THE BURMA CODE
VOLUME II

Published under the Authority of the Government of the Union of Burma.
ဗား၀ိုင်စီ က မောင်းဝင်နိုင်သည်။

ပြုသော အရောင်စီ အောက်ခံအကွာ ဟောသော သက်ဆိုင်ရာ ကျင်းပခြင်းများ ဖြစ်ပေါ်လာစေ။

ပြုသော အရောင်စီ အောက်ခံအကွာ ဟောသော သက်ဆိုင်ရာ ကျင်းပခြင်းများ ဖြစ်ပေါ်လာစေ။

ပြုသော အရောင်စီ အောက်ခံအကွာ ဟောသော သက်ဆိုင်ရာ ကျင်းပခြင်းများ ဖြစ်ပေါ်လာစေ။

ပြုသော အရောင်စီ အောက်ခံအကွာ ဟောသော သက်ဆိုင်ရာ ကျင်းပခြင်းများ ဖြစ်ပေါ်လာစေ။

ပြုသော အရောင်စီ အောက်ခံအကွာ ဟောသော သက်ဆိုင်ရာ ကျင်းပခြင်းများ ဖြစ်ပေါ်လာစေ။
## TABLE OF CONTENTS.

### PART IV.—DEFENCE.

#### A. The Forces.

<table>
<thead>
<tr>
<th>Act</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Burma Army Act</td>
<td>1</td>
</tr>
<tr>
<td>2. The Burma Army Suspension of Sentences Act</td>
<td>40</td>
</tr>
<tr>
<td>3. The Burma Reserve Forces Act</td>
<td>42</td>
</tr>
<tr>
<td>4. The Burma Territorial Force Act</td>
<td>43</td>
</tr>
<tr>
<td>5. The Burma Auxiliary Force Act</td>
<td>47</td>
</tr>
<tr>
<td>6. The Volunteer Forces (Protection in Civil Employment) Act</td>
<td>56</td>
</tr>
<tr>
<td>7. The Soldiers Litigation Act</td>
<td>58</td>
</tr>
<tr>
<td>8. The Burma Naval Volunteer Reserve (Discipline) Act</td>
<td>61</td>
</tr>
<tr>
<td>9. The Naval Armament Act</td>
<td>87</td>
</tr>
<tr>
<td>10. The Burma Volunteer Air Force (Discipline) Act</td>
<td>90</td>
</tr>
<tr>
<td>11. The Works of Defence Act</td>
<td>104</td>
</tr>
<tr>
<td>12. The Women’s Auxiliary Service (Burma) Act</td>
<td>117</td>
</tr>
<tr>
<td>13. The Burma Military Nursing Service Act</td>
<td>119</td>
</tr>
<tr>
<td>14. The Burma Air Force (Discipline) Act...</td>
<td>120</td>
</tr>
<tr>
<td>15. The Burma Naval Discipline Act</td>
<td>152</td>
</tr>
<tr>
<td>16. The Burma Military Nursing Service Act (อุปการะการเงิน) .ACT</td>
<td>200</td>
</tr>
</tbody>
</table>

#### B. Protection of the Constitution.

<table>
<thead>
<tr>
<th>Act</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Burma Official Secrets Act</td>
<td>182</td>
</tr>
<tr>
<td>2. The Arms Act</td>
<td>189</td>
</tr>
<tr>
<td>3. The Arms (Temporary Amendment) Act</td>
<td>198</td>
</tr>
<tr>
<td>4. The Explosive Substances Act</td>
<td>199</td>
</tr>
<tr>
<td>5. The Seditious Meetings Act</td>
<td>200</td>
</tr>
<tr>
<td>6. The Unlawful Associations Act</td>
<td>201</td>
</tr>
</tbody>
</table>
### B. Protection of the Constitution — concl.

