 of the Press (Registration) Act shall be deemed to be annulled.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Deleted *ibid.*

³ Explanation 5 was deleted *ibid.*

Deposit of
further
security.

5. (1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press (Registration) Act shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

(2) Where a portion only of the security given in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

Power to
declare
further
security and
publications
forfeited.

6. (1) If, after security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the President of the Union, are of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the keeper of such printing-press stating or describing such words, signs or visible representations, declare—

- (a) the further security so deposited, or any portion thereof, and
- (b) all copies of such newspaper, book or other document wherever found in the Union of Burma,

to be forfeited to [the State]¹.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press (Registration) Act shall be deemed to be annulled.

Deposit of
security by
publisher of
newspaper.

7. (1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press (Registration) Act may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose :

Provided that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the President of the Union under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the President of the Union that a newspaper published in the Union of Burma, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdiction the newspaper is published

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

security to such an amount, not being less than five hundred or more than three thousand rupees, as the President of the Union may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

8. (1) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinion of the President of the Union, are of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations,—

Power to declare security forfeited in certain cases.

- (a) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to [the State]¹, or
- (b) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press (Registration) Act,

and may also declare all copies of such newspaper wherever found in the Union of Burma to be forfeited to [the State]¹.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press (Registration) Act shall be deemed to be annulled.

9. (1) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any person making a fresh declaration under section 5 of the Press (Registration) Act as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

Deposit of further security.

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

10. (1) If, after security has been deposited under section 9, the newspaper again contains any words, signs or visible representations which, in the opinion of the President of the Union, are of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

Power to declare further security and newspapers forfeited.

- (a) the further security so deposited, or any portion thereof, and
- (b) all copies of such newspaper wherever found in the Union of Burma, to be forfeited to [the State]¹.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

section 5 of the Press (Registration) Act shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the President of the Union.

Penalty for keeping press or publishing newspaper without making deposit.

11. (1) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit under section 3 or section 5, as required by the President of the Union or the Magistrate, as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press (Registration) Act.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the President of the Union or the Magistrate, as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press (Registration) Act.

Consequences of failure to deposit security as required.

12. (1) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the President of the Union may, by notice in writing to the keeper thereof, declare the press to be forfeited to [the State]¹.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press (Registration) Act shall be deemed to be annulled.

Return of deposited security in certain cases.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press (Registration) Act, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Issue of search-warrant.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to [the State]¹ under section 4, section 6, section 8, section 10 or section 12, the President of the Union may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

UNAUTHORISED NEWS-SHEETS AND NEWSPAPERS.

Authorisation of persons to publish news-sheets.

15. (1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The Magistrate may at any time revoke an order made by him under sub-section (1).

16. (1) Any police-officer, or any other person empowered in this behalf by the President of the Union, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

Power to seize and destroy unauthorised news-sheets and newspapers.

(2) Any District Magistrate, Subdivisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a District Magistrate, Subdivisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure.

17. (1) Where a District Magistrate or Subdivisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized :

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to [the State]¹. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

18. (1) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disseminating unauthorised news-sheets and newspapers.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognizable.

SPECIAL PROVISIONS RELATING TO THE SEIZURE OF CERTAIN DOCUMENTS.

Powers to declare certain publications forfeited and to issue search-warrants for same.

19. Where any newspaper, book or other document wherever made appears to the President of the Union to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the President of the Union may, by notification in the Gazette, stating the grounds of his opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to [the State]¹, and thereupon any police-officer may seize the same wherever found in the Union of Burma, and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

Power to detain packages containing certain publications when imported into the Union of Burma.

20. The Chief Customs-officer or other officer authorised by the President of the Union in this behalf may detain any package brought, whether by land, sea or air, into the Union of Burma which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the President of the Union may appoint in this behalf, to be disposed of in such manner as the President of the Union may direct.

Prohibition of transmission by post of certain documents.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

Power to detain articles being transmitted by post.

22. Any officer in charge of a post-office or authorised by the [Director-General of Posts and Telegraphs]* in this behalf may detain any article other than a letter or parcel in course of transmission by post which he suspects to contain—

- (a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or
- (b) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the President of the Union may appoint in this behalf, to be disposed of in such manner as the President of the Union may direct.

POWERS OF HIGH COURT.

Application to High Court to set aside order or forfeiture.

23. (1) The keeper of a printing-press who has been ordered to deposit security under sub-section (3) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (3) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
* Now the Director of Posts, see Act XXV, 1950.

words, signs or visible representations of the nature described in section 4, sub-section (1).

(2) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (2) of section 12 on the ground that it has been used in contravention of sub-section (1) of that section may apply to the High Court to set aside the order on the ground that the press was not so used.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges. Hearing by Special Bench.

25. (1) If it appears to the Special Bench on an application under sub-section (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order. Order of Special Bench setting aside forfeiture.

(2) If it appears to the Special Bench on an application under sub-section (2) of section 23 that the printing-press was not used in contravention of sub-section (1) of section 12, it shall set aside the order of forfeiture.

(3) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

(4) Where there is no such majority which concurs in setting aside the order in question, the order shall stand.

26. On the hearing of an application under sub-section (1) of section 23 with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made. Evidence to prove nature or tendency of newspapers.

27. The High Court shall frame rules¹ to regulate the procedure in the case of such applications, the amount of the costs thereof, and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications. Procedure in High Court.

SUPPLEMENTAL.

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure : Service of notices.

Provided that, if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press (Registration) Act, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act ; and thereupon the notice shall be deemed to have been duly served.

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search-warrants under the Code of Criminal Procedure. Conduct of searches.

30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein Jurisdiction barred.

¹ For such rules, see High Court Notification No. 10 (Genl.), dated 12th March, 1940 as amended by Notification No. 8 (Genl.), dated 26th April, 1950, at p. 487 of the High Court Rules and Orders, Third Edition.

referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

Operation of other laws not barred.

31. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act.

Dissemination of contents of prescribed document.

32. (1) Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document, copies whereof have been declared to be forfeited to [the State]¹ under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the President of the Union has certified that the passage published, circulated or repeated contains, in the opinion of the President of the Union, seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, or sub-section (1) of section 4 of the Press (Emergency Powers) Act.

THE PUBLIC ORDER (PRESERVATION) ACT.

[BURMA ACT XVI, 1947.] (3rd April, 1947.)

WHEREAS it is expedient to make provisions for preserving peace and order in certain areas ; * * *

It is hereby enacted as follows :—

1. (1) This Act may be called the Public Order (Preservation) Act, 1947.

(2) It shall come into force at once, and shall remain in force until such date as the President of the Union may by notification declare it to be no longer in force.

(3) It shall extend to such areas² as the President of the Union may, from time to time, by notification, specify, and the President of the Union may, in such notification, exclude the operation of any provisions of this Act from such areas.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "the Code" means the Code of Criminal Procedure ;

(ii) "prejudicial act" means the following acts—

- (a) any act directly or indirectly connected with any unlawful activity having for its object the smuggling of opium or dangerous drugs contrary to any law for the time being in force ; or
- (b) any act which directly or indirectly abets or facilitates the commission of any offence in respect of firearms or ammunition contrary to the Arms Act for the time being in force ; or
- (c) any act which directly or indirectly abets or facilitates the smuggling of mineral ores or concentrates contrary to any law for the time being in force ; or

¹ This section was originally section 5 of India Act XXIII of 1932. The Burma Laws (Adaptation) Act, 1945 (Burma Act XXVII of 1945) directed that section 5 of that Act should be inserted herein as section 31 (32 ?).

² Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

³ For a list of areas to which this Act is extended, see Home Department Notification No. 1419, dated 19th December 1947 (*Burma Gazette*, 1947, Part I, p. 850), and same Department Notification, No. 2, dated 6th January 1949 (*Burma Gazette*, 1949, Part I, p. 43).

⁴ Substituted by Act IV, 1953.

- (d) any act which directly or indirectly abets or facilitates the commission of any offence in respect of foreign exchange contrary to the Foreign Exchange Regulation Act, 1947 ; or
- (e) any act which directly or indirectly abets or facilitates the smuggling of rice, rice products, paddy, timber, mineral oil, metals, metal scraps or precious stones contrary to any law for the time being in force.

3. Notwithstanding anything contained in the Code or in any other law for the time being in force in any area to which this Act extends—

- (a) any member of the Armed Forces serving in the Union of Burma who is authorized, by name or designation, by the President of the Union in this behalf may exercise the powers conferred upon police officers by the provisions of Chapter V of the Code as amended ;
- (b) the operation of the provisions of sub-section (3) of section 46 of the Code shall be suspended ;
- (c) section 61 of the Code shall have effect as if the expression " seventy-two hours " had been substituted for the expression " twenty-four " appearing therein ;
- ¹(d) sub-section (1) of section 260 of the Code shall have effect as if the following provisos had been added thereto, namely :—

" Provided that the President of the Union may, by notification, empower any Magistrate to try in a summary way any offence triable by a Magistrate of the first class, and that nothing contained in sub-section (2) of section 262 of the said Code shall apply to any case tried by virtue of such notification :

Provided further that, in any case tried by virtue of such notification the Magistrate shall record a memorandum of the substance of the evidence of each witness examined, may refuse to summon any witness if he is satisfied that the evidence of such witness will not be material and shall not be bound to adjourn a trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice."

² 3A. (1) Where an accused, in a trial before any criminal Court, has by his voluntary act rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing dispense with the attendance of the accused and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1) such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) shall not affect the right of the accused of being represented by a pleader at any stage of the trial, or being present in person if he has become capable of appearing or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in any trial shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any accused whose attendance has been dispensed with under sub-section (1).

4. (1) Notwithstanding anything contained in any law for the time being in force, the Deputy Commissioner and any officer who is authorized, by name or designation, by the President of the Union in this behalf may take hostages from or may impose fines in money or goods, or may confiscate or destroy the property

¹ Substituted by Act LXII, 1948.

² Inserted *ibid.*

or any part of the property of, the inhabitants of any village-tract, or may destroy by burning or by any other means any village or any part thereof, if after enquiry he finds that any substantial number of the inhabitants of such village-tract or village have—

- (a) taken part in or conspired to create a disturbance of the public tranquillity or attempted to create or abetted the creation of such disturbance or collected men, arms or ammunition or otherwise prepared to create a disturbance of the public tranquillity ;
- (b) taken part in or abetted the commission of or conspired to commit robbery or dacoity with arms.

(2) The Deputy Commissioner or such officer, as the case may be, may order the whole or any part of the fine imposed under sub-section (1) to be given as compensation to any person to whom damage or injury has been caused directly or indirectly by the act or acts in respect of which the fine is imposed.

5. (1) Any police officer not below the rank of a sub-inspector or any other officer of Government empowered in this behalf, by general or special order by the President of the Union, may [issue an order of arrest or]¹ arrest without warrant any person whom he * * * *² suspects of having acted, of acting, or of being about to act,—

- (a) in any manner calculated to disturb, or to assist a disturbance of the public tranquillity ;
- (b) in a manner prejudicial—
 - (i) to the safety of any place or area or of any industry, machinery or building in any such place or area ;
 - (ii) to the output or effective control of any such industry or machinery.

(2) Any officer who makes an arrest in pursuance of sub-section (1) shall forthwith report the fact of such arrest to the President of the Union, and pending the receipt of the orders of the President of the Union he may, by an order in writing, commit any person so arrested to such custody as the President of the Union may by general or special order specify :

Provided—

- (i) that no person shall be detained in custody under this sub-section for a period exceeding fifteen days without the order of the President of the Union ;
- (ii) that no person shall be detained in custody under this sub-section for a period exceeding two months.

(3) If any person arrested under clause (b) of sub-section (1) is prepared to furnish security, the officer who has arrested him may, instead of committing him to custody, release him on his executing a bond with or without sureties undertaking that he will not, pending the receipt of the orders of the President of the Union, enter, reside or remain in the areas in respect of which he became liable to arrest.

(4) On receipt of any report made under the provisions of sub-section (2) the President of the Union may, in addition to making such orders subject to the second proviso to sub-section (2) as may appear to be necessary for the temporary custody of any person arrested under this section, make, in exercise of any powers conferred upon the President of the Union by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the President of the Union in the circumstances of the case to be reasonable or necessary.

¹ Inserted by Act XXXVI, 1949.

² The word "reasonably" was deleted by Act LXII, 1948.

(5) When security has been taken in pursuance of the provisions of sub-section (3), the bond shall be deemed to be a bond taken under the Code by the District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

¹ 5A. (1) If the President of the Union is satisfied with respect to any particular person that with a view to preventing him from acting in any manner prejudicial to the public safety and the maintenance of public order [or from committing any prejudicial act]² it is necessary so to do, the President of the Union may make an order—

- (a) directing such person to remove himself from the Union of Burma in such manner, by such time and by such route as may be specified in the order, and prohibiting his return to the Union of Burma ;
- (b) directing that he be detained ;
- (c) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in the Union of Burma as may be specified in the order ;
- (d) requiring him to reside or remain in such place or within such area in the Union of Burma as may be specified in the order, and if he is not already there to proceed to that place or area within such time as may be specified in the order ;
- (e) requiring him to notify his movements in such manner, at such times and to such authority or persons as may be specified in the order ;
- (f) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, in respect of his control over minor children of whom he is parent or guardian, and in respect of his activities in relation to the dissemination of news or propagation of opinions ;
- (g) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order ;
- (h) otherwise regulating his conduct in any such particular as may be specified in the order ;

Provided that no order under clause (a) of this sub-section shall be made in respect of any [citizen of the Union]³.

(2) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be specified in the order.

(3) If any person is in any area or place in contravention of an order made under the provisions of this section or fails to leave any area or place in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-section (5), he may be removed from such area or place by any police officer or by any person acting on behalf of Government.

(4) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained, he shall be liable to be detained in such place, and under such conditions as to maintenance, discipline and the punishment of officers and breaches of discipline, as the President of the Union may from time to time determine.

¹ Inserted by Act XXVIII, 1947.

² Inserted by Act IV, 1953.

³ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (2), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

(6) If the President of the Union has reason to believe that a person in respect of whom he has made an order under sub-section (1) directing that the person be detained has absconded or is concealing himself so that such order cannot be executed the President of the Union may make a report in writing of the facts to a District Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate.

¹ 5B. (1) The President of the Union may, by order, direct that any person in respect of whom an order has been made under the provisions of section 5A, shall—

- (a) allow himself to be photographed ;
- (b) allow his finger and thumb impressions to be taken ;
- (c) furnish specimens of his handwriting and signature ; and
- (d) attend at such time and place before such authority or person as may be specified in the order for all or any of the purposes mentioned in this section.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

6. (1) The President of the Union may, by order, direct that, subject to any specified exemption, no person present within any specified area shall, between such hours as may be specified, be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) No Court shall take cognizance of an alleged offence under this section except on a report in writing of the facts constituting such offence made by a public servant.

² 6A. (1) The President of the Union may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

³ 6B. (1) If the President of the Union is satisfied that—

- (a) the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member

¹ Inserted by Act XXVIII, 1947.

² Inserted by Act LXXIX, 1947.

of [the Burma]¹ Forces or by a member of any official Police Force or of any force constituted under any law for the time being in force,

(b) the wearing or display in public of any distinctive dress or article of apparel or any emblem,

would be likely to prejudice the public safety or the maintenance of public order, the President of the Union may, by general or special order, prohibit or restrict the wearing or display in public of any such dress, article of apparel or emblem.

(2) For the purposes of this section, a dress, an article of apparel or an emblem shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(3) If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

7. The President of the Union may by order direct that any power which is conferred upon him by [sections 5, 5A, 5B, 6, 6A and 6B]² shall, subject to such conditions as may be specified therein, be exercised by such officer or authority as he may specify.

8. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public order and safety.

9. (1) No order made in exercise of any power conferred by or under this Act shall be called into question in any Court.

(2) Where an order purports to have been made and signed by any officer or authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Evidence Act, presume that such order was made by that officer or authority until the contrary be proved.

10. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the [Union of Burma]¹ for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Act.

THE REQUISITIONING (EMERGENCY PROVISIONS) ACT:

[BURMA ACT XXXVIII, 1947.] (28th July, 1947.)

WHEREAS it is expedient to make provisions for requisitioning lands and premises in certain respects;

* * * *

It is hereby enacted as follows:—

1. (1) This Act may be called the Requisitioning (Emergency Provisions) Act, 1947.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Amended by Acts XXVIII, 1947, LXXIX, 1947 and LXII, 1948.

(2) It shall remain in force until such date as the President of the Union may, by notification, direct that it shall cease to be in force.

2. (1) The President of the Union may by order in writing requisition any land, building, part of a building, or other premises, together with any fixtures, fittings, furniture or other things therein, or any water-supply system connected or pertaining to such land or premises, and may make such further orders as appear to the President of the Union to be necessary or expedient in connection with the requisitioning :

Provided that no land, premises or things used for the purpose of religious worship shall be requisitioned under this Act :

Provided also that no land, premises or things shall be requisitioned under this Act for any person who is not a public servant, or whose work or duty is not connected with the Government, or in respect of whom the Government is under no obligation to make a requisition, or who is not a representative, or a member of the diplomatic mission, of another country, or a visitor from a foreign [State].¹

²(2) Where the President of the Union has requisitioned any land, premises water-supply system or thing under sub-section (1), the President of the Union may use such land, premises, water-supply system or thing in such manner as he may consider necessary or expedient, but shall have no power to dispose of any such land, premises, water-supply system or thing.

(3) The President of the Union may by order :—

- (a) require the owner or occupier of any land, building, part of a building, or other premises to furnish to such authority as may be specified in the order such information in his possession relating to the land, building, part of a building, or other premises, or to any fixtures, fittings, furniture or other things therein, or to any water-supply system connected or pertaining thereto, as may be so specified ;
- (b) direct that such owner or occupier shall not, without the permission of the President of the Union, dispose of such land, building, or other premises, or of any fixtures, fittings, furniture, or other things therein, or of any water-supply system connected or pertaining thereto, till the expiry of such period as may be specified in the order.

(4) If any person contravenes any order made in pursuance of this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

3. (1) The President of the Union may by order in writing require the owner, or the person having the management, of any warehouse or cold storage dépôt to place at the disposal of Government the whole or any part of the space or accommodation available in such warehouse or cold storage dépôt and to employ such space or accommodation for the storage of any articles or things specified in the order ; and such an order may require the said owner or person to afford such facilities, and maintain such services, in respect of the storage of such articles or things, as may be specified.

(2) Whenever in pursuance of an order made under sub-section (1) any space or accommodation in a warehouse or cold storage dépôt is placed at the disposal of the Government the owner of such warehouse or cold storage dépôt shall be paid therefor at such rates as the President of the Union may by order made in this behalf determine.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by Act LV, 1947.

(3) If any person contravenes any order made in pursuance of this section he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

4. (1) The Government may cause any reasonable repair to be made to any building which is requisitioned under this Act and deduct the expenses of the repair from the rent, or otherwise recover it from the lessor.

(2) The provisions of sub-section (1) shall apply to the requisitions of the buildings made or purported to have been made under Rule 76 of the Defence of Burma Rules before the commencement of this Act, as if the said requisitions had been validly made under the provisions of this Act.