<table>
<thead>
<tr>
<th>Act</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. The Picketing Act</td>
<td>205</td>
</tr>
<tr>
<td>9. The Expulsion of Offenders Act</td>
<td>206</td>
</tr>
<tr>
<td>10. The Press (Registration) Act</td>
<td>209</td>
</tr>
<tr>
<td>12. The Public Order (Preservation) Act</td>
<td>226</td>
</tr>
<tr>
<td>14. The Public Utilities Protection Act</td>
<td>234</td>
</tr>
<tr>
<td>15. The Bankers' Books (Inspection) Act</td>
<td>235</td>
</tr>
<tr>
<td>16. The Essential Supplies and Services Act</td>
<td>236</td>
</tr>
<tr>
<td>17. The Public Property Protection Act</td>
<td>240</td>
</tr>
<tr>
<td>18. The Search (Special Power) Act</td>
<td>244</td>
</tr>
<tr>
<td>19.</td>
<td>249</td>
</tr>
<tr>
<td>20.</td>
<td>253</td>
</tr>
<tr>
<td>21.</td>
<td>258</td>
</tr>
</tbody>
</table>
PART IV.—DEFENCE.

THE BURMA ARMY ACT.

CONTENTS.

CHAPTER I.
Preliminary.

Sections.

1. "Burma commissioned officers."

Application of Act.

2. Persons subject to Act.
3. Special provision as to rank in certain cases.
4. Commanding officer of persons subject to military law under section 2, clause (c).
5. Powers to apply Act to certain forces under the Government of the Union of Burma.
6. Officers to exercise powers in certain cases.
6A-6B. * * * *

Definitions.

7. Definitions.

CHAPTER II.

Enrolment and Attestation.

Enrolment.

8. Procedure before enrolling officer.
10. Validity of enrolment.

Attestation.

11. Persons to be attested.
12. Mode of attestation.
CHAPTER III.

DISMISSAL AND DISCHARGE.

13. Dismissal by President.
14. Dismissal by the General Officer Commanding, Burma Army, etc.
17. Certificate to person dismissed or discharged.
18. Discharge, etc., out of the Union of Burma.

CHAPTER IV.

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

19. Reduction of non-commissioned officers.
20. Minor punishments.
22. Punishment of certain followers.

Provost-Marshals.

23. Appointment.
24. Duties and powers.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service

25. Offences punishable with death.

Mutiny and Insubordination.

27. Offences punishable with death.
28. Offences not punishable with death.

Desertion, Fraudulent Enrolment and Absence without Leave.

29. Desertion.
30. Harbouring deserter, absence without leave, etc.

Disgraceful Conduct.

31. Disgraceful conduct.

Intoxication.

32. Intoxication.
Sections.

**Offences in relation to Persons in Custody.**

33. Offences punishable with death.
34. Offences not punishable with death.

**Offences in relation to Property.**

35. Offences in relation to property.

**Offences in relation to False Documents and Statements.**

36. False accusations and offences in relation to documents.
37. False answers on enrolment.

**Offences in relation to Courts-martial.**

38. Offences in relation to Courts-martial.

**Miscellaneous Military Offences.**

39A. Attempts.

**Abetment.**

40. Abetment.

**Civil Offences.**

41. Civil offences committed outside the Union of Burma or on active service in the Union of Burma.

42. *

CHAPTER VI.

**Punishments.**

43. Punishments.
44. Lower punishments.
45. Field punishments.
46. Position of field punishment in scale.
47. Combination of punishments.
47A. Cashiering of commissioned officer on conviction.
48. Solitary confinement.
49. Reduction of warrant or non-commissioned officers to ranks.
49A. Retention in the ranks of a person convicted on active service.

CHAPTER VII.

**Penal Deductions.**

50. Deductions from pay and allowances.
51. Deductions from public money other than pay.
52. Remission of deductions.
52A. Provision for dependants of prisoners of war.
52B. General power to make provision for dependants of prisoners of war or missing persons.
CHAPTER VIII.

COURTS-MARTIAL.

Sections. Constitution and Dissolution of Courts-martial.

53. Courts-martial and the kinds thereof.
54. Power to convene general Courts-martial.
55. Power to convene district Courts-martial.
56. Contents of warrant issued under section 54 or section 55.
57. Composition of general Courts-martial.
58. Composition of district Courts-martial.
59-61. *
63. Composition of summary general Courts-martial.
64. Summary Courts-martial.
65. Dissolution of Courts.

Jurisdiction of Courts-martial.

66. Prohibition of second trial.
67. Limitation of trial.
68. Place of trial.

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

69. Order in case of concurrent jurisdiction.
70. Power of criminal Court to require delivery of offender.
71. Trial by Court-martial no bar to subsequent trial by criminal Court.

Powers of Courts-martial.