¹ 4A. The President of the Union may, by order, direct that any power which is conferred upon him by section 2, section 3 and section 4 shall, subject to such conditions as may be specified therein, be exercised by such officer or authority as he may specify.

5. Notwithstanding anything contained in any other law, all requisitions of property or things made or purported to have been made under Rule 76 and Rule 79 of the Defence of Burma Rules before the commencement of this Act shall be deemed to have been made under the provisions of this Act, as if this Act were in force at the time the requisitions were made; and no such requisitions shall be deemed to be invalid by reason only that they were made in contravention of the provisions of the provisos to the said Rule 76 (1).

6. ²(1) Where any property or thing is requisitioned, or is deemed to have been requisitioned, under the provisions of this Act, the owner of such property or thing shall be paid such compensation for any loss he may have sustained as a result of such requisitioning as may be fixed in accordance with the provisions of this section.

(2) In default of agreement between the Government and the owner of the property, the President of the Union shall, by general or special order, specify the authority or person through which or whom any claim for compensation under sub-section (1) shall be submitted and the authority or person by which or whom any such claim shall be adjudged or awarded.

(3) The President of the Union may further, by general or special order, prescribe the conditions to which the authority or person responsible for adjudging or awarding claims for compensation shall have regard when determining the amount of compensation payable, and may give such supplementary orders as to the assessment and payment of compensation as may appear to him to be necessary or expedient.

³(4) No compensation shall be payable under the provisions of this section unless the owner of the property or thing, requisitioned or deemed to have been requisitioned under the provisions of this Act, submits his claim for such compensation within ninety days from the date on which the said property or thing was de-requisitioned.

⁴ 6A. (1) Where any requisitioned land, building, part of a building or other premises is to be released from requisition, the President of the Union may, after making such inquiry, if any, as he considers necessary, specify by order in writing the person to whom possession of the said land, building, part of a building or other premises shall be given.

¹ Inserted by Act LV, 1947.

² Substituted *ibid.*

³ Inserted by Act LXXIV, 1951.

⁴ Inserted by Act LXXV, 1951.

(2) The delivery of possession of the requisitioned land, building, part of a building, or other premises to the person specified in an order made under sub-section (1) shall be a full discharge of the President of the Union from all liability in respect of such delivery, but shall not prejudice any rights in respect of the said land, building, part of a building or other premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the said land, building, part of a building or other premises is so delivered.

(3) Where the person to whom possession of any requisitioned land, building, part of a building or other premises is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the President of the Union shall cause a notice, declaring that the said land, building, part of a building or other premises is released from requisition, to be affixed on some conspicuous part of the said land, building, part of the building or other premises and publish the notice in the Gazette.

(4) When notice referred to in sub-section (3) is published in the Gazette, the land, building, part of a building or other premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the President of the Union shall not be liable for any compensation or other claim in respect of the said land, building, part of a building or other premises for any period after the said date.

7. The provisions of this Act shall be deemed to supersede the provisions of all other laws in so far as the latter are inconsistent with or repugnant to the provisions of this Act.

THE PUBLIC UTILITIES PROTECTION ACT.

[BURMA ACT XLI, 1947.] (1st August, 1947.)

It is hereby enacted as follows :—

1. This Act shall be deemed to have come into force with effect from the first day of August 1947.

2. No person shall do any act with intent to impair the efficiency or impede the working of, or to cause damage to—

- (a) any buildings, vehicle, machinery, apparatus or other property used, or intended to be used, for the purposes of Government;
- (b) any railway (as defined in the Railways Act), tramway, road, canal, bridge, culvert, causeway, port, dockyard, lighthouse, aerodrome, or telegraph (as defined in the Burma Telegraph Act);
- (c) any rolling-stock of a railway or tramway, any vessel or aircraft;
- (d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory.

3. The provisions of section 2 shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

4. If any person approaches, or is in the neighbourhood of, any such building, place or property as is mentioned in section 2, in circumstances which afford reason to believe that he intends to contravene that section, he shall be deemed to have attempted a contravention thereof.

5. No person shall interfere with or damage or without permission remove any stores or equipment or other property whatsoever belonging to or consigned to the Burma Forces or the Forces of a Power in alliance with the Union of Burma.

6. If any person contravenes any of the provisions of this Act, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

7. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of, any of the provisions of this Act shall be deemed to have contravened that provision.

THE BANKERS' BOOKS (INSPECTION) ACT.

[BURMA ACT XLVI, 1947.] (9th August, 1947.)

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It is hereby enacted as follows :—

1. This Act shall remain in force until the President of the Union, by notification, declares it to be no longer in force.

2. The expressions "bank" and "certified copy" shall have the same meaning as is defined in the Bankers' Books Evidence Act.

3. Notwithstanding anything contained in any other law, where any person is arrested or detained [or where an order of arrest has been issued against any person]¹ under section 5 (1), 5A (1) or section 5A (1) read with section 7 of the Public Order (Preservation) Act, 1947, the Inspector-General of Police or the Commissioner of Police, Rangoon, may, if he thinks it fit to do so,—

- (a) inspect or cause, in writing, to be inspected, by an officer not below the rank of District Superintendent of Police whose name is specified therein, any book belonging to or under the control of a bank ;
- (b) direct the manager or agent of the bank to supply a certified copy of any entry in the book of the bank or give any information in the possession of the bank, relating to the account of such person ;
- (c) prohibit the manager or agent of the bank from making any payment from the amount standing to the credit of such person without an order in writing of the officer making the prohibition.

²3A. Notwithstanding anything contained in any other law for the time being in force, where any person subject to the Burma Army Act, the Burma Naval Discipline Act, 1947, or the Burma Air Force (Discipline) Act, 1947, is charged with an offence and taken into custody, or where an order of arrest has been issued against any such person, under section 25 (a), 25 (b), 25 (c), 25 (d), 25 (e), 25 (f), 26 (a), 27 (a), 27 (b), 27 (c), 29, 30 (d), 31 (a), 31 (b), 31 (c), 31 (d), 31 (e), 31 (f), 35 (a), 35 (b), 35 (f), 36 (c), 36 (d), 39 (g) or section 41 of the Burma Army Act, under section 3 (3), 8, 11, 13, 20 (1), 29, 31, 34, 36, 40, 42 or section 44 of the

¹ Inserted by Act XXXVII, 1949.

² Inserted by Act XLI, 1951.

Burma Naval Discipline Act, 1947, or under section 31 (d), 31 (g), 34 (a), 34 (b), 38, 44 (a), 44 (d), 49 (a), 49 (d), 49 (e), 50 (c), 50 (d), 53 (a), 53 (d), 53 (f) or section 54 (g) of the Burma Air Force (Discipline) Act, 1947, the General Officer Commanding, Burma Army, the Chief of Naval Staff, or the Chief of Air Staff, as the case may be, may, if he thinks fit to do so,—

- (a) inspect or cause, in writing, to be inspected, by an officer subject to the Burma Army Act, the Burma Naval Discipline Act, 1947, or the Burma Air Force (Discipline) Act, 1947, not below the rank of Field Officer, Lieutenant-Commander or Squadron-Leader whose name is specified therein, any book belonging to or under the control of a bank ;
- (b) direct the manager or agent of the bank to supply any document, negotiable instrument, or a certified copy of an entry in the book of the bank, or give any information in the possession of the bank, relating to the account of such person ;
- (c) prohibit the manager or agent of the bank from making any payment from the amount standing to the credit of such person without an order in writing of the officer making the prohibition.

4. If the manager or agent of a bank, as the case may be, fails or refuses to allow inspection of any book belonging to or under the control of the bank or comply with any direction or prohibition issued under section 3, he shall be liable to punishment with imprisonment for a term which may extend to three years, or with fine, or with both.

THE ESSENTIAL SUPPLIES AND SERVICES ACT.

[BURMA ACT XLVII, 1947.] (1st August, 1947.)

It is hereby enacted as follows :—

1. This Act shall come into force on the first day of August, 1947, and shall remain in force until the President of the Union, by notification, directs that it shall cease to be in force.

2. In this Act, the expression—

- (a) "undertaking" means any undertaking by way of trade or business or to provide any public service ;
- (b) "cattle" means bulls, bullocks, cows, calves, buffaloes (male and female) and buffalo calves.

3. The President of the Union may, so far as appears to him to be expedient for maintaining supplies and services essential to the life of the community, by order provide—

- (1) for regulating or prohibiting the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of things of any description ;

and, in particular, for prohibiting the withholding from sale, either generally or to specified persons, of things kept for sale, and for requiring things kept for sale to be sold either generally or to specified persons or classes of persons or in specified circumstances ;

- ¹(1A) for regulating or prohibiting or restricting the hire or charter of aircraft or for regulating the loading of, or for prohibiting or restricting the carriage of goods by, any aircraft ;
- ²(1B) for controlling the use or disposal of, or dealings in, coin which is legal tender in the Union of Burma ;
- ³(1C) for regulating or prohibiting the use, keeping, movement or disposal of animals employed in connection with any timber industry ;
- ⁴(1D) for providing or regulating water supply and environmental sanitation in rural areas ;
- ⁵(1E) for providing or regulating the business of taking goods and chattels in pawn for loans of money ;
- (2) for controlling the prices or rates at which things of any description may be sold or hired ;
- (3) for controlling the rates at which any vessel registered in the Union of Burma may be hired and the rates at which persons or goods may be carried in or on any such vessel ;
- (4) for regulating the letting and sub-letting in any area of residential accommodation, whether furnished or unfurnished and whether with or without board, and, in particular,—
 - (i) for controlling the rents for such accommodation ;
 - (ii) for preventing the unreasonable eviction of tenants and sub-tenants from such accommodation ; and
 - (iii) for requiring such accommodation to be let either generally, or to specified persons or classes of persons, or in specified circumstances ;
- (5) for regulating the carrying on of any undertaking engaged in, or capable of doing, work appearing to the President of the Union essential to any of the abovementioned purposes, and, in particular,—
 - (i) for requiring work to be done by an undertaking ;
 - (ii) for determining the order of priority in which, and the period or periods within which, work shall be done by an undertaking ;
 - (iii) for controlling or fixing the charges which may be made by the undertakers in respect of the doing of any work by them ;
 - (iv) for requiring, regulating or prohibiting the engagement in the undertaking, of any employee or any class of employees ;
 - (v) for requiring any person or class of persons engaged in such work to reside in and remain within any place specified in the order, and to continue to perform such work or such other work of the same nature as may be directed by an authority specified in the order ;
 - (vi) for requiring the undertaking to provide adequate safeguards against sabotage, theft, fire or other accident ;
- (6) for requiring persons carrying on any undertaking to keep such books, accounts and records relating to the undertaking and to employ such accounting and auditing staff, as may be specified in the order ;

¹ Inserted by Acts XV and XXVI, 1950.

² Inserted by Act XIV, 1950.

³ Inserted by Act XLIX, 1950.

⁴ Inserted by Act V, 1953.

⁵ Inserted by Act II, 1954.

- (7) for requiring persons carrying on, or employed in connection with, any undertaking to produce to such authority as may be specified in the order any books, accounts or other documents relating to the undertakings ; and for requiring such persons to furnish to such authority as may be specified in the order such estimates, returns, or other information relating to the undertaking as may be specified in the order or demanded thereunder ;
- ¹(7A) for requiring measures to be taken, as may be specified therein, by any person or persons for the purpose of preventing loss of any supplies or money or valuable securities, belonging to or in the possession or under the control of or payable to the Civil Supplies Department, and for empowering any such person or persons to arrest without warrant ;
- (8) for any incidental and supplementary matters for which the President of the Union thinks it expedient for the purposes of the order to provide, including, in particular, the entering and inspection of premises to which the order relates with a view to securing compliance with the order ;

and an order under this Act may prohibit the doing of anything regulated by the order except under, and in accordance with the conditions of, a licence granted by such authority as may be specified in the order, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and either to the whole or to any part of any undertaking, and so as to have effect either generally or in any particular area.

4. If it appears to the President of the Union that for maintaining supplies and services essential to the life of the community, it is necessary to exercise control over the whole or any part of an existing undertaking, the President of the Union may by order authorize any person (hereinafter referred to as an "authorized controller") to exercise, with respect to the undertaking or any part thereof specified in the order, such functions of control as may be provided by the order, and so long as an order made under this section is in force with respect to any undertaking or part of an undertaking—

- (1) the authorized controller shall exercise his functions in accordance with any instructions given to him by the President of the Union, so, however, that he shall not have power to give any directions inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order ; and
- (2) the undertaking or the part shall be carried on in accordance with any directions given by the authorized controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

5. (1) If in the opinion of the President of the Union it is expedient so to do for securing the public safety, the maintenance of public order, or for maintaining supplies and services essential to the life of the community, the President of the Union may by order in writing requisition any animal, product, or thing, and may make such further orders as appear to the President of the Union to be expedient in connection with the requisitioning.

¹ Inserted by Act LXI, 1947.

(2) Where the President of the Union has requisitioned any animal, product, or thing under sub-section (1), the President of the Union may use or deal with the animal, product or thing in such manner as may appear to him to be expedient, and may acquire it by serving on the owner thereof a notice stating that the President of the Union has acquired it under this Act.

Where such notice of acquisition is served on the owner of the animal, product, or thing, then, at the beginning of the day on which the notice is served, the animal, product or thing shall vest in the President of the Union free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end.

¹ (3) Whenever in pursuance of sub-section (1) or sub-section (2) the President of the Union requisitions or acquires any animal, product or thing, the owner thereof shall be paid compensation to such extent as may be determined in accordance with the provisions which the President of the Union shall, by special or general order, prescribe.

(4) The President of the Union may, with a view to the requisitioning of any animal, product or thing, or the determining of the compensation payable in respect of any animal, product or thing which has been requisitioned, by order—

- (i) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the animal, product or thing as may be so specified ;
- (ii) direct that the owner, or person in possession, of the animal, product or thing shall not, without the permission of the President of the Union, dispose of it till the expiry of such period as may be specified in the order.

6. The President of the Union may, if in his opinion it is expedient so to do for the purpose of maintaining supplies and services essential to the life of the community, by order, prohibit or restrict, or impose conditions upon, the slaughter of cattle and sale of meat of cattle in the Union of Burma or in any area thereof.

7. The President of the Union may by order direct that any power or duty which is conferred or imposed on him by this Act shall in such circumstances and under such conditions, if any, as may be specified in the direction be exercised or discharged—

- (a) by any officer or authority subordinate to the President of the Union, or
- (b) by any other authority.

8. (1) Whoever contravenes any provision of any order, or direction issued under any order, made under sections 3, 4 and 5 of this Act shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

² (2) All things in respect of which an offence punishable under sub-section (1) has been committed shall be liable to confiscation by order of the Court trying the offence.

The receptacles, packages and coverings of such things, and the vessel, vehicle or means of transport used for the conveyance thereof shall also be liable to confiscation unless the owner proves that he had no reason to believe that such an offence was being or was likely to be committed.

(3) If any person contravenes any order made under section 6 of this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

¹ Substituted by Act XXI, 1953.

² Amended by Act LXI, 1947.

¹(4) In any prosecution under sub-section (1) relating to a violation of any direction made under any order issued under section 3, the burden of proving that he has acquired lawfully, or has come into authorized possession of an essential commodity, shall lie on the person in whose possession such commodity is found.

Explanation.—A person shall be deemed to have acquired or to have come into lawful possession of an essential commodity only if such acquisition or possession is permitted under a general or special licence issued by the Commissioner of Civil Supplies or by an officer or officers authorized by him in his behalf.

²9. The following orders shall be deemed to continue to be in force as if the said orders had been made under the provisions of this Act :—

- (a) The Burma Rationing (Preparatory Measures) Order, 1946.
- (b) The Burma Rationing Order, 1946.
- (c) The Civil Supplies Order, 1947.
- (d) The Paper Control Order, 1947.
- (e) The Inland Water Transport Order, 1946.
- (f) Compulsory Declaration of Paddy and Rice Stocks Order, 1946.
- ³(g) The Road Transport Order, 1947.

⁴10. No suit, prosecution or other proceedings shall be instituted in any Court against any person or persons in respect of anything in good faith done or intended to be done under the provisions of this Act or any Order made under this Act.

THE PUBLIC PROPERTY PROTECTION ACT.

[BURMA ACT LXXXIII, 1947.] (24th December, 1947.)

It is hereby enacted as follows :—

1. This Act shall remain in force until such date as the President of the Union may by notification declare it to be no longer in force.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "Public property" means any store or equipment or any other property whatsoever belonging to, or consigned to, or intended for the use of the army, naval or air forces serving in the Union of Burma or belonging to, or consigned to, or intended for the use of, the Government of the Union of Burma or any local authority * * * * * constituted under any law ; and

(ii) "prejudicial act" means the following acts :—

(a) any act directly or indirectly connected with, or relating to, any unlawful activity having for its object the smuggling of any

¹ Inserted by Act V, 1948.

² In section 9, clauses (f), (g), (h) and (j) were deleted, and clauses (b) and (k) re-lettered as (f) and (g), respectively, by Act XIII, 1951.

³ Inserted by Act LXXX, 1947.

⁴ Inserted by Act LXI, 1947.

⁵ Deleted by Act XVII, 1951.

property in and out of the Union of Burma in contravention of import and export orders and rules duly made by the Government under the * * *¹ Control of Imports and Exports (Temporary) Act, 1947 ; or

- (b) any act which directly or indirectly abets or incites or facilitates the commission of any offence in respect of any Public property or the contravention of any rule or order made under this Act, the * * *¹ Control of Imports and Exports (Temporary) Act, 1947, the Public Utilities Protection Act, 1947, the [Foreign Exchange Regulation Act, 1947],² the Essential Supplies and Services Act, 1947 ; or
- (c) any wilful negligence, mismanagement or default on the part of a person who has, or has had, the custody, charge or control of any Public property, resulting directly or indirectly in loss, deterioration or destruction of any such Public property ;
- (d) and dealing by any person directly or indirectly in any Public property which gives rise to a suspicion that the person concerned has obtained such Public property either by commission of theft, misappropriation, mischief, breach of trust or by any wrongful means.

3. If any person finds any Public property which he has cause to believe to have been lost or abandoned and that, prior to the loss or abandonment, was in the possession of a person who was serving with an armed force or under the Government, the person so finding such property—

- (a) shall report the nature and situation thereof, or if such property is a document, cause it to be delivered to some member of the army, naval or air forces serving in the Union of Burma on duty in the neighbourhood, or to the Officer-in-Charge of a police station in the neighbourhood ; or if such property is found outside the Union of Burma, shall take such steps as are practicable to secure that the nature and situation thereof are reported, or, if such property is a document, that it is delivered as soon as may be, to some person in the service of the Government ; and
- (b) shall not, save as aforesaid, remove or tamper with such property, except with the permission of the President of the Union.

4. The President of the Union may by order direct that the obligation and restrictions imposed by section 3 shall not apply to any Public property of such description as may be specified therein or as may be specified by such authority as the President of the Union may appoint in this behalf.

5. If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

6. (1) Notwithstanding anything contained in any other law for the time being in force, if any person is in unauthorized possession of any Public property, or commits theft, misappropriation or mischief in respect of any Public property, he shall be punishable with imprisonment for a term which may extend to seven years, or with whipping, or with both imprisonment and whipping, and shall also be liable to fine.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
² Inserted by Act XVII, 1951.