72. Powers of general and summary general Courts-martial.
73. Powers of district Court-martial.
74. Offences triable by summary Court-martial.
75. Persons triable by summary Court-martial.
76. Sentences awardable by summary Court-martial.

Procedure at Trials by Court-martial.

77. President.
78. Judge Advocate.
79. *
80. Challenges.
81. Voting of members.
82. Oaths of president and members.
83. Oaths of witnesses.
84. Summoning witnesses and production of documents.
85. Commissions.
86. Conviction of one offence permissible on charge of another.
87. Majority requisite to sentence of death.
Burma Army.

Sections. Evidence before Courts-martial.

88. General rule as to evidence.
89. Judicial notice.
90. Presumption as to signatures.
91. Enrolment paper.
91A. Presumption as to certain documents.
92. Reference by accused to Government officer
93. Evidence of previous convictions and general character.

Confirmation and Revision of Findings and Sentences.

94. Finding and sentence invalid without confirmation.
95. Power to confirm finding and sentence of general Court-martial.
96. Power to confirm finding and sentence of district Court-martial.
97. Contents of warrant issued under section 95 or section 96.
98. Confirmation of finding and sentence.
99. Power of confirming officer to mitigate, remit or commute sentences.
99A. Confirmation of finding and sentence on board ship.
100. Revision of finding or sentence.
101. Finding and sentence of a summary Court-martial.
103. Substitution of a valid finding or sentence for an invalid finding or sentence.
103A. Provision in the case of accused being lunatic.

CHAPTER IX.

Execution of Sentences.

104. Form of sentence of death.
105. * * *
106. Commencement of sentence of transportation or imprisonment.
107. Execution of sentence of transportation or imprisonment.
108. Execution of sentence of imprisonment in special cases.
108A. Offenders sentenced to transportation how dealt with until transported.
109. Communication of certain orders to civil prison officers.
110. Limit of solitary confinement.
111. * * *
111A. Execution of sentence of fine.
111B. Establishment and regulation of military prisons.

CHAPTER X.

Pardons and Remissions.

112. Pardons and remissions.

CHAPTER XI.

Rules.

113. Power to make rules.
CHAPTER XII.

Sections. Property of Deceased Persons, Deserters and Lunatics.

114. Property of deceased persons and deserters.
Meaning of desertion.
115. Disposal of certain property without production of probate, etc.
116. Application of sections 114 and 115 to lunatics.

CHAPTER XIII.

Miscellaneous.

Military Privileges.

117. Complaints against officers.
117A. Complaints by commissioned officers.
118. Privileges of persons attending Courts-martial.
119. Exemption from arrest for debt.
120. Property exempted from attachment.
121. Application of the last two foregoing sections to reservists.
122. Priority of hearing by Courts of cases in which officers and soldiers are concerned.

Deserters and Military Offenders.

123. Capture of deserters.
124. Arrest by military authorities.
125. Arrest by civil authorities.
126. Inquiry on absence of person subject to Act.

Disposal of Property.

126A. Order for custody and disposal of property pending trial in certain cases.
126B. Order for disposal of property regarding which offence committed.
THE BURMA ARMY ACT.¹

CHAPTER I.

PRELIMINARY.

¹ 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.

APPLICATION OF ACT.

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

(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.

(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:

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.
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) 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 held 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 (e) of sub-section (1) of section 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.

6. (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.

6A. 6B. *

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.] 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.
"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;

(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;

(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 in regard to that portion of the forces or to that department the functions of commanding officer in regard to matters of the description referred to in that provision;

(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
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;

(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) "prescribed" means prescribed by rules made under this Act; 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 and Attestation.

Enrolment.

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.

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.

10. 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:

(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.

(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], 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.

(2) * * * *

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

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.

17. Every 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;

(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.

19. (1) The [General Officer Commanding, Burma Army, an officer commanding an army, army corps, division or brigade,] 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.

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.

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,] 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)—

(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-marshal may be appointed by the General Officer Commanding, Burma Army, or the officer commanding an army, army corps, division or independent brigade, or an officer commanding the forces in the field; and the powers and duties of such provost-marshal shall be regulated according to the established custom of war and the rules of the service.

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.

(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,—

(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, piequet, 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 necessaries 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.

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.

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

Offences not punishable with death.
Burma Army.

(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,—

(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.

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

(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, enrols 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, picket or patrol without being regularly relieved or without leave; or

(i) without proper authority is found two miles or upwards from camp; or
Burma Army.