(2) In any prosecution under sub-section (1) the burden of proving that the possession is authorized shall lie on the person in whose possession any such Public property is found.

7. (1) Any police officer not below the rank of a sub-inspector or any other officer of Government empowered in this behalf by general or special order by the President of the Union may, with the prior approval of such authority as may be prescribed by the President of the Union, arrest without warrant any person whom he suspects of having committed or of committing any of the offences mentioned in sub-section (1) of section 6 in respect of any Public property.

¹(2) Any officer authorized in this behalf by general or special order by the President of the Union may arrest without warrant any person whom he suspects of having committed or of committing any prejudicial act ;

²(2A) Any officer authorized in this behalf by general or special order by the President of the Union, may, if he is satisfied with respect to any particular person that circumstances exist which render it necessary to arrest him with a view to preventing him from committing any offence mentioned in section 6 (1) or an offence of criminal breach of trust in respect of any Public property, or any prejudicial act, do so without warrant ;

(3) Any officer who makes an arrest in pursuance of sub-section (1) or sub-section (2) [or sub-section (2A) or who makes an arrest for an offence of criminal breach of trust in respect of any Public property]³ shall forthwith report the fact of such arrest to the President of the Union, and pending the receipt of the orders of the President of the Union, he may, by an order in writing, commit any person so arrested to such custody as the President of the Union may, by general or special order, specify :

Provided—

- (i) that no person shall be detained in custody under this sub-section for a period exceeding fifteen days without the order of the President of the Union ;
- (ii) that no person shall be detained in custody under this sub-section for a period exceeding six months.

(4) If any person arrested under sub-section (1) or sub-section (2) is prepared to furnish security, the officer who has arrested him may, subject to such general or special instructions as may from time to time be issued by the President of the Union or any person authorized by the President of the Union in this behalf, release him on his executing a bond, with or without sureties, undertaking that he will conform to such conditions or directions as the President of the Union may from time to time make.

⁴(5) On receipt of any report made under sub-section (3), the President of the Union may, by order, direct, subject to the second proviso to sub-section (3), that a person arrested under this section be detained for such period as he may deem necessary for the purpose of making an investigation.

(6) When security has been taken in pursuance of the provisions of sub-section (4), the bond shall be deemed to be a bond taken under the Code of Criminal Procedure by the District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the Code of Criminal Procedure shall apply accordingly.

⁵(7) The order of detention under sub-section (5) shall not be deemed to authorize the continued detention of the person in respect of whom it had been

¹ Substituted by Act XVII, 1951 and subsequently by Act XLIII, 1951.

² Inserted by Act XLIII, 1951.

³ Substituted *ibid*.

made after he is sent up for trial before any competent Court; but the Court before which the trial or enquiry is held, shall not release the accused on bail unless it is established that the accused, if released on bail, is not likely to suborn any witness or cause the disappearance of any evidence or secret or destroy any document which may be used as evidence against him.

8. (1) Notwithstanding anything contained in any other law for the time being in force, where any person is arrested or detained under section 7, the Inspector-General of Police, or the Commissioner of Police, Rangoon, or any other officer of the Government empowered by the President of the Union in this behalf, may, if he thinks fit so to do,—

- (a) inspect or cause, in writing, to be inspected, by an officer not below the rank of District Superintendent of Police whose name is specified therein, any book belonging to, or under the control of, a bank; or
- (b) direct the manager or agent of the bank to supply a certified copy of any entry in the book of the bank or give any information in the possession of the bank, relating to the account of such person [or to any other person dependent on him, or relating to any property kept in the safe custody of the bank in the name of such person or of any other person dependent on him]¹; or
- (c) prohibit the manager or agent of the bank from making any payment from the amount standing to the credit of such person [or of any other person dependent on him or from delivering any property kept in the safe custody of the bank in the name of such person or any other person dependent on him,]¹ without an order in writing of the officer making the prohibition.

(2) The expressions "bank" and "certified copy" shall have the same meanings as are assigned to them under the Bankers' Books Evidence Act.

(3) If the manager or agent of a bank, as the case may be, fails or refuses to allow inspection of any book belonging to, or under the control of, the bank, or to comply with any direction or prohibition issued under sub-section (1), he shall be liable to punishment with imprisonment of a term which may extend to three years, or with fine, or with both.

9. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of any of the provisions of this Act, shall be deemed to have contravened that provision.

10. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Act.

11. The State Property Protection Act, 1947, Burma Act No. XLIII of 1947, is hereby repealed; but notwithstanding such repeal anything purported to be done or any action purported to be taken in exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers under this Act.

¹ Inserted by Act XVII, 1951.

THE SEARCH (SPECIAL POWER) ACT.

[BURMA ACT XXXV, 1947.] (30th December, 1947.)

It is hereby enacted as follows :—

1. This Act shall remain in force until such date as the President of the Union may by notification declare it to be no longer in force.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (i) "vehicle" means any vehicle used, or capable of being used, for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise, and includes a tram-car and a trolley-vehicle; and
- (ii) "place" includes a house, building, tent, vehicle and aircraft.

3. (1) The President of the Union may by general or special order empower any person to—

- (a) stop and search any vessel found in inland waterways or any vehicle;
- (b) search any place or person, and seize anything which he has reason to believe has been, is being, or is about to be, used for any purpose prejudicial to the maintenance of public safety or order, or of the supplies or services essential to the life of the community, or which belongs to Government and in respect of which an offence has been, is being, or is about to be committed.

(2) Any person empowered under sub-section (1) shall forthwith report to the President of the Union in detail any seizure made by him and, pending the receipt of his orders, may detain in custody anything so seized or take such other order for its safe custody as he may think proper.

(3) Anything seized by a person empowered under sub-section (1) shall be disposed of in such manner as the President of the Union may direct.

(4) A person empowered by the President of the Union under sub-section (1) may authorize any other person to exercise like powers to his own in the whole or any part of the area in respect of which the President of the Union has empowered him.

4. The President of the Union may by order direct that any power which is conferred upon him by sub-sections (1) and (3) of section 3 shall, subject to such conditions as may be specified therein, be exercised by such officer or authority as he may specify.

အရေးပေါ်စီမံမှုအက်ဇဉ်

[၁၉၅၀ ပြည့်နှစ်၊ အက်ဇဉ်အမှတ် ၁၇။] (၁၉၅၀ ပြည့်နှစ်၊ မတ်လ ၉ ရက်။)

အောက်ပါအတိုင်းအက်ဇဉ်အဖြစ်ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။ ဤအက်ဇဉ်ကို ၁၉၅၀ ပြည့်နှစ်၊ အရေးပေါ်စီမံမှုအက်ဇဉ်အမှတ် ၁၇။

၂။ ။ နိုင်ငံတော် ငြိမ်ဝပ်ပိပြားရေးကို ထိန်းသိမ်းဆောင်ရွက်ရန်တာဝန် ဝတ်တရားကို ဆောင်ရွက်နေသည့် နိုင်ငံတော်လက်နက်ကိုင် စစ်တပ်အစည်းအရုံးများ၏၊ သို့တည်းမဟုတ် ရာဇဝတ် အမှုထမ်းအဖွဲ့များ၏ ချီဘက်သွားလာခြင်း၊ အရေးအတွက်၊ အကြောင်းချင်းရာ၊ အခြေအနေ၊

သို့တည်းမဟုတ်အနေအထားတို့ကိုဖြစ်စေ၊ အဆိုပါအစည်းအရုံးအဖွဲ့များ၏ ဆောင်ရွက်ရေးအစီအစဉ်များကိုဖြစ်စေ၊ အဆိုပါအစည်းအရုံးအဖွဲ့တို့က မည်သည့်ဒေသကိုမဆို၊ ခုခံကာကွယ်ရန်ရည်ရွယ်၍ သော်၎င်း၊ ခုခံကာကွယ်ရေးနှင့် ပတ်သက်၍သော်၎င်း၊ ပြုလုပ် ဆောင်ရွက်ခြင်းများကိုဖြစ်စေ၊ နိုင်ငံတော် သစ္စာဖောက်ဖျက်ပုန်ကန်မှုကြီးကိုကျူးလွန်သူတို့တယောက်သို့၊ မည်သူမဆိုအကြောင်းကြားလျှင်၊ သို့တည်းမဟုတ် ဤသို့အကြောင်းကြားရန် ရည်ရွယ်၍အဆိုပါ ကိစ္စအရပ်ရပ်နှင့်ပတ်သက်သည့်အကြောင်းအရာများကိုရှာဖွေစုဆောင်းလျှင်၊ သို့တည်းမဟုတ် ရှာဖွေစုဆောင်းရန်လုံ့လပြုလျှင်၊ ထိုသူအားသေဒဏ်၊ သို့တည်းမဟုတ်တသက်တကျွန်းဒဏ်ထိုက်သင့်စေရမည်။

၃။ ။ မည်သူမဆို နိုင်ငံတော်ငြိမ်ဝပ်ပိပြားရေးကို ထိန်းသိမ်းဆောင်ရွက်ရန် တာဝန်ဝတ်တရားကို ဆောင်ရွက်နေသည့် နိုင်ငံတော်လက်နက်ကိုင်စစ်တပ်အစည်းအရုံးများ၏၊ သို့တည်းမဟုတ် ရာဇဝတ်အမှုထမ်းအဖွဲ့များ၏ ဆောင်ရွက်မှုအောင်မြင်ရေးကို၊ နှောင့်နှေးစေရန်သော်၎င်း၊ ပျက်ပြားစေရန်သော်၎င်း၊ အကြောင်းရှိသည့် အမှုတရပ်ရပ်ကို ကြံရွယ်၍ပြုမူဆောင်ရွက်လျှင်၊ ထိုသူအားသေဒဏ်၊ သို့တည်းမဟုတ်တသက်တကျွန်းဒဏ်ထိုက်သင့်စေရမည်။

၄။ ။ နိုင်ငံတော် သစ္စာဖောက်ဖျက်ပုန်ကန်မှုကြီးကို ကျူးလွန်ခဲ့သူအား သို့တည်းမဟုတ် ကျူးလွန်ဆဲဖြစ်သူအား ကူညီရန်ကြံရွယ်၍ဖြစ်စေ၊ ကူညီရာရောက်စေမည်ဟု သိလျက်နှင့်ဖြစ်စေ၊ မည်သူမဆို

- (က) မီးရထားလမ်းကိုဖြစ်စေ၊ ဥမင်ကိုဖြစ်စေ၊ မီးရထားသွားလာမှုကိုဖြစ်စေ၊ အနှောင့်အရှက်ပြုလျှင်၊ သို့တည်းမဟုတ်
- (ခ) မီးရထားလမ်းများ၊ဥမင်များနှင့်ပတ်သက်သောဝတ္ထုပစ္စည်းတရပ်ရပ်ကိုပျက်စီးစေလျှင်၊ သို့တည်းမဟုတ်
- (ဂ) အစိုးရပိုင်ပိုင်ယာလက်၊ သို့တည်းမဟုတ်ကြေးနန်းဆက်သွယ်ရေး၊ သို့တည်းမဟုတ် စကားပြော ကြေးနန်းဆိုင်ရာ ကြိုးတိုင်ကိုဖြစ်စေ၊ တိုင်ကိရိယာကိုဖြစ်စေ၊ အခြားဝတ္ထုပစ္စည်းကိုဖြစ်စေ၊ ပျက်စီးစေလျှင်၊ သို့တည်းမဟုတ် အနှောင့်အရှက်ပြုလျှင်၊ သို့တည်းမဟုတ်
- (ဃ) ကြေးနန်း၊ သို့တည်းမဟုတ် စကားပြောကြေးနန်းဖြင့် ပေးပို့သောသတင်းစကားကို ကြားဖြတ်၍ ဖတ်ရှုနားထောင်ရန် ရည်ရွယ်ချက်ဖြင့် သက်ဆိုင်ရာဝတ္ထုပစ္စည်းတခုခုကို ပျက်စီးစေလျှင်၊ သို့တည်းမဟုတ် အနှောင့်အရှက်ပြုလျှင်၊ သို့တည်းမဟုတ် ဖြတ်တောက်လျှင်၊ သို့တည်းမဟုတ်
- (င) လေယာဉ်ပျံ၊ လေယာဉ်ပျံကွင်း၊ သို့တည်းမဟုတ် လေကြောင်း သွားလာရေးနှင့်ပတ်သက်သော ကိရိယာ တန်ဆာပလာ ဝတ္ထုပစ္စည်း တခုခုကို ပျက်စီးစေလျှင်၊ သို့တည်းမဟုတ် အနှောင့်အရှက်ပြုလျှင်

ထိုသူအား သေဒဏ်ဖြစ်စေ၊ တသက်တကျွန်းဒဏ်ဖြစ်စေ ထိုက်သင့်စေရမည်။

၅။ ။ (က) ပြည်ထောင်စု လက်နက်ကိုင်စစ်တပ် အစည်းအရုံး များက၊ သို့တည်းမဟုတ် အစိုးရအရာထမ်းအမှုထမ်းများက အစိုးရအပေါ်တွင် မေတ္တာပျက်စေရန်သော်၎င်း၊ စည်းကမ်းဖီဆန်ရန်သော်၎င်း၊ သစ္စာမဲ့ရန်သော်၎င်း၊ ထိုသူတို့ သစ္စာစောင့်ထိန်းမှု၊ စိတ်ဓါတ်တက်ကြွမှု၊ စည်းကမ်းသေဝပ်မှု၊ ကျန်းမာမှု၊ လေ့ကျင့်မှု၊ သို့တည်းမဟုတ် ဝတ်တရားဆောင်ရွက်မှုကို ယုတ်

* ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၄၂ အရ အစားထည့်သွင်းသည်။

သေချာစေရန်၊ ထိခိုက်စေရန်၊ တားမြစ်စေရန်၊ အနှောင့်အယှက်ပြုစေရန်၊ ပျက်စီးစေရန်ကြံရွယ်လျက် တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေ ရန်အကြောင်းရှိသောအမှုကိုပြုလျှင်၊

- (ခ) ပြည်ထောင်စု လက်နက်ကိုင် စစ်တပ်အစည်းအရုံးဝင် တဦးဦးအား၊ သို့တည်းမဟုတ် အစိုးရအရာထမ်းအမှုထမ်း တဦးဦးအား၊ သက်ဆိုင်ရာ မိမိ၏ဝတ်တရားကို ကျေပြန်စွာမဆောင်ရွက်စေရန်ဖြစ်စေ၊ ထိုသူ၏ဝတ်တရားဆောင်ရွက်ရာတွင် ပျက်ကွက်အောင်သွေးဆောင်ရန်၊ သို့တည်းမဟုတ် တိုက်တွန်းရန်ဖြစ်စေ ကြံရွယ်၍တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်ရန်အကြောင်းရှိသောအမှုကိုပြုလျှင်၊
- (ဂ) ပြည်ထောင်စု လက်နက်ကိုင်စစ်တပ် အစည်းအရုံးများ၊ ရာဇဝတ် အမှုထမ်းအဖွဲ့များ၊ မီးသတ်အဖွဲ့များ၊ သို့တည်းမဟုတ် အစိုးရ ရာထမ်းမှုထမ်းအဖြစ်ဖြင့် စာရင်းသွင်းထားသော၊ သို့တည်းမဟုတ် လုပ်ကိုင်ဆောင်ရွက်သော အခြားအဖွဲ့များအတွက်၊ အဖွဲ့ဝင် စုဆောင်းသိမ်းသွင်းခြင်းကို ထိခိုက်စေရန်၊ သို့တည်းမဟုတ် ထိုအဖွဲ့ဝင်များ အလုပ်ဆောင်ရွက်ခြင်းကို ထိခိုက်စေရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန် အကြောင်းရှိသောအမှုကိုပြုလျှင်၊
- (ဃ) အများပြည်သူတို့အား၊ သို့တည်းမဟုတ် ပြည်သူတစ်စုအား အထိတ်တလန့်ဖြစ်စေရန် ကြံရွယ်၍တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန် အကြောင်းရှိသောအမှုကိုပြုလျှင်၊
- (င) မမှန်ဟုသိလျက်နှင့်၊ သို့တည်းမဟုတ် မမှန်ဟုယုံကြည်လောက်အောင်အကြောင်းရှိလျက်နှင့် မမှန်သတင်းလွှင့်ရန် ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန်အကြောင်းရှိသော အမှုကိုပြုလျှင်၊
- (စ) နိုင်ငံတော်ငြိမ်ဝပ်ပိပြားရေးအတွက် ထိရောက်စွာ ဆောင်ရွက်နိုင်အောင်၊ လိုအပ်သော သယ်ယူပို့ဆောင်မှုကိုဖြစ်စေ၊ လုပ်ငန်းကိုဖြစ်စေ၊ စစ်သုံးလက်နက်ခဲယမ်းမီးကျောက်ကိုပြုလုပ်ခြင်း၊ သို့တည်းမဟုတ် သယ်ယူပို့ဆောင်ခြင်းကိုဖြစ်စေ၊ မရှိမဖြစ်သော ပစ္စည်းများ ပေးသွင်းထောက်ပံ့ခြင်း၊ သို့တည်းမဟုတ် ဖြန့်ဖြူးခြင်းကိုဖြစ်စေ ဟန့်တားရန်သော်ငြား၊ နှောင့်နှေးစေရန်သော်ငြား၊ ချုတ်ချယ်ရန်သော်ငြား၊ ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန်အကြောင်းရှိသော အမှုကိုပြုလျှင်၊
- (ဆ) စစ်သုံးလက်နက် ခဲယမ်းမီးကျောက်ကို လုံးလုံးဖြစ်စေ၊ တစိတ်တဒေသဖြစ်စေ၊ ထိရောက်စွာ အသုံးပြု၍ မရအောင်သော်ငြား၊ ဘေးအန္တရာယ် ဖြစ်အောင်သော်ငြား၊ ထိုလက်နက် ခဲယမ်းမီးကျောက် ပြုလုပ်ရာ၌ဖြစ်စေ၊ သယ်ယူပို့ဆောင်ရာ၌ဖြစ်စေ ပါဝင်ပတ်သက်သော၊ သို့တည်းမဟုတ် အသုံးပြုသောသူကို၊ ဘေးဖြစ်စေအောင် သော်ငြား၊ ဘေးပြုသူ ဖြစ်စေအောင်သော်ငြား၊ ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန် အကြောင်းရှိသောအမှုကိုပြုလျှင်၊
- (ဇ) နိုင်ငံတော်၏ ဘောဂဗလ၌သော်ငြား၊ အစိုးရ ချေးယူငွေ၌သော်ငြား၊ အစိုးရ၏ အာမခံ၌သော်ငြား၊ ပြည်ထောင်စုနိုင်ငံတဝှမ်းလုံး၌ဖြစ်စေ၊ တစိတ်တဒေသ