(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.**

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 State 1
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) willfully destroys or injures any property of the State 1 entrusted to
him; or

(d) commits theft in respect of any property of the State 1, 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 inten-
tionally 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.**

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.**

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.

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.
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,—

(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 necessaries; or
(e) loses by neglect anything mentioned in clause (d); or
(f) willfully injures anything mentioned in clause (d) or any property belonging to the State, 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,—

(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 willfully 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 State 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.
37. Any person having become subject to this Act who is discovered to have made a willfully 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.

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.

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 bazar, 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
Burma Army.

(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.

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.

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,—

(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,—

(a) death;

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

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

(c) imprisonment either rigorous or simple for any term not exceeding fourteen years;

(cc) in the case of commissioned officers, cashiering;

(d) dismissal from the service;

(e) 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;

(h) forfeitures and stoppages as follows, namely:

(i) forfeitures of service for the purpose of increased pay, pension or any other prescribed purpose;

(ii) 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.

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.

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.

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

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), (v), (v) and (h) of section 43.

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

Penal Deductions.

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

(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 officer;

(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 officer, 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 necessaries 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 officer made under clauses (a) 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.

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.

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.

(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.

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, —

(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.

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.

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.

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

* * * *

[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 XLII, 1953.
3 Deleted by the Union of Burma (Adaptation of Laws) Order, 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 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.]

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

59.61. * * *

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.

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.

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.

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 officer 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].

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.

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.

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.

(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.

(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.

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:

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
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.

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-

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

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.

77. At every general, district or summary general Court-martial the senior

78. Every general Court-martial shall, and every district [or summary
genral]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 Burmese Forces,]3 or, if no such officer is available, a person appointed by the
convening officer.

79. Challenge...

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 dis-
allowed, 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.

(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.

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.

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.

(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.

(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] 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.

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.

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 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.
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.

Evidence before Courts-martial.

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

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

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.

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.

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.

(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, 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.

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 oral 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.

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.

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.

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.

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.

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—

(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:

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 a 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.

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.

(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:

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, Burra 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, Burra 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.

¹ Substituted by Act XVII, 1943.
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.

(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.

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.

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.

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.

(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.

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, 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.

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.

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, 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.

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. * * * *

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.

3 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.

---

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.
Burma Army.

(2) The President of the Union may make rules providing:

(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 REMISSEIONS.

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, or the prescribed officer may,

(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.

* Substituted by Act XVII, 1943.
**Burma Army.**

**CHAPTER XI.**

**RULES.**

113. (1) The President of the Union may make rules 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.

(5) 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.**

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 (5), 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 State, 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.

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.

116. The provisions of sections 114 and 115 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.

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, 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.

(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.
Complaints by commissioned officers.

Privileges of persons attending Courts-martial.

Exemption from arrest for debt

Property exempted from attachment.

Application of the last two foregoing sections to reservists.

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

(5) 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.

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.

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.

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.

120. 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.

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.

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.

1 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.

(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.

(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.

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 State 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.

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.**

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.

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], 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.
Burma Army Suspension of Sentences.

(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.

(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.

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

(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.

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

(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

Suspension of sentences.

Calculation of periods of sentence under suspension.

Power to set aside suspension or order remission.

Periodical review of suspended sentences.

Procedure on further sentence of offender whose sentence is suspended.
Burma Army Suspension of Sentences.

(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.

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.

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

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

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.

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

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.

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 thereafter, 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**

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

"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;

"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:

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.

(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.

---

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

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.

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.

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.

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.

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] 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.

11. (1) * * * *

(2) Every [commissioned officer] 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] 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] 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.

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,] a 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.

11B. Where [any commissioned officer,] a 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.

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.

13. (1) The President of the Union may, after previous publication, make rules 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.

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

(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.

(i) 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.

(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], 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], non-commissioned officers and soldiers, respectively, of [the Burma Army].

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.

THE BURMA AUXILIARY FORCE ACT.

CONTENTS.

Sections.

2. Definitions.
4. Classes who may be enrolled.
5. Enrolment.

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

Sections.