^၁ ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၄၂ အရ အစားထည့်သွင်းသည်။

၌ဖြစ်စေ၊ တရားဝင် ငွေစက္ကူ၌သော်၎င်း၊ ဒဂါး၌သော်၎င်း၊ ပြည်သူတို့၏ အယုံအကြည် ပျက်ပြားစေရန်၊ သို့တည်းမဟုတ် နိုင်ငံတော်ငြိမ်ဝပ်ပိပြားရေးအတွက် ထိရောက်စွာ ဆောင်ရွက်နိုင်စိမ့်သောငှါ၊ အစိုးရက ပြုလုပ်သော ဘဏ္ဍာရေး ဆောင်ရွက်ချက် အောင်မြင်မှုကိုဖြစ်စေ၊ စီမံချက် အောင်မြင်မှုကိုဖြစ်စေ၊ ထိခိုက်စေရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန် အကြောင်းရှိသောအမှုကိုပြုလျှင်၊

- (ဈ) ပြည်ထောင်စု၊ သို့တည်းမဟုတ် ပြည်နယ်အစိုးရအားသော်၎င်း၊ ဒေသန္တရအာဏာပိုင် အဖွဲ့အစည်းသော်၎င်း ပေးရမည်ဖြစ်သော၊ သို့တည်းမဟုတ် ဥပဒေအရဖြစ်စေ၊ ဥပဒေအကျိုးအာဏာ သက်ရောက်သော ဓလေ့ထုံးစံအရဖြစ်စေ ပေးရမည်ဖြစ်သော မြေခွန်တော်၊ အခွန်တော်၊ နှုန်းခွန်၊ ခိုင်ကြေး၊ အခြားပေးဆောင်စရာ ငွေတခုခုကို မပေးမဆောင် ငြင်းဆန်အောင်ဖြစ်စေ၊ ပေးဆောင်ခြင်းကို ရွှေ့ဆိုင်းအောင်ဖြစ်စေ၊ လူတဦး တယောက်ကို၊ သို့တည်းမဟုတ် လူမျိုးစားတခုခုကို၊ သို့တည်းမဟုတ် အများပြည်သူကို အားပေးရန်သော်၎င်း၊ လွှဲဆောင်ရန်သော်၎င်း၊ ကြံရွယ်၍တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန်အကြောင်းရှိသော အမှုကိုပြုလျှင်၊
- (ည) ပြည်ထောင်စု၏လုံခြုံရေးကိုသော်၎င်း၊ ငြိမ်ဝပ်ပိပြားမှုပြန်လည်ထူထောင်ရေးကိုသော်၎င်း၊ ထိခိုက်စေရန်အကြောင်း ရှိသောနည်းလမ်းဖြင့်၊ အများပြည်သူ၏၊ သို့တည်းမဟုတ် ပြည်သူတစ်စု၏ ကိုယ်ကျင့်တရားကိုဖြစ်စေ၊ အပြုအမူကိုဖြစ်စေ၊ ဖောက်လွှဲဖောက်ပြန် ဖြစ်စေရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန်အကြောင်း ရှိသောအမှုကိုပြုလျှင်၊
- (ဋ) အစိုးရရာထမ်းမှုထမ်းများကိုဖြစ်စေ၊ အစိုးရရာထမ်းမှုထမ်း အမျိုးအစားတခုခုဖြစ်စေ၊ အစိုးရရာထမ်းမှုထမ်း တဦးတယောက်ကိုဖြစ်စေ၊ ရာဇဝတ်ပြစ်ဒဏ် ထိုက်သင့်သော လက်ရုံးအားဖြင့် ခုခံဆန့်ကျင် တိုက်ရိုက်သော်၎င်း၊ သွယ်ဝိုက်၍သော်၎င်း၊ လွှဲဆောင်ရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန်အကြောင်း ရှိသောအမှုကိုပြုလျှင်၊
- (ဌ) လက်နက်ဥပဒေ၊ ပေါက်ကွဲတတ်သော ခဲယမ်းမီးကျောက် အက်ဥပဒေ၊ သို့တည်းမဟုတ် ပေါက်ကွဲစေတတ်သော ဝတ္ထုပစ္စည်းများ အက်ဥပဒေကိုဖြစ်စေ၊ ထိုအက်ဥပဒေအရ ပြုလုပ်ထားသော နည်းဥပဒေကိုဖြစ်စေ ကျူးလွန်အောင်၊ သို့တည်းမဟုတ် ကျူးလွန်သောပြစ်မှုကို အားပေးကူညီအောင် တိုက်ရိုက်ဖြစ်စေ၊ သွယ်ဝိုက်၍ဖြစ်စေ၊ လွှဲဆောင်ရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်းမဟုတ် ယင်းသို့ဖြစ်စေရန် အကြောင်းရှိသော အမှုကိုပြုလျှင်၊
- (ဍ) တရားဥပဒေ လမ်းကြောင်းအတိုင်း မလိုက်နာမဆောင်ရွက် ခုခံအောင်သော်၎င်း၊ လိုက်နာဆောင်ရွက်ခြင်းမှ ရှောင်ရှားအောင် သော်၎င်း၊ တရားစီရင်ဆောင်ရွက်မှုကိုဖြစ်စေ၊ ငြိမ်ဝပ်ပိပြားအောင် ပြုမှုကိုဖြစ်စေ၊ အနှောင့်အယှက် ဖြစ်စေအောင်သော်၎င်း၊ အပိုင် (ဈ) ၌ ဖော်ပြထားသော ပေးဆောင်စရာငွေများကို မပေးမဆောင် ငြင်းဆန်အောင်သော်၎င်း၊ ပေးဆောင်ခြင်းကို ရွှေ့ဆိုင်းအောင်သော်၎င်း၊ ပြုသောအစီအစဉ်ကိုဖြစ်စေ၊ ပြုမူဆောင်ရွက်ချက်ကိုဖြစ်စေ၊ တိုက်ရိုက်သော်၎င်း၊ သွယ်ဝိုက်၍သော်၎င်း၊ အားပေးရန်၊ လွှဲဆောင်ရန်၊ ပြင်ဆင်ရန်၊ သို့တည်းမဟုတ် သဘောတူ

ကြောင်းဖော်ပြရန်၊ သို့တည်းမဟုတ် ထိုအစီအစဉ်ကို ဖြစ်စေ၊ ထိုပြုမှု ဆောင်ရွက်ချက်ကိုဖြစ်စေ၊ ဖြစ်မြောက်တိုးတက်စေရေးအတွက်၊ လူသူ စုဆောင်း သိမ်းသွင်းအောင်၊ ထိုသို့လူသူစုဆောင်း သိမ်းသွင်းရေးအတွက် ပြင်ဆင်အောင်၊ ငွေကောက်ခံစုဆောင်းအောင်၊ သို့တည်းမဟုတ် ထိုသို့ ငွေကောက်ခံစုဆောင်းရေးအတွက် ပြင်ဆင်အောင်၊ တိုက်ရိုက်သော်၎င်း၊ သွယ်ဝိုက်၍သော်၎င်း၊ အားပေးရန်၊ လှုံ့ဆော်ရန်၊ ပြင်ဆင်ရန်၊ သို့တည်း မဟုတ် သဘောတူကြောင်းဖော်ပြရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ သို့တည်း မဟုတ် ယင်းသို့ဖြစ်စေရန် အကြောင်းရှိသောအမှုကိုပြုလျှင်

ထိုသူအား ခုနစ်နှစ်အထိ ထောင်ဒဏ်သော်၎င်း၊ ငွေဒဏ်သော်၎င်း၊ နှစ်ရပ်လုံးသော်၎င်း ထိုက်သင့်စေရမည်။

၁၅-က။ ။ မည်သူမဆိုသိလျက်နှင့်ဖြစ်စေ၊ တမင်ဖြစ်စေ၊ ပြည်ထောင်စု နိုင်ငံတော် လက်နက်ကိုင်စစ်တပ် အစည်းအရုံးဝင် တဦးဦးအား၊ စည်းကမ်းဖီဆန်အောင်၊ သစ္စာမဲ့အောင်၊ သို့တည်းမဟုတ် ပုန်ကန်အောင်၊ သို့တည်းမဟုတ် တာဝန်ဝတ်တရားကို မဆောင်ရွက်ဘဲနေအောင် အကြံဉာဏ်ပေးသည့်၊ သို့တည်းမဟုတ် တိုက်တွန်းသည့် လက်ရေးစာရွက် စာတမ်းကိုဖြစ်စေ၊ ပုံနှိပ်စာရွက်စာတမ်းကိုဖြစ်စေ ပုံနှိပ်လျှင်၊ တည်းဖြည့်လျှင်၊ ထုတ်ဝေလျှင်၊ ပေးအပ်လျှင်၊ ရောင်း လျှင်၊ ဝေငှလျှင်၊ သို့တည်းမဟုတ် အများမြင်သာအောင်ပြထားလျှင်၊ ထိုသူသည်အနည်းဆုံး သုံးနှစ် အများဆုံးဆယ်နှစ်ထိအောင်သောင်ဒဏ်ကိုစီရင်ခြင်းခံရမည်ဖြစ်၍၊ ငွေဒဏ်ကိုလည်း စီရင်ခြင်းခံရမည်။

၆။ ။ မည်သူမဆို—

- (က) အဖိုးရက်စွာအတွက် အသုံးပြုသော၊ သို့တည်းမဟုတ် အသုံးပြုရန်ကြံရွယ်သော အဆောက်အအုံ၏၊ ယာဉ်၏၊ စက်၏၊ ကိရိယာတန်ဆာပလာ၏၊ သို့တည်းမဟုတ် အခြားပစ္စည်း၏၊
- (ခ) လမ်း၊ တံတား၊ လမ်းကူးမြောင်း၊ တာလမ်းမြင့်၊ ဆိပ်ကမ်း၊ သို့တည်းမဟုတ် သင်္ဘောကျင်း၏၊
- (ဂ) မရှိမဖြစ်သောပစ္စည်းပြုလုပ်ခြင်း၊ ဖြန့်ဖြူးခြင်း၊ သို့တည်းမဟုတ် ပေးသွင်း ထောက်ပံ့ခြင်းနှင့် စပ်လျဉ်း၍အသုံးပြုသော အဆောက်အအုံ၏၊ သို့တည်းမဟုတ် အခြားအရာဝတ္ထု၏၊ အညစ်အကြေး သုတ်သင်မှုဆိုင်ရာ အလုပ် ကိရိယာ၏၊ သတ္တုတွင်း၏၊ သို့တည်းမဟုတ် အလုပ်ရုံ၏၊
- (ဃ) တားမြစ်သားသောနေရာ၏၊ သို့တည်းမဟုတ် ကာကွယ် စောင့်ရှောက် ထားသောနေရာ၏၊
- (င) ရေပေးအလုပ်ကိရိယာ၏၊ ဒြေပိုက်အဆက်အသွယ်၏၊ သို့တည်းမဟုတ် ရေပေးသွင်းသော အလုပ်နှင့် စပ်လျဉ်းသည့်စက်၏၊ စက်ကိရိယာ၏၊ သို့တည်းမဟုတ် အခြားအရာ၏

ဂုဏ်သတ္တိအကျိုး အာနိသင်တို့ကို ယုတ်လျော့စေရန်၊ ဟန့်တားရန်၊ သို့တည်းမဟုတ် ပျက်စီးစေရန်ကြံရွယ်၍ တခုခုလုပ်လျှင်၊ ထိုသူအား ခုနစ်နှစ်အထိ ထောင်ဒဏ်သော်၎င်း၊ ငွေဒဏ်သော်၎င်း၊ နှစ်ရပ်လုံးသော်၎င်း ထိုက်သင့်စေရမည်။

^၁ ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၄၂ အရထည့်သွင်းသည်။

၇။ ။မည်သူမဆို—

(က) သောက်သုံးသောရေကို အဆိပ်ခပ်လျှင်၊ သို့တည်းမဟုတ် အဆိပ်ဖြစ်စေ တတ်သော အမှုကိုပြုလျှင်၊

(ခ) ပြည်ထောင်စုလက်နက်ကိုင် စစ်တပ်အစည်းအရုံးများကပိုင်သော၊ သို့တည်းမဟုတ်ထိုအစည်းအရုံးများသို့ ပေးအပ်ရန်ရည်ရွယ်သော ကိရိယာတန်ဆာပလာကို၊ သို့တည်းမဟုတ် အခြားပစ္စည်းကို အနှောင့်အရှက်ပြုလျှင်၊ ဖျက်ဆီးလျှင်၊ သို့တည်းမဟုတ် အခွင့်မရဘဲအခြားသို့ ရွှေ့ပြောင်းလျှင်

ထိုသူအား ခုနစ်နှစ်အထိ ထောင်ဒဏ်သော်၎င်း၊ ငွေဒဏ်သော်၎င်း၊ နှစ်ရပ်လုံးသော်၎င်း ထိုက်သင့်စေရမည်။

၈။ ။ ၁၉၄၈ ခုနှစ်၊ အရေးပေါ်စီမံမှုတချက်လွှတ်ဥပဒေကို ရုပ်သိမ်းပယ်ဖျက်သည်။

အထူးစုံစမ်းစစ်ဆေးမှုအုပ်ချုပ်ရေးအဖွဲ့နှင့် အထူးစုံစမ်းစစ်ဆေးရေးဌာန အက်ဥပဒေ။

[၁၉၅၁ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၅၀။] (၁၉၅၁ ခု၊ အောက်တိုဘာလ ၂၇ ရက်။)

အောက်ပါအတိုင်းအက်ဥပဒေအဖြစ်ပြဋ္ဌာန်းလိုက်သည်။

အခန်း ၁။

၁။ ။ ဤအက်ဥပဒေကို၊ ၁၉၅၁ ခုနှစ်၊ အထူးစုံစမ်းစစ်ဆေးမှု အုပ်ချုပ်ရေးအဖွဲ့နှင့် အထူးစုံစမ်းစစ်ဆေးရေးဌာန အက်ဥပဒေဟုခေါ်ရမည်။

၂။ ။ ဤအက်ဥပဒေတွင် အကြောင်း အရာနှင့် ဖြစ်စေ၊ ရှေ့နောက်စကားတို့၏ အဓိပ္ပါယ်နှင့် ဖြစ်စေ မဆန့်ကျင်လျှင်—

(၁) “အဖွဲ့” ဆိုသည်မှာ၊ ပုဒ်မ ၃ အရ ဖွဲ့စည်းထားသည့် အထူးစုံစမ်းစစ်ဆေးမှု အုပ်ချုပ်ရေးအဖွဲ့ကိုဆိုလိုသည်။

(၂) “ဌာန” ဆိုသည်မှာ၊ ပုဒ်မ ၇ အရ ဖွဲ့စည်းထားသည့် အထူးစုံစမ်းစစ်ဆေးရေးဌာနကိုဆိုလိုသည်။

(၃) “ပြဋ္ဌာန်းသည်” ဆိုသည်မှာ၊ ဤအက်ဥပဒေအရပြုသည့်နည်းဥပဒေများဖြင့်ပြဋ္ဌာန်းသည်ကိုဆိုလိုသည်။

၃။ ။ (၁) နိုင်ငံတော်သမ္မတသည်၊ အထူးစုံစမ်းစစ်ဆေးမှု အုပ်ချုပ်ရေးအဖွဲ့ဟု ခေါ်တွင်မည့် အဖွဲ့တခုကို ဖွဲ့စည်းရမည်။ ထိုအဖွဲ့တွင် ဥက္ကဋ္ဌနှင့် အခြားလေးဦးထက်မပိုသော အဖွဲ့ဝင်လူကြီးများ ပါဝင်ရမည်။

(၂) ဥက္ကဋ္ဌနှင့်အဖွဲ့ဝင်များ၏ အမှုထမ်းစည်းကမ်းများသည်၊ နိုင်ငံတော်သမ္မတကပြဋ္ဌာန်းသည့်အတိုင်းဖြစ်ရမည်။

(၃) (က) ဥက္ကဋ္ဌနှင့် အဖွဲ့ဝင်လူကြီးအသီးသီးသည်၊ ရာထူးတွင် ခန့်ထားခြင်းခံရသည့်အခါ၊ ဤအက်ဥပဒေ၏ ဇယား ၂ တွင် ဖော်ပြထားသည့် ပုံစံအတိုင်း ကျမ်းသစ္စာဆို၍လက်မှတ်ရေးထိုးရမည်။

(ခ) ဥက္ကဋ္ဌသည်၊ ဝန်ကြီးချုပ်ရှေ့တွင် ကျမ်းသစ္စာဆို၍ လက်မှတ်ရေးထိုးရမည်။ အဖွဲ့ဝင်အသီးသီးသည်၊ ဥက္ကဋ္ဌရှေ့တွင် ကျမ်းသစ္စာဆို၍ လက်မှတ်ရေးထိုးရမည်။

(င) အဖွဲ့၏အစည်းအဝေးများတွင် လိုက်နာရမည့်နည်းလမ်းနှင့် အစည်းအဝေး အထမြောက်ရေးအတွက် လိုအပ်သောအဖွဲ့ဝင်ဦးရေသည်၊ နိုင်ငံတော်သမ္မတကပြဋ္ဌာန်းသည့်အတိုင်း ဖြစ်ရမည်။

(၅) အဖွဲ့ဝင်တဦးဦး၏ ရာထူးလစ်လပ်ခြင်းကြောင့်ဖြစ်စေ၊ အဖွဲ့ဝင်လူကြီးများခန့်ထားရာ၌ ချို့ယွင်းချက် ရှိခြင်းကြောင့်ဖြစ်စေ၊ အဖွဲ့၏ဆောင်ရွက်ချက်များသည် ပျက်ပြယ်ခြင်းမရှိစေရ။

၄။ ။(၁) အဖွဲ့မှာ [အထူးသဖြင့်]⁰ ၁၉၄၇ ခုနှစ်၊ ပြည်သူ့ပစ္စည်း ကာကွယ်ရေး အက်ဥပဒေ ပုဒ်မ ၂ (၁)တွင် အဓိပ္ပာယ်ဖော်ပြထားသည့် “ပြည်သူ့ပစ္စည်း” နှင့် စပ်လျဉ်း၍ ပြစ်မှုကျူးလွန်ခြင်းကို၎င်း၊ ဇယား ၁ တွင် သီးခြားဖော်ပြထားသည့် ပြစ်မှုများ ကျူးလွန်ခြင်းကို၎င်း၊ တားမြစ်ရန် လိုအပ်သည့်အတိုင်း အရေးယူ ဆောင်ရွက်ရမည့် တာဝန်ရှိသည့်ပြင်၊ အဆိုပါပြစ်မှု တခုခုကို စုံစမ်းစစ်ဆေး၍ ပြစ်မှုကျူးလွန်သူများကို တရားစွဲဆိုရန် လိုအပ်သည့်အမိန့်၊ သို့တည်းမဟုတ် ဆင့်ဆိုချက်များ ထုတ်ဆင့်ရမည့် တာဝန်လည်းရှိသည်။

(၂) အဖွဲ့သည်၊ နိုင်ငံတော်သမ္မတ၏ကြီးကြပ်အုပ်ချုပ်ခြင်းကို လိုက်နာလျက်၊ ဌာနကို ကြီးကြပ်အုပ်ချုပ်ရေးနှင့် အရပ်ရပ် စီရင်အုပ်ချုပ်ရေးအတွက် တာဝန်ခံရမည်။

၅။ ။(၁) အခြားတည်ဆဲတရားဥပဒေတခုခုအရ၊ အဖွဲ့အားအပ်နှင်းထားသည့် အာဏာများအပြင်၊ အဖွဲ့မှာ အောက်ပါအာဏာများလည်းရှိရမည်။

(က) ပြည်သူ့ပစ္စည်းနှင့် စပ်လျဉ်း၍ ပြစ်မှုကျူးလွန်သည့် သတင်းကို၊ သို့တည်းမဟုတ် ဇယား ၁ တွင် သီးခြားဖော်ပြထားသည့် ပြစ်မှုတခုခု ကျူးလွန်သည့် သတင်းကို ဌာနသို့ဖြစ်စေ၊ ရဲအဖွဲ့သို့ဖြစ်စေ၊ ပေးသိနိုင်သည်။ သို့တည်းမဟုတ် ပေးသိစေနိုင်သည့်အာဏာ။

(ခ) အဆိုပါပြစ်မှုတခုခု ကျူးလွန်သည်ဟု သင်္ကာမကင်းဘွယ်ရာ အကြောင်းရှိသည့် ပြည်သူ့ဝန်ထမ်း၏ အမည်ကိုသက်ဆိုင်ရာ ဝန်ကြီးဌာနအား၊ သို့တည်းမဟုတ် အစိုးရဌာနအား၊ သို့တည်းမဟုတ် ဒေသန္တရအာဏာပိုင်အား၊ သို့တည်းမဟုတ် အစိုးရလက်အောက်ခံ အဖွဲ့အား ဖော်ပြရန် အာဏာ၊ ထိုဝန်ကြီး ဌာနသည်၊ သို့တည်းမဟုတ် အစိုးရဌာနသည်၊ သို့တည်းမဟုတ် ဒေသန္တရ အာဏာပိုင်သည်၊ သို့တည်းမဟုတ် အစိုးရလက်အောက်ခံအဖွဲ့သည် ထိုပြည်သူ့ဝန်ထမ်းကို တရားစွဲဆိုနိုင်သည့်ပြင်၊ ဌာနဆိုင်ရာ အရေးယူဆောင်ရွက်မှုရှိရမည်။ ထို့ပြင်ထိုသို့စုံစမ်းစစ်ဆေးမှု၊ သို့တည်းမဟုတ် တရားစွဲဆိုမှု မပြီးမပြတ်သေးမီ ထိုပြည်သူ့ဝန်ထမ်းကို ရာထူးမှလည်းခေတ္တချထားနိုင်သည်။

(ဂ) အမီးခံရဘွယ်ရာ၊ သို့တည်းမဟုတ် ပျက်စီးဘွယ်ရာ၊ သို့တည်းမဟုတ် ဆုံးရှုံးဘွယ်ရာလက္ခဏာရှိသည့် ပြည်သူ့ပစ္စည်းကိုသိုလှောင်ရန်၊ သို့တည်းမဟုတ် ထိန်းသိမ်း စောင့်ရှောက်ရန်၊ သို့တည်းမဟုတ် စီမံခန့်ခွဲရန် အလို့ငှါ၊ အမိန့်တွင် သီးခြားဖော်ပြထားသည့်အတိုင်း အရေးယူ ဆောင်ရွက်ရမည်ဟု မည်သူ့ကိုမဆို ဆင့်ဆိုနိုင်သည့်အမိန့် ချမှတ်ရန်အာဏာ၊ ထိုသို့ဆင့်ဆိုခံရသူများသည် အဆိုပါအမိန့်များအတိုင်း ဆောင်ရွက်ရမည်။

⁰ ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၅၀ အရ ထည့်သွင်းသည်။

(ဃ) ဤအက်ဥပဒေအရ ပြစ်မှုတစ်ခုခုကိုဖြစ်စေ၊ ဇယား ၁ တွင် သီးခြားဖော်ပြထားသည့် ပြစ်မှုများကိုဖြစ်စေ၊ [တည်ဆဲ ဥပဒေများအရ အရေးယူပိုင်သည့် အခြားပြစ်မှုများကိုဖြစ်စေ]၊ ကျူးလွန်ခဲ့သည်။ သို့တည်းမဟုတ် ကျူးလွန်နေသည်ဟု သက်သေခံကင်းစင်စွာ အကြောင်းရှိသူကို ဖမ်းဆီးရန် လိုအပ်သည်ဟု အဖွဲ့ကယူဆလျှင်၊ ဖမ်းဆီးစေရန်အာဏာ။

(င) ဤအက်ဥပဒေတွင် အခြားနေရာ၌ မည်သို့ပင် ပါရှိစေကာမူ၊ [ဇယား ၁ တွင် သီးခြား ဖော်ပြထားသည့် ပြစ်မှုများနှင့်သော်၎င်း၊ တည်ဆဲ ဥပဒေများအရ အရေးယူပိုင်သည့် အခြားပြစ်မှုများနှင့်သော်၎င်း၊]၊ သက်ဆိုင်သောအမှုကို စုံစမ်းစစ်ဆေး၍ လိုအပ်သည့်အတိုင်းအရေးယူစေခြင်းငှါ ရဲအဖွဲ့သို့လွှဲအပ်ရန် အာဏာ။

(၂) ပုဒ်မခွဲ(၁)၊ အပိုဒ်(က)၊ (ဃ)နှင့် (င)အရ အဖွဲ့ကသုံးစွဲနိုင်သည့်အာဏာကို၊ ဥက္ကဋ္ဌကသော်၎င်း၊ အဖွဲ့ကမိမိ၏ အစည်းအဝေး ဆုံးဖြတ်ချက်ဖြင့် ဤကိစ္စအလို့ငှါ အာဏာအပ်နှင်းထားသည့်အဖွဲ့ဝင်လူကြီးတစ်ဦးကသော်၎င်း သုံးစွဲရမည်။

၆။ ။(၁) ဥက္ကဋ္ဌသည်၊ မိမိထံပေးပို့သော သဘင်းမှန် မမှန်သိရှိစိမ့်သောငှါ၊ ဌာနဆိုင်ရာ အရာရှိကိုဖြစ်စေ၊ ရဲအရာရှိကိုဖြစ်စေ၊ ဤကိစ္စအလို့ငှါ မိမိကစာဖြင့်နည်းလမ်းတကျ အာဏာအပ်နှင်းထားသည့် အခြားသူကိုဖြစ်စေ၊ စုံစမ်းစစ်ဆေးရန်အမိန့်ပေးနိုင်သည်။

(၂) ဌာနဆိုင်ရာအရာရှိ၊ သို့တည်းမဟုတ် ရဲအရာရှိမဟုတ်သူကို ပုဒ်မခွဲ(၁)အရ ထိုသို့ အာဏာအပ်နှင်းထားလျှင်၊ ထိုသူသည်၊ ဌာနဆိုင်ရာအရာရှိအားဤအက်ဥပဒေဖြင့်အပ်နှင်းထားသည့် အာဏာအရပ်ရပ်ကို သုံးစွဲရမည်။ သို့ရာတွင် ထိုသူမှာ ဝါရမ်းစာမပါဘဲ ဖမ်းဆီးနိုင်သည့် အာဏာ မရှိစေရ။

အခန်း ၂။

၇။ ။(၁) ၁၉၄၅ ခုနှစ်၊ ရဲအဖွဲ့အက်ဥပဒေတွင်သော်၎င်း၊ ရန်ကုန်မြို့ ရဲအဖွဲ့ အက်ဥပဒေတွင် သော်၎င်း၊ မည်သို့ပင်ပါရှိစေကာမူ၊ နိုင်ငံတော်သမ္မတသည်၊ အထူးစုံစမ်း စစ်ဆေးရေး ဌာနကို ဖွဲ့စည်းရမည်။ ထိုဌာနသည်၊ အဖွဲ့၏ ကြီးကြပ်အုပ်ချုပ်ခြင်းကို လိုက်နာလျက်၊ ဤအက်ဥပဒေအရ ပြစ်မှုအရပ်ရပ်ကိုဖြစ်စေ၊ ပြည်သူ့ပစ္စည်းနှင့်စပ်လျဉ်းသည့် ပြစ်မှုကိုဖြစ်စေ၊ ဇယား ၁ တွင် သီးခြား ဖော်ပြထားသည့် ပြစ်မှုကိုဖြစ်စေ၊ [တည်ဆဲ ဥပဒေများအရ အရေးယူပိုင်သည့် အခြားပြစ်မှုများကို ဖြစ်စေ]၊ မြန်မာနိုင်ငံတဝှမ်းလုံးတွင် စုံစမ်းစစ်ဆေးရမည်။

(၂) ဌာနကို၊ နိုင်ငံတော် သမ္မတက အခါအားလျော်စွာ အမိန့်ဖြင့် သတ်မှတ်သည့် နည်းလမ်းအတိုင်း ဖွဲ့စည်း၍၊ ဌာနတွင်ယင်းသို့ သတ်မှတ်ထားသည့် အရေအတွက်ရှိသော ရာထမ်း မှုထမ်းများပါဝင်ရမည်။ ထိုရာထမ်းမှုထမ်းများကို၊ နည်းလမ်းတကျ စာရင်းတင်သွင်း ထားရှိရမည်။ ထိုရာထမ်းမှုထမ်းများသည်နိုင်ငံတော်သမ္မတက သတ်မှတ်သည့်လစာကို ရရှိရမည်။

(၃) ဌာနဆိုင်ရာစီရင်အုပ်ချုပ်မှုကို ဤကိစ္စအလို့ငှါ၊ နိုင်ငံတော်သမ္မတကခန့်ထားသည့် ညွှန်ကြားရေးဝန်က အဖွဲ့၏ ကြီးကြပ်အုပ်ချုပ်ခြင်းကို လိုက်နာလျက်ဆောင်ရွက်ရမည်။

၈။ ။နိုင်ငံတော်သမ္မတသည်၊ ဌာနဆိုင်ရာ စီရင်အုပ်ချုပ်မှုတွင် ညွှန်ကြားရေးဝန်အား ကူညီရန် မိမိသင့်သည့် ထင်မြင်သည့် အရေအတွက်ရှိသော ဒုတိယ ညွှန်ကြားရေးဝန်များနှင့်

၁ ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၅၈ အရ ထည့်သွင်းသည်။

၂ အဆိုပါအက်ဥပဒေအရ အစားထည့်သွင်းသည်။

လက်ထောက်ညွှန်ကြားရေးဝန်များကို ခန့်ထားနိုင်သည်။ အဆိုပါ ဒုတိယ ညွှန်ကြားရေးဝန်များနှင့် လက်ထောက် ညွှန်ကြားရေးဝန်များသည် ညွှန်ကြားရေးဝန်၏ လက်အောက်ခံဖြစ်၍ ညွှန်ကြားရေး ဝန်၏ ကြီးကြပ်အုပ်ချုပ်ခြင်းကို ခံရမည်ဖြစ်သည်။ မိမိတို့အား နိုင်ငံတော်သမ္မတက အပ်နှံထားသည့် အာဏာများနှင့် တာဝန်ဝတ်တရားများကိုလည်း သုံးစွဲဆောင်ရွက်ရမည်။

၉။ ။ (၁) ဒုတိယ ညွှန်ကြားရေးဝန်များနှင့် လက်ထောက် ညွှန်ကြားရေးဝန်များ၏ လက်အောက်တွင် အောက်ပါဌာနဆိုင်ရာ အရာရှိအဆင့်အတန်းများရှိရမည်။

- (က) အထက်တန်းစုံစမ်းစစ်ဆေးရေးအရာရှိများ။
- (ခ) အောက်တန်းစုံစမ်းစစ်ဆေးရေးအရာရှိများ။
- (ဂ) လက်ထောက်စုံစမ်းစစ်ဆေးရေးအရာရှိများ။

(၂) ပုဒ်မခွဲ (၁) တွင် ဖော်ပြထားသည့် အရာရှိအသီးသီးသည်၊ မိမိအထက်က ဆက်လက်ဖော်ပြထားသည့် အရာရှိအောက် အဆင့်အတန်းနိမ့်ရမည်ဖြစ်သည်။ မိမိအထက်က ဖော်ပြ ထားသည့်အရာရှိ၏လက်အောက်ခံလည်းဖြစ်ရမည်။

၁၀။ ။ နိုင်ငံတော်သမ္မတက၊ ဒုတိယညွှန်ကြားရေးဝန်များနှင့် လက်ထောက်ညွှန်ကြား ရေးဝန်များခန့်ထားခြင်း၊ ရာထူးတိုးမြှင့်ပေးခြင်းနှင့် ရွှေ့ပြောင်းခြင်းပြုလုပ်ရမည်။

၁၁။ ။ (၁) အဖွဲ့၏ကြီးကြပ်အုပ်ချုပ်ခြင်းကို လိုက်နာ၍ ညွှန်ကြားရေးဝန်က ဌာနဆိုင် ရာလက်အောက်ရာထူး အဆင့်အတန်းများရှိ အရာရှိများခန့်ထားခြင်း၊ ရာထူး တိုးမြှင့်ပေးခြင်းနှင့် ရွှေ့ပြောင်းခြင်းပြုလုပ်ရမည်ဖြစ်သည်။ အဆိုပါကြီးကြပ်အုပ်ချုပ်ခြင်းကို လိုက်နာလျက်၊ တာဝန်ဝတ်တရား ဆောင်ရွက်ရာတွင် ပျက်ကွက်သည် ဟူ၍သော်၎င်း၊ ပေါ့လျော့သည် ဟူ၍သော်၎င်း၊ တာဝန် ဝတ်တရား ဆောင်ရွက်ရန် မသင့်တော်ဟူ၍ သော်၎င်း၊ မိမိထင်မြင်သော အဆိုပါ အရာရှိ တဦးဦးကိုလည်း ရာထူးမှထွက်ခွာထားခြင်း၊ သို့တည်းမဟုတ်လျှော့ချခြင်း၊ သို့တည်းမဟုတ် ထုတ်ပယ် ခြင်း၊ သို့တည်းမဟုတ် အမြဲတမ်းထုတ်ပယ်ခြင်း ပြုနိုင်သည်။ သို့တည်းမဟုတ် တာဝန်ဝတ်တရားကို မလေးစားသည့်၊ သို့တည်းမဟုတ် ပေါ့ပေါ့ဆဆဆောင်ရွက်သည့်၊ သို့တည်းမဟုတ် မိမိ၏ပယောဂ ကြောင့်တာဝန်ဝတ်တရားဆောင်ရွက်ရန် မသင့်တော်အောင်ဖြစ်ရသည့် အရာရှိအား ပုဒ်မခွဲ (၂) အရ ပြုလုပ်သည့် နည်းဥပဒေများဖြင့် ပြဋ္ဌာန်းထားသော ပြစ်ဒဏ်တခုခုကိုဖြစ်စေ၊ တခုထက်ပိုသော ပြစ်ဒဏ်များကိုဖြစ်စေပေးနိုင်သည်။

(၂) နိုင်ငံတော်သမ္မတ၏ သဘောတူညီချက်ကို ကြိုတင်ရယူ၍ ညွှန်ကြားရေးဝန်သည်၊ အောက်ပါကိစ္စများအတွက် နည်းဥပဒေများပြုလုပ်နိုင်သည်။

- (က) ဌာနဆိုင်ရာ လက်အောက်ရာထူးအဆင့်အတန်းများရှိ အရာရှိအား ပုဒ်မခွဲ (၁) အရ ပေးနိုင်သည့်ပြစ်ဒဏ်များ ပြဋ္ဌာန်းရန်ကိစ္စ။
- (ခ) ပြဋ္ဌာန်းသည့် ရာထူးအဆင့်အတန်း၊ သို့တည်းမဟုတ် အဆင့်အတန်းများရှိ အရာရှိများနှင့် ပတ်သက်၍ ပုဒ်မခွဲ (၁) အရ မိမိ၏ အာဏာများကို အထက်တန်း စုံစမ်းစစ်ဆေးရေးအရာရှိအောက် ရာထူးမရှိသော အရာရှိ တဦးဦးအား လွှဲအပ်ရန်ကိစ္စ။

၁၂။ ။ ဤအက်ဥပဒေအရ ခန့်ထားသည့် ဌာနဆိုင်ရာ အရာရှိအသီးသီးသည်၊ ဇယား ၃ တွင်ဖော်ပြထားသည့်ပုံစံအတိုင်း ကျမ်းသစ္စာဆို၍ လက်မှတ်ရေးထိုးရမည်ဖြစ်သည်။ မိမိအားရာထူးခန့်ထား သည့်အခါ၊ ဇယား ၄ တွင်ဖော်ပြထားသည့်ပုံစံဖြင့် အစိုးရတံဆိပ်ခတ်နှိပ်ထားသော တာဝန်ခံ လက်မှတ်ကိုလည်း ရရှိရမည်။ ထိုသို့တာဝန်ခံလက်မှတ်ရသူသည်၊ ဌာနဆိုင်ရာအရာရှိ၏အာဏာ

များ၊အလုပ်ဝတ်စားများနှင့် အထူးအခွင့်အရေးများ ရရှိသူဖြစ်ရမည်။ မည်သည့်အခါမဆို၊အဆိုပါ တာဝန်ခံ လက်မှတ်တွင်အမည်ဖော်ပြထားသူသည်၊ အကြောင်းတခုခုကြောင့် ဌာနဆိုင်ရာအရာရှိ အဖြစ်မှရပ်စဲသွားလျှင်၊ ထိုတာဝန်ခံလက်မှတ်သည်ပျက်ပြယ်ရမည်။

၁၃။ ။ဌာနဆိုင်ရာအရာရှိအဖြစ်မှ ရပ်စဲသွားသူအသီးသီးသည်၊ ပုဒ်မ ၁၂ အရ၊ မိမိအား ပေးအပ်ထားသည့် တာဝန်ခံလက်မှတ်ကို၎င်း၊ မိမိ၏တာဝန် ဝတ်တရားဆောင်ရွက်ရန်အလို့ငှါ၊ မိမိအားပေးထားသော အဝတ်တန်းဆာများ၊ အသုံးအဆောင်များနှင့် အခြားပစ္စည်းများကို၎င်း၊ ညွှန်ကြားရေးဝန်အား ချက်ခြင်းပေးအပ်ရမည်။ သို့တည်းမဟုတ် ဤကိစ္စအလို့ငှါ ညွှန်ကြားရေးဝန်က ခန့်ထားသည့်အခြားအရာရှိအား ချက်ခြင်းပေးအပ်ရမည်။

၁၄။ ။ဌာနဆိုင်ရာအရာရှိသည်၊ မိမိအားရာထူးမှခေတ္တချထားသည့် အကြောင်းကြောင့်၊ ဌာနဆိုင်ရာအရာရှိအဖြစ်မှ ရပ်စဲခြင်းမရှိစေရ။ မိမိအားဌာနဆိုင်ရာအရာရှိအဖြစ်ဖြင့်အပ်နှင်းထားသော အာဏာများ၊ အလုပ်ဝတ်စည်းများနှင့် အထူးအခွင့်အရေးများသည်၊ ထိုသို့ရာထူးမှခေတ္တချထား သည့် ကာလအပိုင်းအခြားအတွင်း၊ ခေတ္တရပ်စဲ၍နေရမည်ဖြစ်သော်လည်း၊ ထိုအရာရှိသည်၊ မိမိအား ရာထူးမှ ခေတ္တချထားခြင်းမရှိသကဲ့သို့ပင် တာဝန်များနှင့် စည်းကမ်းသေဝင်မှုရှိမြဲအတိုင်း ရှိရမည် ဖြင့် ပြစ်ဒဏ်များကိုလည်းခံထိုက်ရမည်။