6. Liability to undergo military training.
7. Liability to perform military service.
8. Appointment to corps or unit.
10. * * * *
11. Classification and periodical training.
12. Classification.
14. Medical examination.
15. Transfers.
17. Discharge.
18. Calling out and embodiment.
19-20. * * * *
22. Refusal to appear for military service.
23. Penalties for breach of sections 8, 14 and 16.
24. Other offences.
26. Dismissal.
27. Summary and minor punishments.
27A. Presumption as to certain documents.
28. Advisory Committees.
29. Constitution and disbandment of units.
30. Power to make rules.
31. Power to make regulations.
32. Certain persons subject to this Act to be deemed part of the Burma Army for certain purposes.
33. Trial of offences.
34. Exemption from local taxation.

SCHEDULE I.—Training.

THE BURMA AUXILIARY FORCE 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.

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 to be designated the Burma Auxiliary Force.

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

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.
(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.

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.

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.
(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 train­
ning 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 1:

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 Law-) 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.

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.

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.

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.

15. (1) 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.

(2) 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.

(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 or 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.

(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.

(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.
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] 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.

21. (1) Every commissioned officer of the Burma Auxiliary Force, when doing duty as a commissioned officer, and every [warrant officer] 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] 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] 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], and, in the case of a [warrant officer] non-commissioned officer or man, to the orders of the President of the Union.

(2) Where an offence punishable under [the Burma Army Act] 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.

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
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—
(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:
(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) willfully injures, or by culpable neglect loses or causes injury to, any such property as is mentioned in clause (7);
(9) willfully 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.

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.

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

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.

27A. Where any warrant officer, 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.

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.

30. (1) The President of the Union may make rules 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) 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, 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.

32. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, all officers, warrant officers, 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, non-commissioned officers, and soldiers, respectively, of the Burma Army.

---

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.
Burma Auxiliary Force.

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.

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
   (b) for other branches

2. Periodical—
   (1) Active class—
      (a) for infantry
      (b) for other branches

   (2) Reserve class—
      (A) Personnel transferred from the Active Class.
         All branches.
      (B) Personnel recruited direct to the Reserve class—
         (a) for infantry
         (b) for other branches

32 days, and the annual musketry course as laid down in regulations.
40 days, and the annual musketry or gun course as laid down in regulations.
20 days in each training year, and the annual musketry course as laid down in regulations.
20 days in each training year, and the annual musketry or gun course as laid down in regulations.
The annual weapon training course as authorised in regulations.
As prescribed in item 2 (1) above.

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.

[Burma Act IX, 1940.] (28th March, 1940.)

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.

¹ 7. ♦ ♦ ♦ ♦

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

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.

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.

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.

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.

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 situated, 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.

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—

(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. (f) 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.

(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.
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] 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 is a party.

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] 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 rules 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.

(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.

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 1 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.

* * * * *

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 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.

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.

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.

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, he shall be dismissed from service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

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.

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.

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;
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 from service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

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.

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 servitude or such other punishment as is hereinafter mentioned; if he has acted from negligence, he shall be dismissed from service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

11. Where a mutiny is not accompanied by violence, the ringleader or ring-leaders 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.

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] or endeavour to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

1 See footnote to s. 52 (2) at p. 76.
2 Substituted by the Union of Burma (Adaptation of Laws) Ord-r, 1948.
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 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.

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 servitude or such other punishment as is hereinafter mentioned.

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 servitude or such other punishment as is hereinafter mentioned.

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 servitude or such other punishment as is hereinafter mentioned.

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.

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.

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 servitude 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.

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.

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.

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.

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.

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.

1 Delet ed 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, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the President of the Union directs.

Miscellaneous offences.

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

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.

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard 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.

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.

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.

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 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.

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.

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.

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.

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.

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.

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 shall forfeit and lose his share of the capture.
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.

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.

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.

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.

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.

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.

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:

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, 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.

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.

1 See footnote to s. 52 (2) at p. 70.
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.

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.

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

1. Death;
2. Penal servitude;
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.

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

\[\text{1 The Union of Burma (Adaptation of Laws) Order, 1918, directs that in this Act all references to penal servitude as a punishment shall be deemed to have no effect.}\]
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.
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.

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.

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.

56. (l) 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 servitude" 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, 1 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.

---

2 See footnote to s. 52 (2) at p. 70.
Burma Naval Volunteer Reserve.

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.

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.

(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:

(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 second-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 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; 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.

**Proceedings of Courts-martial.**

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.

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.

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.

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
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.

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.

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.

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.
Burma Naval Volunteer Reserve.