၁၅။ ။ (၁) ဌာနဆိုင်ရာမည်သည့် အရာရှိမှမျှ မိမိ၏ရာထူးနှင့်သက်ဆိုင်သော တာဝန်
ဝတ်တရားများကို မဆောင်ရွက်ဘဲနေရန် မိမိအားနိုင်ငံတော်သမ္မတက အတည်အလင်းခွင့်ပြုလျှင်၊
သို့တည်းမဟုတ် ထိုသို့နေနိုင်ခွင့်ပြုရန် နိုင်ငံတော်သမ္မတက အာဏာအပ်နှင်းထားသည့် အခြားအရာရှိ
ကအတည်အလင်းခွင့်ပြုလျှင်၊ ထိုတာဝန်ဝတ်တရားများကို မဆောင်ရွက်ဘဲနေနိုင်ခွင့်မရှိစေရ။
သို့တည်းမဟုတ် မိမိသည်ဌာနတွင် အနည်းဆုံးနှစ်နှစ်မျှ ဆက်လက်၍အမှုထမ်းရွက်ရသေးလျှင်၎င်း၊
မိမိ၏ရာထူးမှနုတ်ထွက်လိုကြောင်းဖြင့်၊ သုံးလထက်မနည်း ကြိုတင်၍နိုင်ငံတော်သမ္မတထံ စာဖြင့်
အကြောင်းကြားမထားလျှင်၎င်း၊ နိုင်ငံတော်သမ္မတ၊ သို့တည်းမဟုတ် အဆိုပါအာဏာအပ်နှင်းထား
သည့်အရာရှိ၏အခွင့်မရဘဲ၊ မိမိ၏ရာထူးမှနုတ်ထွက်ခွင့်မရှိစေရ။

(၂) ဌာနဆိုင်ရာ မည်သည့်အရာရှိမှ။ ဤ အက်ဥပဒေအရမိန့်တားဝန်ဝတ်တရားများ မှတစ်ပါး အခြားမည်သည့်အလုပ်၊ သို့တည်းမဟုတ် ရာထူးတွင်မျှ နိုင်ငံတော်သမ္မတက စာဖြင့်ရေးသား၍ အတည်အလင်း လုပ်ခွင့်မပြုလျှင် မလုပ်ရ။

၁၆။ ။ ညွှန်ကြားရေးဝန်သည်၊ ဌာနဆိုင်ရာအရာရှိများဖွဲ့စုရေး၊ အတန်းအစားခွဲခြားရေး၊ နေရာချထားရေးနှင့်၎င်း၊ ဌာနဆိုင်ရာ ရာထူး၊ မှုထမ်းများ နေထိုင်ရမည့်အရပ်ဒေသများနှင့်၎င်း၊ ထိုရာထူး၊ မှုထမ်းများ ဆောင်ရွက်ရမည့် သီးခြားအမှုကိစ္စများနှင့်၎င်း၊ ထိုရာထူး၊ မှုထမ်းများကို စစ်ဆေး ကြည့်ရှုခြင်းနှင့်၎င်း၊ ထိုရာထူး၊ မှုထမ်းများအားပေးရမည့် လက်နက်တန်းဆာနှင့် အခြား လိုအပ်သည့် အရာဝတ္ထုမျိုးမည်နှင့်၎င်း၊ ထိုရာထူး၊ မှုထမ်းများက သတင်းစုံဆောင်းပေးပို့ခြင်းနှင့်၎င်း၊ စစ်လျဉ်း၍ မိမိသင့်သည်ထင်မြင်သည့် အမိန့်များနှင့် နည်းဥပဒေများ၊ ထိုပြင်တာဝန်ဝတ်တရား အလှူသုံးစားမှု၊ သို့တည်းမဟုတ်ပေါ့လျော့မှုကို တားမြစ်ရန်နှင့် ဌာနက မိမိတာဝန်ဝတ်တရားများကို ကျေပြန်စွာဆောင်ရွက်နိုင်ရန်အလို့ငှါ အခါအားလျော်စွာ မိမိသင့်သည် ထင်မြင်သည့် ဌာနဆိုင်ရာ အခြားအမိန့်နှင့် နည်းဥပဒေများကို နိုင်ငံတော်လမတနီ သဘောတူညီချက်ဖြင့် အခါအားလျော်စွာ ပြုနိုင်သည်။

၁၇။ ။ဤကိစ္စအလို့ငှါ နိုင်ငံတော်သမ္မတမြန်မာနိုင်ငံတော်အစိုးရနှင့် မဆန့်ကျင်စေဘဲ ဌာနဆိုင်ရာ အရာရှိများမှာ ပြည်ထောင်စု မြန်မာနိုင်ငံ တဝှန်းလုံးတွင်၊ ၁၉၄၅ ခုနှစ်၊ ရဲအဖွဲ့အက်ဥပဒေ ပုဒ်မ ၁၆၊ ၁၇၊ ၁၈၊ ၁၉ နှင့် ၂၀ အရင်း၊ ရန်ကုန်မြို့မခေါ်တွင်၊ ရန်ကုန်မြို့ရဲအဖွဲ့အက်ဥပဒေပုဒ်မ ၁၅ နှင့်

၁၆ အရင်း၊ ရဲအရာရှိများအားအပ်နှင်းထားသည့် အာဏာနှင့် တာဝန် ဝတ်တရားအားလုံးကို ရရှိရမည်ဖြစ်။ [ပုဒ်မ ၇၊ ပုဒ်မခွဲ (၁)] တွင် ဖော်ပြထားသောပြစ်မှုများကို^၁ စုံစမ်းစစ်ဆေး၍ အဆိုပါပြစ်မှုများကျူးလွန်ခဲ့သည်၊ သို့တည်းမဟုတ် ကျူးလွန်နေသည်ဟု သက်သေကင်းဘွယ်ရာ အကြောင်းရှိသူများကိုဖမ်းဆီးရန်အလို့ငှါ၊ ပြည်ဆောင်ရွက်အဖွဲ့ကျူးလွန်သည့် ပြစ်မှုများ စုံစမ်း စစ်ဆေးခြင်းနှင့်စပ်လျဉ်း၍၊ ရာဇဝတ်ကျင့်ထုံးဥပဒေအရ၊ သို့တည်းမဟုတ် အခြားတည်ဆဲတရား ဥပဒေအရ၊ ပြည်ထောင်စု ရဲအရာရှိများရှိသော အာဏာ၊ တာဝန်ဝတ်တရားနှင့် အထူးအခွင့် အရေး အားလုံးကိုလည်း ရရှိရမည်။ ထို့ပြင် ထိုရဲအရာရှိများခံယူရမည့်တာဝန်ကိုလည်းခံယူရမည်။

အခန်း ၃။

၁၈။ ။ဤအက်ဥပဒေအရ၊ ဌာနဆိုင်ရာ အရာရှိအဖြစ်မှ ရပ်စဲသွားသူအသီးသီးသည်၊ ပုဒ်မ ၁၂ အရ၊ မိမိအားပေးအပ်ထားသော တာဝန်ခံလက်မှတ်ကို၎င်း၊ မိမိ၏တာဝန်ဝတ်တရားကို ဆောင်ရွက်ရန်အလို့ငှါ၊ မိမိအားပေးထားသော အဝတ်တန်းဆာများ၊ အသုံးအဆောင်များနှင့်အခြား ပစ္စည်းများကို၎င်း၊ ချက်ခြင်းပေးအပ်ရန်ပျက်ကွက်လျှင်၊ တထောင်ထက်မပိုသည့် ငွေဒဏ်ဖြစ်စေ၊ တနှစ်ထိထောင်ဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ခြင်းခံရမည်။

၁၉။ ။ဌာနဆိုင်ရာမည်သည့်အရာရှိမဆို၊ အောက်ပါပြစ်မှုများကို ကျူးလွန်လျှင်၊ တနှစ်ထိ ထောင်ဒဏ်ဖြစ်စေ၊ ခြောက်လအတွက် လစာထက်မပိုသည့် ငွေဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ခြင်းခံရမည်။

- (က) ပုဒ်မ ၁၅၊ ပုဒ်မခွဲ (၁)ပါ ပြဋ္ဌာန်းချက်များကို ဆန့်ကျင်၍ မိမိ၏ပုထိုးနှင့် သက်ဆိုင်သော တာဝန်ဝတ်တရားကိုမဆောင်ရွက်ဘဲနေသည့်ပြစ်မှု၊
- (ခ) ပုဒ်မ ၁၅၊ ပုဒ်မခွဲ (၂)ပါ ပြဋ္ဌာန်းချက်များကို ဆန့်ကျင်၍ မည်သည့်အလုပ် တွင်မဆို၊ သို့တည်းမဟုတ် မည်သည့်ရာထူးတွင်မဆို လုပ်သည့်ပြစ်မှု၊
- (ဂ) ခွင့်ရက်နှင့်နေ၍ ထိုခွင့်ရက်ကုန်ဆုံးသည့်အခါ၊ အလုပ်ခွင်သို့ လာရောက်ရန် သင့်လျော်သောအကြောင်းမရှိဘဲ ပျက်ကွက်သည့်ပြစ်မှု၊
- (ဃ) တာဝန်ဝတ်တရား ပျက်ပြားသည့်ပြစ်မှု၊ သို့တည်းမဟုတ်အခွင့်အာဏာရှိသူက ပြုသည့် နည်းဥပဒေ၊ သို့တည်းမဟုတ် ချမှတ်သည့်အမိန့်ကို တမင်သက်သက် ဖောက်ဖျက်သည့်၊ သို့တည်းမဟုတ် အလေးမမူဂရုမစိုက်သည့်ပြစ်မှု၊
- (င) သူရသတ္တိကင်းမဲ့စွာပြုသည့်ပြစ်မှု၊ သို့တည်းမဟုတ်
- (စ) အချုပ်ခံနေရသူတဦးတယောက်ကိုမတရားထိခိုက်နာကျင်အောင် ပြုသည့်ပြစ်မှု။

၂၀။ ။(၁) မည်သူမဆို၊ မိမိအတွက်သော်၎င်း၊ သူတပါးအတွက်သော်၎င်း၊ ဌာနဆိုင် ရာ အရာရှိရာထူးရရှိအောင်၊ သို့တည်းမဟုတ် ထိုရာထူးမှ ထွက်ခွင့်ရအောင် သိလျက်နှင့် မဟုတ်မမှန် ထွက်ဆိုလျှင်၊ သို့တည်းမဟုတ် မဟုတ်မမှန်သော စာချုပ်စာတမ်းကို အသုံးပြုလျှင်၊ ထိုသူသည် သုံးနှစ်ထိထောင်ဒဏ်ဖြစ်စေ၊ တထောင်ထက်မပိုသောငွေဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ခြင်း ခံရမည်။

(၂) ရာဇသတ်ကြီး ဥပဒေတွင် မည်သို့ပင် ပါရှိစေကာမူ၊ မည်သူမဆိုဌာနတွင် ရာထူး တခုခု၌ မိမိမထမ်းမရွက်ကြောင်း သိလျက်နှင့် ထိုရာထူး၌ ထမ်းရွက်ဟန်ဆောင်လျက်၊ သို့တည်းမဟုတ် ဌာနတွင်ရာထူးတခုခု၌ ထမ်းရွက်နေသော သူယောင်ဆောင်လျက်၊ ဌာနဆိုင်ရာအရာရှိဟန်ဆောင်

^၁ ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၅၈ အရ အစားထည့်သွင်းသည်။

အနေနှင့် ထိုရာထူးနှင့်စပ်သည့် ပြုလုပ်မှုတစ်ခုခုကိုပြုလုပ်၊ သို့တည်းမဟုတ် ထိုသို့ပြုလုပ်ရန် အားထုတ်လျှင်၊ ထိုသူသည် သုံးနှစ်ထိသော အထက်စီရင်ခြင်းခံရမည်ဖြစ်ပြီး တထောင်ထက်မပိုသော ငွေဒဏ်စီရင်ခြင်းကိုလည်း ခံရမည်။

(၃) ရာဇသတ်ကြီးဥပဒေတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ မည်သူမဆို၊ ဌာနဆိုင်ရာ အရာရှိမဟုတ်ဘဲလျက်၊ ထိုဌာနဆိုင်ရာ အရာရှိဖြစ်ကြောင်း၊ လူတစ်ပါးယုံကြည်စေရန် ကြံရွယ်ချက်နှင့်ဖြစ်စေ၊ သူတစ်ပါးယုံကြည်စေတန်ရာသည်ကို သိလျက်နှင့်ဖြစ်စေ၊ ထိုဌာနဆိုင်ရာအရာရှိဝတ်ဆင် ကိုင်ဆောင်သော အဝတ်တန်းဆာနှင့်၊ သို့တည်းမဟုတ် အမှတ်အသားနှင့် သင်္တာန်တူသော အဝတ်တန်းဆာကို ဝတ်ဆင်လျှင်၊ သို့တည်းမဟုတ် အမှတ်အသားကိုကိုင်ဆောင်လျှင်၊ ထိုသူသည် တနှစ်ထိသော ဒဏ်ဖြစ်စေ၊ တထောင်ထိ ငွေဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ခြင်းခံရမည်။

(၄) မြန်မာနိုင်ငံအစိုးရ၏ လျှို့ဝှက်သည့်ကိစ္စဆိုင်ရာ အက်ဥပဒေတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ အစိုးရလက်အောက်တွင်ရာထူး လက်ရှိဖြစ်သူတစ်ဦးတယောက်က ယုံမှတ်၍အပ်နှံထားသည့် သို့တည်းမဟုတ် ဌာနဆိုင်ရာအရာရှိအဖြစ်ဖြင့်ရရှိသည့် သို့တည်းမဟုတ် သိရှိနိုင်သည့် လျှို့ဝှက်အပ်သော အစိုးရဆိုင်ရာစကားဝှက်နည်း၊ သို့တည်းမဟုတ် ဝင်ထွက်နိုင်ခွင့်စကားဝှက်ကိုဖြစ်စေ၊ အကြမ်းပုံ၊ နယ်ပုံ၊ ပုံစံ၊ ရေးသားချက်၊ မှတ်ချက်၊ စာမျက်နှာ၊ စာတမ်း၊ သို့တည်းမဟုတ် အကြောင်းအရာကို ဖြစ်စေ လက်ဝယ်ထားရှိ ထိန်းသိမ်းရသည့် ဥက္ကဋ္ဌ၊ သို့တည်းမဟုတ် အဖွဲ့ဝင်၊ သို့တည်းမဟုတ် ဌာနဆိုင်ရာ အရာရှိတစ်ဦးသည်—

- (က) မိမိပြောကြားခွင့် ရသူအားမှ တစ်ပါး၊ အခြားသူတစ်ဦးတယောက်အား ထိုစကားဝှက်နည်း၊ သို့တည်းမဟုတ် ဝင်ထွက်နိုင်ခွင့်စကားဝှက်ကိုဖြစ်စေ၊ ထိုအကြမ်းပုံ၊ နယ်ပုံ၊ ပုံစံ၊ ရေးသားချက်၊ မှတ်ချက်၊ စာမျက်နှာ၊ စာတမ်း၊ သို့တည်းမဟုတ် အကြောင်းအရာကိုဖြစ်စေ၊ တမင်ပြောကြားလျှင်၊ သို့တည်းမဟုတ်
- (ခ) မိမိလက်ဝယ် ထားရှိထိန်းသိမ်းရသည့် အကြမ်းပုံ၊ နယ်ပုံ၊ ပုံစံ၊ ရေးသားချက်၊ မှတ်ချက်၊ သို့တည်းမဟုတ် စာမျက်နှာ၊ စာတမ်းကို ဆက်လက်ထားရှိခွင့်မရဘဲ တမင်ဆက်လက်ထားရှိလျှင်၊ သို့တည်းမဟုတ် အဆိုပါအကြမ်းပုံ စသည်တို့ကို ပြန်အပ်ရန်၊ သို့တည်းမဟုတ် စီမံခန့်ခွဲရန်၊ အာဏာပိုင်ကထုတ်ဆင့်သည့် အမိန့်တရပ်ရပ်ကို တမင်မလိုက်နာဘဲနေလျှင်၊ သို့တည်းမဟုတ်
- (ဂ) အကြမ်းပုံ၊ နယ်ပုံ၊ ပုံစံ၊ ရေးသားချက်၊ မှတ်ချက်၊ စာမျက်နှာ၊ စာတမ်း၊ လျှို့ဝှက်အပ်သော အစိုးရဆိုင်ရာ စကားဝှက်နည်း၊ သို့တည်းမဟုတ် ဝင်ထွက်နိုင်ခွင့်စကားဝှက်၊ သို့တည်းမဟုတ် အကြောင်းအရာကို၊ ထိုက်သည်အားလျော်စွာ အလေးဂရုမပြုဘဲ တမင်နေလျှင်၊ သို့တည်းမဟုတ် မပေါက်ကြား မပျက်စီးအောင် ဆောင်ရွက်ရန် ပျက်ကွက်လျှင်

ထိုသူသည် သုံးနှစ်ထိ သောဒဏ်စီရင်ခြင်းခံရမည်ဖြစ်ပြီး တထောင်ထက်မပိုသော ငွေဒဏ် စီရင်ခြင်းကိုလည်း ခံရမည်။

အခန်း ၄။

၂၁။ (၁) တည်ဆဲတရားဥပဒေတစ်ခုခုတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ နိုင်ငံတော်သမ္မတသည်၊ အမိန့်ကြော်ငြာစာထုတ်ပြန်၍ ဇယား ၁ တွင် သီးခြားဖော်ပြထားသည့် ပြစ်မှုများကိုဖြစ်စေ၊ ဤအက်ဥပဒေအရ ပြစ်မှုများကိုဖြစ်စေ စစ်ဆေးစီရင်ရန် အထူးတရားသူကြီး ခန့်ထားနိုင်သည်ဖြစ်ပြီး၊ ထိုအထူးတရားသူကြီးရုံးထိုင်ရမည့်နေရာကိုလည်း သတ်မှတ်နိုင်သည်။

သို့ရာတွင် ပြည်ထောင်စုနိုင်ငံဘော်သမဂ္ဂက၊ ရုံးထိုင်ရန်နေရာသတ်မှတ်သည့်အမိန့် ထုတ်ဆင့်ခြင်းမရှိလျှင်၊ အထူးတရားသူကြီးသည်၊ ရုံးထိုင်မည့်နေရာကို မိမိကိုယ်တိုင်သတ်မှတ်နိုင်သည်။

(၂) နိုင်ငံတော်သမဂ္ဂသည်၊ အထူး၊ သို့တည်းမဟုတ် သာမန်အမိန့်ဖြင့် ဇယား ၁ တွင် သီးခြားဖော်ပြထားသည့် ပြစ်မှုနှင့်စပ်လျဉ်း၍ ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း မည်သည့်တရားရုံး၌ မဆို မပြီးပြတ်သေးသည့်အမှုကို အမိန့်တွင် သီးခြားဖော်ပြထားသည့် အထူး တရားသူကြီးရုံးသို့ လွှဲပြောင်းရန် ဆင့်ဆိုနိုင်သည်။