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.

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) in such place and in such manner as he shall think fit.

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.

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.

PART V.
Penal Servitude and Prisons.

Penal Servitude.

70. *, * *

71. *, *

72. *, *

73. Whenever sentence shall be passed by a Court-martial on an offender 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 servitude for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude to which he has been previously sentenced, although the aggregate of

Penalty on persons giving false evidence.

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

Report of proceedings of Court-martial to be transmitted.

Evidence of rank, etc., of officers.

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

Deleted ibid.

See footnote to s. 52 (2) at p. 70.
the terms of detention, imprisonment, or penal servitude 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.**

74. (1) Every term of penal servitude, 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.

74A. Where a person has been sentenced to penal servitude 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 servitude 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 servitude, 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 servitude 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 servitude 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 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.

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.

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 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. 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.

78. 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.

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.

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.

(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 barracks”, 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 1 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 such articles, 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.

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.

1. See footnote to s. 52 (2) at p. 70.
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,—

2 "Admiralty" shall mean such authority as may be appointed by the President of the Union in this behalf;

2 "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.

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.

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.

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]3 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. * * * 4

---

1 Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
2 Substituted ibid.
Burma Naval Volunteer Reserve.

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.

(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 regula-
tions made by the Admiralty and Air authorities and such officer or non-commis-
sioned officer is not borne on the books of any of Government ships in comission,
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-commis-
sioned 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. 1

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
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.

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

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

All the officers and crew of lost ship may be tried by one Court.
Burma Naval Volunteer Reserve.

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.

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.

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.

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.

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.

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. If 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.

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.

(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. *

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, 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.

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,—

(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,—

(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.

(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.

(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.

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.

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.

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:

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.

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.

(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.

(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.

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.
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 rules for the government, discipline and regulation of the Burma Volunteer Air Force.

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.
(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.

7 A, 7.

1 For rules made under Ordinance VIII of 1940, now repealed by this Act, see Burma Gazette, 1940, Part I, pp. 1112 and 1247.
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 enrols 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, enrols 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".

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 revival 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 servitude, imprisonment, or detention shall apply to a sentence of penal servitude, imprisonment or detention imposed by way of commutation."

The following is substituted for section 57A (1) :-

"Where an airman is sentenced to penal servitude, 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 servitude 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 servitude 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 servitude or to imprisonment can be confined."

Sections 68 (2) (g) and 68 (2) (h) are 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 servitude, 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 Court-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 "thinks fit" are substituted for 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:—

“All 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;
Burma Volunteer Air Force (Discipline).

(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 servitude, 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.
Section 190 (21B) 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.

<table>
<thead>
<tr>
<th>Descriptive Return of who was apprehended or surrendered himself as a deserter (or absentee without leave) from the [day of the day of] confinement at the [day of the day of]</th>
<th>Age</th>
<th>Height</th>
<th>Complexion</th>
<th>Hair</th>
<th>Eyes</th>
<th>Marks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* * After the word “who” to be inserted either the words “was apprehended”, or “surrendered himself”, as the case may be.
Burma Volunteer Air Force (Discipline).

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 he² the above-mentioned unit, and I recommend³ for a reward of Rs. .........

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.

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 of committing Magistrate.

Signature of prisoner.

Signature of informant.
THE WORKS OF DEFENCE ACT.

CONTENTS.

PART I.
PRELIMINARY.

Sections.
1. Definitions.

PART II.
IMPOSITION OF RESTRICTIONS.

3. Declaration and notice that restrictions will be imposed.
4. Power to do preliminary acts after publication of notice under section 3, sub-section (2).
5. Payment for damage.
6. Further powers exercisable after publication of notice under section 3, sub-section (2).
7. Restrictions.
8. Land to be marked out, measured, registered and planned.
10. Power to require and enforce the making of statements as to names and interests.
11. Application of certain sections of the Penal Code.
12. Inquiry and award by Collector.
13. Award of Collector when to be final.
15. Power to summon and enforce attendance of witnesses and production of documents.
16. Matters to be considered and neglected.
17. Supplementary proceedings.

PART III.
REFERENCE TO COURT AND PROCEDURE THEREON.

18. Reference to Court.
19. Collector's statement to the Court.
20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters not to be considered in determining compensation.
25. Rules as to amount of compensation.
26. Form of award.
Section 27. Costs.
28. Collector may be directed to pay interest on excess compensation.

PART IV.
APPORTIONMENT OF COMPENSATION.

29. Particulars of apportionment to be specified.
30. Dispute as to apportionment.

PART V.
PAYMENT.

31. Payment of compensation or deposit of same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

PART VI.
MISCELLANEOUS.

35. Service of notices.
36. Penalties.
37. Magistrate to enforce the terms of the Act.
38. Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.
39. Demolition of part of house or building and impositions of restrictions on part of land.
40. Exemption from stamp-duty and fees.
42. Code of Civil Procedure to apply to proceedings before Court.
43. Appeals in proceedings before Court.
44. Power to make rules.

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.
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) 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 (f) and (g), 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.

(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:

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.
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.

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.
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.

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.

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.

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.

(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.

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.

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

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.

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:

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.
(2) The application shall state the grounds on which objection to the
award is taken.

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.

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.

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.

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.

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, movable or immovable, 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.

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.

(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.

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.

(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.

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.
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.

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.

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.

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.

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.

(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 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—

(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.

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.

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.

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 (I), 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.
Works of Defence.

(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.

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.

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.

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.

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.

(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.

[Burma Act II, 1944.] (14th May, 1943.)

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.

(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;
Women's Auxiliary Service.

(c) "prescribed" means prescribed by rules made under this Act; and
(d) "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 Women's Auxiliary Service (Burma)] as part of the armed forces.

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.

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.

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.

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.

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.

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.

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 wherever they may be.

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

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.

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.

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.

7. The President of the Union may dismiss any member of the 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.

9. The President of the Union may make rules 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.

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.

1 For such rules, see Burma Gazette, 1946, Part I, p. 92.
THE BURMA AIR FORCE (DISCIPLINE) ACT.

CONTENTS.

CHAPTER I.

PRELIMINARY.

Sections.

1. Short title and commencement.
2. Persons subject to this Act.
3. Special provision as to rank in certain cases.
5. Officers to exercise powers in certain cases.
6. Definitions.

CHAPTER II.

ENROLMENT, ATTESTATION, DISMISSAL, DISCHARGE AND REDUCTION.

7. Procedure before enrolling officer.
8. Enrolment.
9. Presumption of enrolment in certain cases.
10. Persons to be attested.
11. Mode of attestation.
12. Dismissal by the President.
13. Dismissal by the Officer-Commanding or prescribed officer.
15. Certificate to person dismissed or discharged.
16. Discharge and dismissal out of the Union of Burma.
17. Reduction.

CHAPTER III.

PUNISHMENTS AND PENAL DEDUCTIONS.

18. Punishment.
19. Power to award lower punishments.
20. Field punishments.
21. Combination of punishments.
22. Reduction of non-commissioned officers and warrant officers to ranks.
23. Retention in the ranks of person convicted on active service.
24. Minor punishments.
25. Deductions from pay and allowance.
26. Deductions from public money other than pay.
27. Remission of deductions.
29. Unauthorized deductions forbidden.

CHAPTER IV.

AIR FORCE OFFENCES.

30. Service offences punishable with death.
31. Service offences punishable with long imprisonment.
32. Service offences punishable more severely if committed on active service.
Sections.

33. Service offences punishable with short imprisonment.
34. Mutiny.
35. Insubordination punishable with long imprisonment.
36. Insubordination punishable more severely if committed on active service.
37. Insubordination punishable with short imprisonment.
38. Desertion.
39. Fraudulent enlistment.
40. Connivance at desertion.
41. Absence from duty without leave.
42. Scandalous conduct of officer.
43. Scandalous conduct punishable with long imprisonment.
44. Scandalous conduct punishable with short imprisonment.
45. Intoxication.
46. Permitting escape of prisoner.
47. Irregular keeping in custody.
48. Escape from custody.
49. Offences in relation to property.
50. False accusations and offences relating to documents.
51. False answer on enrolment.
52. Offences relating to courts-martial.
53. Offences relating to aircraft.
54. Miscellaneous air force offences.
55. Attempts.
56. Abetment.
57. Civil offences.

CHAPTER V.

Arrest and Proceedings before Trial.

58. Custody of offenders.
59. Arrest by civil authorities.
60. Capture of deserters.
61. Inquiry on absence without leave.
63. Duties and powers.

CHAPTER VI.