(၃) မည်သူမဆို စက်ရှင်တရားသူကြီးအဖြစ်ဖြင့် အနည်းဆုံး တနှစ်မျှ အမှုထမ်းရွက်၍ စက်ရှင်တရားသူကြီး၏ အာဏာများကို သုံးစွဲဘူးသူဖြစ်လျှင်၊ သို့တည်းမဟုတ် ခရိုင်ရာဇဝတ် တရားသူကြီး၏အာဏာကို အနည်းဆုံးတနှစ်မျှသုံးစွဲဘူးသူဖြစ်လျှင်၊ သို့တည်းမဟုတ် ရာဇဝတ်ကျင့်ထုံးဥပဒေပုဒ်မ ၃၀ အရ၊ အာဏာများအပ်နှင်းထားသည့် ပဌမတန်း ရာဇဝတ်တရားသူကြီးဖြစ်ဘူးလျှင်၊ ထိုသူကို ပုဒ်မခွဲ(၁) အရ၊ အထူးတရားသူကြီးအဖြစ် ခန့်ထားနိုင်သည်။

သို့ရာတွင် နိုင်ငံတော်သမဂ္ဂက အမိန့်အဖြစ် သီးခြားဖော်ပြထားသည့် အချင်အသမုများ၌ ပဌမတန်းရာဇဝတ်တရားသူကြီး၏ အာဏာအနည်းဆုံးတနှစ်မျှ သုံးစွဲဘူးသူကို အထူးတရားသူကြီးအဖြစ် ခန့်ထားနိုင်သည်။

°(၃-က) ပုဒ်မခွဲ(၁) အရ နိုင်ငံတော်သမဂ္ဂက၊ ခန့်ထားသည့်အထူးတရားသူကြီးသည်၊ ဇယား ၁ တွင် သီးခြားဖော်ပြထားသည့် ပြစ်မှုများနှင့် ဤအက်ဥပဒေအရ ပြစ်မှုများသာမက၊ စက်ရှင်တရားသူကြီး၏ အာဏာကိုသုံးစွဲလျက် တည်ဆဲဥပဒေများအရ ပြစ်ဒဏ်ထိုက်သင့်သည့် အခြားပြစ်မှုများကိုလည်း စစ်ဆေးစီရင်နိုင်ရမည်ဖြစ်၍ ဆိုင်ရာဥပဒေများတွင် သတ်မှတ်ထားသော ပြစ်ဒဏ်များကိုလည်း စီရင်နိုင်ရမည်။

(၄) နိုင်ငံဘော်သမဂ္ဂက အခြားအမိန့်မသုတ်ပြန်လျှင်၊ ဤအက်ဥပဒေအရပြစ်မှုများကို စစ်ဆေးစီရင်ပိုင်ခွင့်ရှိသည့် တရားရုံးများ၏နယ်နိမိတ်အတွင်း ကျူးလွန်လျှင်၊ ထိုတရားရုံးများက စစ်ဆေးစီရင်ရမည်။

(၅) မည်သူမဆို၊ ဤအက်ဥပဒေအရ ခန့်ထားသည့်အထူးတရားသူကြီးက စစ်ဆေး၍ ပြစ်မှုထင်ရှားစီရင်ခြင်းခံရလျှင်၊ တရားလွှတ်တော်သို့အယူခံနိုင်သည်။

သို့ရာတွင် ထိုသူကို စက်ရှင်တရားရုံးက ပြစ်မှုထင်ရှားစီရင်ဘိသကဲ့သို့၊ ရာဇဝတ်ကျင့်ထုံးဥပဒေပုဒ်မ ၄၁၂ နှင့် ၄၁၃ ပါ ပြဋ္ဌာန်းချက်များသည် ထိုအယူခံမှုများနှင့် သက်ဆိုင်ရမည်။

(၆) ဤအက်ဥပဒေအရ ခန့်ထားသည့်အထူးတရားသူကြီးက စစ်ဆေးစီရင်သည့်အမှုများကို တရားလွှတ်တော်ကပြင်ဆင်နိုင်သည်။ ထို့ပြင်ရာဇဝတ်ကျင့်ထုံးဥပဒေပုဒ်မ ၄၃၅ အစမှ ၄၄၂ အဆုံးထိ ပုဒ်မများပါပြဋ္ဌာန်းချက်များသည် အဆိုပါပြင်ဆင်မှုများနှင့် သက်ဆိုင်ရမည်။

၂၂။ ။ ဤအက်ဥပဒေအရခန့်ထားသည့် အထူးတရားသူကြီး၏ရုံး၌ မပြီးပြတ်သေးသည့် အမှုကို ရာဇဝတ်ကျင့်ထုံးဥပဒေပုဒ်မ ၅၂၆ အရ၊ လွှဲပြောင်းရန် တရားလွှတ်တော်သို့ လျှောက်ထားနိုင်သည်။ ထိုအမှုကိုလွှဲပြောင်းသင့်သည်ဟု တရားလွှတ်တော်ကယူဆလျှင်၊ ထိုသို့လွှဲပြောင်းသင့်ကြောင်းဖြင့် နိုင်ငံတော်သမဂ္ဂထံ အစီရင်ခံရမည်။ အဆိုပါအစီရင်ခံစာအရ နိုင်ငံတော်သမဂ္ဂက အခြားအထူးတရားသူကြီးဘဦးကိုခန့်ထား၍၊ အမှုကို ထိုအထူးတရားသူကြီးထံသို့ လွှဲပြောင်းရမည်။

° ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၅၈ အရ ထည့်သွင်းသည်။

၂၃။ ။ ဤအက်ဥပဒေတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ အဖွဲ့နှင့်ဌာနဆိုင်ရာအရာရှိများသည်၊ တည်ဆဲတရားဥပဒေတစ်ခုခုအရ ပြည်သူ့ပစ္စည်း ကာကွယ်စောင့်ရှောက်ရေးကော်မတီနှင့် ပြည်သူ့ပစ္စည်းကာကွယ်စောင့်ရှောက်ရေးရဲအဖွဲ့ဝင် ရာထမ်းမှုထမ်းများ ဆိုင်သင့်ရာရာက သုံးစွဲဆောင်ရွက်ခဲ့သည့် အာဏာများနှင့် တာဝန်ဝတ်တရားများကို ဆိုင်ရာဆိုင်ရာသုံးစွဲဆောင်ရွက်ရမည်။ ထို့ပြင် အဆိုပါကော်မတီက၊ သို့တည်းမဟုတ် အဆိုပါရဲအဖွဲ့ကစွဲဆိုသည့်၊ သို့တည်းမဟုတ် စုံစမ်းစစ်ဆေးသည့်အမှုကို အဖွဲ့၊ သို့တည်းမဟုတ် ဌာနဆိုင်ရာအရာရှိများ ဆိုင်သင့်ရာရာက ဆက်လက်စွဲဆိုရမည်။ သို့တည်းမဟုတ် ဆက်လက်စုံစမ်းစစ်ဆေးရမည်။

၂၄။ ။ နိုင်ငံတော်သမ္မတသည်၊ အမိန့်ကြော်ငြာစာ ထုတ်ပြန်၍ ဇယား ၁ ပါ မည်သည့် ပြဋ္ဌာန်းချက်ကိုမဆို ပြောင်းခြင်းဖြင့်သော်၎င်း၊ ဖြည့်ထည့်ခြင်းဖြင့် သော်၎င်း၊ ရုပ်သိမ်းခြင်းဖြင့် သော်၎င်း၊ ပြင်နိုင်သည်။ ထို့ပြင်ချက်သည် ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်ဖြစ်သကဲ့သို့ အာဏာတည်ရမည်။

၂၅။ ။ (၁) ဤအက်ဥပဒေအရ သဘောရိုးဖြင့် ဆောင်ရွက်သည့်၊ သို့တည်းမဟုတ် ဆောင်ရွက်ရန် ကြံရွယ်သည့်ကိစ္စအတွက် မည်သူ့ကိုမျှ တရားမမှုဖြစ်စေ၊ ရာဇဝတ်မှုဖြစ်စေ၊ အခြားတရားမှုခင်းဖြစ်စေ မစွဲဆိုရ။

(၂) ဤအက်ဥပဒေအရဆောင်ရွက်သည့်၊ သို့တည်းမဟုတ် ဆောင်ရွက်ရန်ကြံရွယ်သည့် ကိစ္စကြောင့် ဖြစ်သည့်၊ သို့တည်း မဟုတ် ဖြစ်ရန် အကြောင်း ရှိသည့် ပျက်စီး နစ်နာမှု အတွက် ပြည်ထောင်စု မြန်မာနိုင်ငံအား တရားမမှုဖြစ်စေ၊ အခြားမှုခင်းဖြစ်စေ မစွဲဆိုရ။

၂၆။ ။ (၁) နိုင်ငံတော်သမ္မတသည်၊ အမိန့်ကြော်ငြာစာထုတ်ပြန်၍ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များ အတိုင်း ဆောင်ရွက်ရန်၊ ဤအက်ဥပဒေနှင့် မဆန့်ကျင်သည့် နည်းဥပဒေများ^၁ ကို ပြုနိုင်သည်။

(၂) အထက်ပါအာဏာများ၏ ယေဘုယျသဘောကိုမထိခိုက်စေဘဲ၊ အဆိုပါနည်းဥပဒေများသည်^၂ အထူးသဖြင့်—

- (က) ဌာနဆိုင်ရာအရာရှိများ၏ အပြုအမူနှင့်စပ်လျဉ်းသည့် စုံစမ်းစစ်ဆေးမှုများတွင် လိုက်နာရမည့်နည်းလမ်းကို ပြဋ္ဌာန်းနိုင်သည်။ ထို့ပြင်
- (ခ) ဌာနဆိုင်ရာအရာရှိက၊ မိမိနှစ်နာစေရန်ချမှတ်သည့်အမိန့်ကို မည်သည့်အမှုမျိုးတွင် မည်သည့်အာဏာပိုင်များထံ အယူခံဝင်ခွင့်ရှိရမည်ဟုပြဋ္ဌာန်းနိုင်သည်။

သို့ရာတွင် အဆိုပါအရာရှိမှာ အမိန့်တခုကို တကြိမ်ထက်ပို၍အယူခံဝင်ခွင့်မရှိစေရ။

ဇယား ၁။

(ပုဒ်မ ၄၊ ၅၊ ၇၊ ၁၇၊ ၂၁ နှင့် ၂၄ ကိုကြည့်။)

(က) ၁၉၄၇ ခုနှစ်၊ ပြည်သူ့ ပစ္စည်း ကာကွယ်ရေးအက်ဥပဒေ (Public Property Protection Act, 1947) ပုဒ်မ ၆၊ (၁) အရ ပြစ်မှုများ။

(ခ) ၁၉၄၈ ခုနှစ်၊ အဂတိလိုက်စားမှုတားမြစ်ရေး အက်ဥပဒေ ပုဒ်မ ၄ (၂)၊ အရ ပြစ်မှုများ။

^၁ ၁၉၅၂ ခုနှစ်၊ အထူးစုံစမ်းစစ်ဆေးမှု အုပ်ချုပ်ရေးအဖွဲ့ (လုပ်ငန်းဆောင်ရွက်မှု) နည်းဥပဒေများကို မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၂ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၅၈၂ တွင် ထုတ်ပြန်ကျေညာသည်။

^၂ ဤသို့သောနည်းဥပဒေများကို မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၂ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၄၁၃ တွင် ထုတ်ပြန်ကျေညာသည်။

(ဂ) ၁၉၄၇ ခုနှစ်၊ နိုင်ငံခြားငွေလဲလှယ်မှု စည်းမျဉ်းသတ်မှတ်ရေးအက်ဥပဒေ (Foreign Exchange Regulation Act, 1947) ပုဒ်မ ၂၄ အရ ပြစ်မှုများ။

(ဃ) ၁၉၄၇ ခုနှစ်၊ အရေးကြီးသော ကုန်ပစ္စည်းများနှင့် ဆောင်ရွက်မှုများ ဆိုင်ရာ အက်ဥပဒေ (Essential Supplies and Services Act, 1947) ပုဒ်မ ၈ အရ ပြစ်မှုများ။

(င) ၁၉၄၇ ခုနှစ်၊ ဝင်ကုန်ထွက်ကုန်ကြီးကြပ်ရေး (ယာယီ) အက်ဥပဒေ [Control of Imports and Exports (Temporary) Act, 1947] ပုဒ်မ ၅ အရ ပြစ်မှုများ။

* (စ) ရာဇသတ်ကြီးအရ၊ သို့တည်းမဟုတ် အခြားတည်ဆဲ တရားဥပဒေအရ၊ ပြည်သူ့ ပစ္စည်းနှင့်စစ်လျဉ်းသည့် ပြစ်မှုအားလုံး၊ သို့တည်းမဟုတ် အဆိုပါပြစ်မှုများ ကျူးလွန်ရာတွင် တစ်စိတ် တဒေသဖြင့် ဆက်စပ်ဖြစ်ပွားသောအခြားပြစ်မှုများ။

* (ဆ) အထက်ပါ အပိုဒ်(က)တွင်၊ သို့တည်းမဟုတ် အပိုဒ်(ခ)တွင်၊ သို့တည်းမဟုတ် အပိုဒ်(ဂ)တွင်၊ သို့တည်းမဟုတ် အပိုဒ်(ဃ)တွင်၊ သို့တည်းမဟုတ် အပိုဒ်(င)တွင်၊ သို့တည်းမဟုတ် အပိုဒ်(စ)တွင် ဖော်ပြထားသည့်ပြစ်မှုကို ကျူးလွန်ရန်အားထုတ်သည့်၊ သို့တည်းမဟုတ် အားပေးကူညီသည့်ပြစ်မှု။

^၁ (ဇ) ၁၉၄၉ ခုနှစ်၊ အထွေထွေရောင်းခွန် အက်ဥပဒေ၊ ၁၉၄၇ ခုနှစ်၊ ဝဲခွန်တော် အက်ဥပဒေ (Entertainment Tax Act, 1947)၊ ၁၉၄၉ ခုနှစ်၊ ရောင်းဝယ်လုပ်ကိုင်မှုဥပဒေနှင့် အက်ဥပဒေ၊ ၁၉၄၉ ခုနှစ်၊ ဟော်တယ်နှင့်ပျော်ရွှင်စားရုံခွန်အက်ဥပဒေ၊ ၁၉၂၂ ခုနှစ်၊ အမြတ်တော် ခွန်အက်ဥပဒေ (Income-Tax Act, 1922)၊ ၁၈၇၈ ခုနှစ်၊ ပင်လယ်အကောက်တော် အက်ဥပဒေ (Sea Customs Act, 1878)၊ ၁၉၄၇ ခုနှစ်၊ နိုင်ငံခြားငွေလဲလှယ်မှု စည်းမျဉ်းသတ်မှတ် ရေးအက်ဥပဒေ (Foreign Exchange Regulation Act, 1947)၊ ၁၉၄၇ ခုနှစ်၊ ဝင်ကုန်ထွက် ကုန်ကြီးကြပ်ရေး (ယာယီ) အက်ဥပဒေ [Control of Imports and Exports (Temporary) Act, 1947] နှင့် ၁၉၄၇ ခုနှစ်၊ အရေးကြီးသော ကုန်ပစ္စည်းများနှင့် ဆောင်ရွက်မှုများဆိုင်ရာ အက်ဥပဒေ (Essential Supplies and Services Act, 1947) များအရ၊ စီမံခန့်ခွဲဆောင်ရွက် ရာ၌ ပြည်ထောင်စုအစိုးရ၏၊ သို့တည်းမဟုတ် ဒေသန္တရအဖွဲ့များ၏၊ သို့တည်းမဟုတ် အက်ဥပဒေ အရမူတည်သည့် အဖွဲ့များ၏ ဘဏ္ဍာတော်ကို၊ သို့တည်းမဟုတ် အခွန်တော်ကို တိုက်ရိုက်ဖြစ်စေ၊ သွယ်ဝိုက်၍ဖြစ်စေ၊ ထိခိုက်နစ်နာစေမည့် ပစ္စည်းနှင့်ဖြစ်စေ၊ ကုန်စည်နှင့်ဖြစ်စေ၊ ငွေနှင့်ဖြစ်စေ၊ တန်ဖိုးရှိသော အာမခံစာချုပ်နှင့်ဖြစ်စေ စစ်လျဉ်း၍ ကျူးလွန်သည့် ရာဇသတ်ကြီးအရ ပြစ်ဒဏ် ထိုက်သင့်သောပြစ်မှုများ။

* (ဈ) အထူးစုံစမ်းစစ်ဆေးရေးဌာနက စုံစမ်းစစ်ဆေး၍ အမှုစစ်ဆေးစီရင်ရန် ခွင့်ပြုတင်ပြ သည့်ရာဇသတ်ကြီးပုဒ်မ ၄၀၅၊ ၄၁၅ နှင့် ၄၆၃ များ၌ဖော်ပြထားသော အဓိပ္ပါယ်တွင် အကျုံးဝင် သောပြစ်မှုများ။

^၁ ၁၉၅၁ ခု၊ ဒီဇင်ဘာလ ၃၁ ရက်နေ့စွဲပါ ပြည်ထောင်စုနှင့်သာသနာရေးဌာန ပြန်တမ်းအမှတ် ၇၆၁၊ (မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၂ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၄၀) အရ ထည့်သွင်းသည်။

^၂ ၁၉၅၂ ခု၊ ဇန်နဝါရီလ ၁၄ ရက်နေ့စွဲပါ ပြည်ထောင်စုနှင့် သာသနာရေးဌာန ပြန်တမ်းအမှတ် ၂၄၊ (မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၂ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၅၄) အရ ထည့်သွင်းသည်။

^၃ ၁၉၅၂ ခု၊ ဇန်နဝါရီလ ၂၃ ရက်နေ့စွဲပါ ပြည်ထောင်စုနှင့်သာသနာရေးဌာန ပြန်တမ်းအမှတ် ၄၈၊ (မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၂ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၀၁) အရ ထည့်သွင်းသည်။

ဇယား ၂။

(ပုဒ်မ ၃ ကိုကြည့်။)

ကျွန်ုပ် _____ သည်၊ အထူး စုံစမ်း စစ်ဆေးမှု အုပ်ချုပ်ရေး အဖွဲ့
 ၂၀၁၆ ခုနှစ် တာဝန်အလုပ်ဝတ်တရားများကို၊ ရုံးသား ဖြောင့်မတ် တည်ကြည် မှန်ကန်စွာ မျက်နှာ
 ကြီးငယ် မရွယ်မထောက်၊ ဆန္ဒ၊ ဒေါသ၊ ဘယာဂတိများသို့မလိုက်၊ ကိုယ်စွမ်းရှိသမျှ၊ ဉာဏ်စွမ်း
 ရှိသမျှ ကျေနပ်အောင်ထမ်းရွက်ပါမည်။ ထို့ပြင်ကျွန်ုပ်သည်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံ၏ ဖွဲ့စည်း
 အုပ်ချုပ်ပုံအခြေခံဥပဒေနှင့်တကွ တရားဥပဒေများကို၊ ထိန်းသိမ်းစောင့်ရှောက်မည်ဟု လေးနက်
 တည်ကြည်စွာ ကျေညာ၍ ကျမ်းသစ္စာ ကတိသစ္စာ ဆိုပါသည်။

ဇယား ၃။

(ပုဒ်မ ၁၂ ကိုကြည့်။)

၁၉၅၁ ခုနှစ်၊ အထူးစုံစမ်း စစ်ဆေးမှု အုပ်ချုပ်ရေး အဖွဲ့နှင့် အထူးစုံစမ်းစစ်ဆေးရေးဌာန
 အက်ဥပဒေပုဒ်မ ၁၇ ကို၊ ကျွန်ုပ်ဖတ်ရှုပြီးဖြစ်ပါကြောင်း။ ကျွန်ုပ်အား အဆိုပါ အက်ဥပဒေအရ
 _____ *အဖြစ် ခန့်ထားသည့်အခါ၊ ကျွန်ုပ်သည်

အခါခပ်သိမ်း ပြည်ထောင်စု မြန်မာနိုင်ငံ၏ ဖွဲ့စည်းအုပ်ချုပ်ပုံ အခြေခံဥပဒေနှင့်တကွ တရားဥပဒေ
 များကို ထိန်းသိမ်း စောင့်ရှောက် ပါမည်။ ထို့ပြင် ပြည်ထောင်စု အစိုးရ၏ အမှုတော်ကိုးကွယ်၊
 ကျွန်ုပ်အား တရားဥပဒေအရ အပ်နှင်းထားသော အာဏာများနှင့် တာဝန်ဝတ်တရားများကိုကွယ်၊
 ရုံးသားဖြောင့်မတ် တည်ကြည်မှန်ကန်စွာ မျက်နှာကြီးငယ် မရွယ်မထောက်၊ ဆန္ဒ၊ ဒေါသ၊
 ဘယာ ဂတိများသို့မလိုက်၊ ကိုယ်စွမ်းရှိသမျှ၊ ဉာဏ်စွမ်းရှိသမျှ ကျေနပ်အောင် ထမ်းဆောင်ပါ
 မည်ဟု လေးနက်တည်ကြည်စွာ ကျေညာ၍ ကျမ်းသစ္စာ ကတိသစ္စာ ဆိုပါသည်။

ဇယား ၄။

(ပုဒ်မ ၁၂၊ ၁၃ နှင့် ၁၇ ကိုကြည့်။)

_____ ကို၊ ၁၉၅၁ ခုနှစ်၊ အထူး စုံစမ်းစစ်ဆေးမှု
 အုပ်ချုပ်ရေးအဖွဲ့နှင့် အထူးစုံစမ်းစစ်ဆေးရေးဌာန အက်ဥပဒေအရ၊ အထူးစုံစမ်းစစ်ဆေးရေးဌာန
 ဆိုင်ရာအရာရှိအဖြစ်ခန့်ထားပြီးဖြစ်၍ _____ အား အထူးစုံစမ်းစစ်ဆေးရေးဌာန
 ဆိုင်ရာ အရာရှိ၏အာဏာများ၊ အလုပ်ဝတ်တရားများနှင့် အထူးအခွင့်အရေးများကို အပ်နှင်း
 လိုက်သည်။

* ဤနေရာ၌ခန့်ထားသည့်ရာထူးအဆင့်အတန်းကိုရေးသွင်းပါ။

နိုင်ငံတော်အထိမ်းအမှတ်များ (ဆင်ယင်ပြသမှုကန့်သတ်ရေး) အက်ဥပဒေ။*

[၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၄၇။] (၁၉၅၄ ခု၊ အောက်တိုဘာလ ၉ ရက်။)

အောက်ပါအတိုင်း အက်ဥပဒေအဖြစ် ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။ ဤအက်ဥပဒေကို ၁၉၅၄ ခုနှစ်၊ နိုင်ငံတော်အထိမ်းအမှတ်များ (ဆင်ယင်ပြသမှု ကန့်သတ်ရေး) အက်ဥပဒေဟုခေါ်ရမည်။

၂။ ။ ဤအက်ဥပဒေတွင် ရှေ့နောက်စကားတို့၏ အဓိပ္ပါယ်ကို ထောက်ထားရန် မလို လျှင်—

(က) “နိုင်ငံတော်အထိမ်းအမှတ်” ဆိုသည်မှာ အချုပ်အခြာအာဏာပိုင် နိုင်ငံ တခု၏၊ သို့တည်းမဟုတ် လက်အောက်ခံနိုင်ငံတခု၏၊ သို့တည်းမဟုတ် ထိုနိုင်ငံတစိတ်တဒေသ၏အလံ၊ သို့တည်းမဟုတ်တံခွန်၊ သို့တည်းမဟုတ် အခြား အထိမ်းအမှတ်ကို ဆိုလိုသည့်ပြင်၊ ထိုစကားရပ်တွင် အချုပ်အခြာအာဏာပိုင် နိုင်ငံတခု၏၊ သို့တည်းမဟုတ် လက်အောက်ခံနိုင်ငံတခု၏၊ သို့တည်းမဟုတ် ထိုနိုင်ငံတစိတ်တဒေသ၏ အသက်ထင်ရှားရှိသော၊ သို့တည်းမဟုတ် ကွယ်လွန်ပြီးသော အမျိုးသားခေါင်းဆောင်ဓါတ်ပုံသည်၎င်း၊ အမျိုးသားခေါင်းဆောင်နှင့် ဆင်တူရိုးမှားဖြစ်အောင်တနည်းနည်းဖြင့်ပြုလုပ်ထားသောပုံသည်၎င်း၊ နိုင်ငံတော်အထိမ်းအမှတ်နှင့် ဆင်တူရိုးမှားဖြစ်သော အရာဝတ္ထုသည်၎င်း ပါဝင်သည်။

(ခ) “ဥပစာ” ဆိုသည်တွင်မြေ၊ အဆောက်အအုံ၊ ရေယာဉ်၊ ကုန်းယာဉ်၊ နေရာဌာနတခုခုသော်၎င်း၊ အဆိုပါမြေ၊ အဆောက်အအုံ၊ ရေယာဉ်၊ ကုန်းယာဉ်၊ နေရာဌာနတခုခု၏တစိတ်တပိုင်းသော်၎င်း ပါဝင်သည်။

၃။ ။ (၁) နိုင်ငံတော်အထိမ်းအမှတ်ကို ပုဒ်မ ၄ ပါပြဋ္ဌာန်းချက်များနှင့်၎င်း၊ ပုဒ်မ ၅ အရ ပြုသည့်အမိန့်တရပ်ရပ်ပါ ပြဋ္ဌာန်းချက်များနှင့်၎င်း မညီညွတ်ဘဲ ပြည်သူအများမြင်သာအောင် ဆင်ယင်ပြသခြင်းကို တားမြစ်သည်။

(၂) ဤပုဒ်မပါ ကိစ္စများအလို့ငှါ၊ ပြည်သူအများ၊ သို့တည်းမဟုတ် ပြည်သူအချို့ သွားလာပိုင်ခွင့်ရှိသည့် လမ်းကြီး၊ လမ်းငယ်၊ တံတား၊ လမ်းကြား၊ သို့တည်းမဟုတ် လူသွားလမ်းပေါ်တွင်သော်၎င်း၊ ပြည်သူများက၊ သို့တည်းမဟုတ် ပြည်သူအချို့က အခကြေးငွေပေး၍ဖြစ်စေ၊ အခြားနည်းဖြင့်ဖြစ်စေ ဝင်ထွက်နိုင်သည့်ဥပစာတွင်သော်၎င်း၊ နိုင်ငံတော်အထိမ်းအမှတ်တခုခုကို ဆင်ယင်ပြသလျှင်၊ သို့တည်းမဟုတ် အဆိုပါလမ်းကြီး၊ လမ်းငယ်၊ တံတား၊ လမ်းကြား၊ လူသွားလမ်း၊ သို့တည်းမဟုတ် ဥပစာတခုခုတွင် သွားလာဝင်ထွက်နေသော၊ သို့တည်းမဟုတ် ရှိနေသောပြည်သူများအနက် တဦးဦးမြင်သာအောင် ဆင်ယင်ပြသလျှင်၊ ထိုနိုင်ငံတော်အထိမ်းအမှတ်ကို ပြည်သူအများမြင်သာအောင် ဆင်ယင်ပြသသည်ဟု မှတ်ယူရမည်။

၄။ ။ ပုဒ်မ ၃ ပါပြဋ္ဌာန်းချက်များသည်၊ နိုင်ငံတော်အထိမ်းအမှတ်ကို အောက်တွင် ဖော်ပြထားသည့်အတိုင်း ဆင်ယင်ပြသခြင်းနှင့် မသက်ဆိုင်စေရ။

(က) ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ နိုင်ငံတော်အထိမ်းအမှတ်ကို ဆင်ယင်ပြသခြင်း။

* မြန်မာနိုင်ငံပြန်ကမ်း၊ ၁၉၅၄ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၅၁၃ တွင် ထုတ်ပြန်ကျေညာသည်။

- (ခ) ပြည်ထောင်စုမြန်မာနိုင်ငံသို့ သံတမန်အဖြစ်ဖြင့်၊ သို့တည်းမဟုတ် ကောင်စစ် ကိုယ်စားလှယ်အဖြစ်ဖြင့် နည်းလမ်းတကျစေလွှတ်ခြင်းခံရသူ နိုင်ငံခြားသား က မိမိနိုင်ငံ၏နိုင်ငံတော်အထိမ်းအမှတ်ကို ဆင်ယင်ပြသခြင်း။
- (ဂ) သဘော၊ သို့တည်းမဟုတ် လေယာဉ်ပျံပေါ်တွင် နိုင်ငံတော်အထိမ်းအမှတ် ကို ဆင်ယင်ပြသခြင်း။
- (ဃ) ရုပ်ရှင်ပြသခြင်းဆိုင်ရာ အက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များအရ၊ ပြသခွင့်ရသည့် ရုပ်ရှင်ကားကို၊ ပြသနေစဉ် နိုင်ငံတော်အထိမ်းအမှတ်တစ်ခုခုကို ပြသခြင်း။
- (င) ရုပ်ရှင်ပြသခြင်းဆိုင်ရာ အက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များအရ၊ ပြသခွင့်ရသည့် ရုပ်ရှင်ကားတစ်ခုခု ကြော်ငြာရန်အရပ်ကား၊ ဓါတ်ပုံ၊ ဝိစတာ၊ သို့တည်း မဟုတ်ရုပ်ပုံအားဖြင့် နိုင်ငံတော်အထိမ်းအမှတ်ကို ဆင်ယင်ပြသခြင်း။

၅။ ။ နိုင်ငံတော်သမတသည်၊ အမိန့်ထုတ်ပြန်၍ ထိုအမိန့်တွင် သီးခြားဖော်ပြထားသည့် နိုင်ငံတော်အထိမ်းအမှတ် ဆင်ယင်ပြသခြင်းကို၊ ပုဒ်မ ၃ ပါ ပြဋ္ဌာန်းချက်များမှကင်းလွတ်ခွင့်ပြုနိုင်သည်။ ထို့ပြင် အဆိုပါအမိန့်တွင် ထိုသို့ဆင်ယင်ပြသရန် နည်းလမ်းကို စည်းမျဉ်းသတ်မှတ်နိုင်သည့်ပြင်၊ ထိုသို့ ဆင်ယင်ပြသခွင့်ပြုသည့် ကာလအပိုင်းအခြားကိုလည်း ကန့်သတ်နိုင်သည်။

၆။ ။ (၁) ခရိုင်ရာဇဝတ်တရားသူကြီးဌာန၊ နယ်ပိုင်ရာဇဝတ်တရားသူကြီးဌာန၊ ပဌမတန်း၊ သို့တည်းမဟုတ် ဒုတိယတန်း ရာဇဝတ်တရားသူကြီးဌာန၊ နိုင်ငံတော်သမတက ဤကိစ္စ အလို့ငှါ အာဏာအပ်နှင်းထားသော အခြားအရာရှိတစ်ဦးဦးဖြစ်စေ ယုံကြည်လောက်သော သတင်း ပေးချက်အရသော်၎င်း၊ အခြားယုံကြည်လောက်သောအကြောင်းကြောင့်သော်၎င်း ဤအက်ဥပဒေအရ ပြစ်မှုကျူးလွန်သည်ဟုယုံကြည်ရန်အကြောင်းရှိလျှင်၊ ထိုသတင်းပေးချက်ကို၊ သို့တည်းမဟုတ် ထိုအကြောင်း ကို ရေးမှတ်ပြီးနောက် ထိုရာဇဝတ်တရားသူကြီး၊ သို့တည်းမဟုတ် ထိုအရာရှိကိုယ်တိုင်သော်၎င်း၊ ၎င်းကဝါရမ်းထုတ်ပေးထားသည့် ရဲအရာရှိကသော်၎င်း—

- (က) ဤအက်ဥပဒေအရ ပြစ်မှုတစ်ခုခုကို ကျူးလွန်သည်ဟု မိမိယုံကြည်ဘွယ်ရာ အကြောင်းရှိသူကို ဖမ်းဆီးနိုင်သည်။ ထို့ပြင်
- (ခ) နိုင်ငံတော်အထိမ်းအမှတ်ကို ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်ဖြစ်စေ၊ ဤ အက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များအရပြသသည့်အမိန့်တရပ်ရပ်နှင့်ဖြစ်စေ ဆန့်ကျင်၍ ဆင်ယင်ပြသထားသည့်ဥပစာသို့ ဝင်ရောက်လျက် အဆိုပါ အထိမ်းအမှတ် ကို သိမ်းယူနိုင်သည်။ ထို့ပြင် ထိုသို့ဝင်ရောက်သည့် ဥပစာကို ရှာဖွေ၍၊ ဥပစာတွင် ဤအက်ဥပဒေအရ ပြစ်မှုကျူးလွန်ကြောင်း သက်သေခံဖြစ်သည်ဟု မိမိယုံကြည်လောက်သော အကြောင်းရှိသည့်ပစ္စည်းတစ်ခုခုကိုတွေ့ရှိလျှင်၊ ထို ပစ္စည်းကိုလည်း သိမ်းယူနိုင်သည်။

(၂) ပုဒ်မခွဲ (၁) အရ သတင်းပေးချက် အကျဉ်းချုပ်ကို၊ သို့တည်းမဟုတ် လုံလောက်သောအကြောင်း အကျဉ်းချုပ်ကို ရေးမှတ်သည့်ရာဇဝတ်တရားသူကြီးမှာ၊ သို့တည်းမဟုတ် အရာရှိမှာ၊ ထိုမှတ်တမ်းတွင် သတင်းပေးသူ၏အမည်ကို ဖော်ပြရေးသားရန် တာဝန်မရှိစေရ။

(၃) ပုဒ်မခွဲ (၁) အရ၊ ရှာဖွေသည့်အခါတိုင်း ရာဇဝတ်ကျင့်ထုံးဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်အညီ ရှာဖွေရမည်။

(၄) ပုဒ်မခွဲ (၁) အရ ဥပစာတွင်းသို့ ရဲအရာရှိတဦးဦးဝင်ရောက်သည့်အခါ၊ ထိုပုဒ်မခွဲ အရ ဆောင်ရွက်ပြီးစီးသည်နှင့်တပြိုင်နက် ထိုရဲအရာရှိက မိမိမည်ကဲ့သို့ ဆောင်ရွက်ကြောင်း ဖော်ပြသည့် အစီရင်ခံစာကို (ဝါရမ်းစာရှိလျှင်) ထိုဝါရမ်းစာနှင့်တကွ ကျူးလွန်သည်ဟု ထင်ရသောပြစ်မှုကို စီရင် ပိုင်ခွင့်ရှိသော ရာဇဝတ်တရားသူကြီးတဦးဦးထံ ချက်ခြင်းတင်သွင်းရမည့်ပြင် ဖမ်းဆီးခံရသူနှင့်တကွ သိမ်းယူသည့်ပစ္စည်းများကိုလည်း ထိုရာဇဝတ်တရားသူကြီးထံ ချက်ခြင်းပို့ရမည်။

သို့ရာတွင် ထိုရဲအရာရှိသည် ဖမ်းဆီးခံရသူကို ထိုရာဇဝတ်တရားသူကြီး ရွှေ့လာရောက်ရမည် ဟု စည်းကမ်းချက်ထား၍ ခံဝန်သူနှင့်ဖြစ်စေ၊ ကိုယ်တိုင်ခံဝန်ချုပ်နှင့်ဖြစ်စေ လွှတ်နိုင်သည်။ ထိုရဲအရာရှိသည် ထိုသူကိုဖမ်းဆီးပြီးနောက် သုံးနာရီအတွင်း ရာဇဝတ်တရားသူကြီးတဦးဦးထံမပို့လျှင်၊ သင့်လျော်လုံလောက်သည့် ခံဝန်သူနှင့်ဖြစ်စေ၊ ကိုယ်တိုင်ခံဝန်ချုပ်နှင့်ဖြစ်စေ ထိုသူအားလွှတ်ရမည်။

ထို့ပြင် မည်သူ့ကိုမျှ ဖမ်းဆီးခြင်းမပြုလျှင်၊ ရဲအရာရှိသည် မိမိဆောင်ရွက်ချက်ကို ဝါရမ်း ထုတ်ပေးသည့်ရာဇဝတ်တရားသူကြီးထံ၊ သို့တည်းမဟုတ် အရာရှိထံ အစီရင်ခံရမည်။

၇။ ။မည်သူမဆို—

(က) နိုင်ငံတော်အထိမ်းအမှတ်ကို ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်ဖြစ်စေ၊ ဤအက်ဥပဒေအရ ပြုသည့်အမိန့်တရပ်ရပ်နှင့်ဖြစ်စေ ဆန့်ကျင်၍ ဆင်ယင်ပြုသလျှင်၊ သို့တည်းမဟုတ်

(ခ) ဥပစာတခုခုပိုင်ဆိုင်သူ၊ အငှားနေထိုင်သူ၊ အငှားချထားခံရသူ၊ လက်ရှိနေထိုင်သူ၊ သို့တည်းမဟုတ်ထိန်းသိမ်းရသူဖြစ်၍၊ အဆိုပါဥပစာပေါ်တွင်သော်၎င်း၊ အဆိုပါဥပစာမှသော်၎င်း နိုင်ငံတော်အထိမ်းအမှတ်ကို ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်ဖြစ်စေ၊ ဤအက်ဥပဒေအရ ပြုသည့်အမိန့်တရပ်ရပ်နှင့် ဖြစ်စေ ဆန့်ကျင်၍ဆင်ယင်ပြုသခြင်းကို သိလျက်နှင့်ခွင့်ပြုလျှင်

ထိုသူသည် ပြစ်မှုကျူးလွန်သည်ဟု မှတ်ယူရမည့်ပြင်၊ ပြစ်မှုထင်ရှားစီရင်ခြင်းခံရသောအခါ၊

(က၊က) တရားဝင်အဖွဲ့မှတပါး အခြားသူဖြစ်လျှင် ခြောက်လထိ ထောင်ဒဏ်ဖြစ်စေ၊ ကျပ်ငါးရာထက် မပိုသောငွေဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ခြင်းခံရမည်။

(ခ၊ခ) တရားဝင် အဖွဲ့ဖြစ်လျှင်၊ ကျပ်တထောင်ထက်မပိုသော ငွေဒဏ်စီရင်ခြင်းခံရမည်။

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