64. Kinds of courts-martial.
65. Power to convene general courts-martial.
66. Power to convene district courts-martial.
67. Limitation of powers of convening authorities.
68. Convening of field general courts-martial.
69. Composition of general courts-martial.
70. Composition of district courts-martial.
71. Composition of field general courts-martial.
72. Dissolution of courts-martial.
73. Jurisdiction and powers of courts-martial generally.
74. Jurisdiction and powers of general and field general courts-martial.
75. Jurisdiction and powers of district courts-martial.
76. Prohibition of second trial.
Burma Air Force (Discipline).

Sections.

77. Limitation of trial.
78. Place of trial.
79. Order in case of concurrent jurisdiction of criminal Court and court-martial.
80. Power of criminal Court to require delivery of offender.
81. Trial by court-martial no bar to subsequent trial by criminal Court.

CHAPTER VII.

PROCEDURE OF COURTS-MARTIAL.

82. President.
83. Judge Advocate.
84. Challenges.
85. Voting of members.
86. Oaths of president and members.
87. Oaths of witnesses.
88. The summoning of witnesses and production of documents.
89. Issue of commission.
90. Conviction of one offence permissible on charge of another.
91. General rule as to evidence.
92. Judicial notice.
93. Presumption as to signatures.
94. Enrolment paper as evidence.
95. Presumption as to certain documents.
96. Reference by accused to Government officer.
97. Evidence of previous convictions and service character.
98. Order for custody or disposal of exhibit property pending trial.

CHAPTER VIII.

CONFIRMATION, REVISION, PARDON AND REMISSION OF SENTENCES.

99. Finding and sentence invalid without confirmation.
100. Power to confirm finding and sentence of general court-martial.
101. Power to confirm finding and sentence of district court-martial.
102. Limitation of the powers of confirming authorities.
103. Confirmation of finding and sentence of field general court-martial.
104. Power of confirming authority to mitigate, remit or commute sentences.
105. Confirmation of finding and sentence on board ship.
106. Revision of finding or sentence.
107. Substitution of valid for invalid sentence.
108. Provision where accused is a lunatic.
109. Pardons and remissions.

CHAPTER IX.

EXECUTION OF SENTENCES AND DISPOSAL OF PROPERTY.

110. Sentence of death.
111. Commencement of sentence of imprisonment.
112. Execution of sentence of imprisonment.
113. Execution of sentence of imprisonment in special cases.
114. Execution of sentence of detention.
115. Communication of certain orders to civil prison officers.
Sections.
116. Offenders sentenced to transportation how dealt with until transported.
117. Execution of sentence of fine.
118. Order for disposal of property regarding which offence committed.

CHAPTER X.

SPECIAL RULES RELATING TO PERSONS AND PROPERTY.

119. Complaints against superior officers and airmen.
120. Privileges of persons attending court-martial.
121. Exemption from arrest for debt.
122. Property exempted from attachment.
123. Application to reservists.
124. Priority of hearing by Courts of cases in which persons subject to this Act are concerned.
125. Property of deceased persons and deserters.
126. Disposal of certain property without production of probate, etc.
127. Application to lunatics and persons missing on active service.
128. Power to make rules.

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.
   (2) It shall come into force on such date 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,—
   (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.

(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, 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.

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.

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;
Burma Air Force (Discipline).

(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.

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.

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.
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.

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.

12. The President of the Union may at any time dismiss from the service any person subject to this Act.

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.

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

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.

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.

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.
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,—

(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.

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.

(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 other punishment, any one or more of the punishments specified in clauses (d), (f), (h) and (i) of section 18.
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.

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.

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.

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 express caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, service necessary, 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 (e) 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.

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.

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.
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.

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.

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.

(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 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,

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,

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 more severely if committed on active service.

(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.

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.

37. 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.

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, enrols 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.

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) willfully 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,

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,

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:

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,

shall be punishable, if he has acted voluntarily, with long imprisonment, and, if he has not acted voluntarily, with short imprisonment.
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.

48. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall be punishable with short imprisonment.

49. Any person subject to this Act who—

(a) commits extortion, or without proper authority exacts from any person carriage, porterage 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) willfully 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.

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 willfully 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 willfully 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.

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.

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, 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.
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 therein 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.

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

(3) The charge against every person taking 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.

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.

(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 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 unit to which the person belongs shall enter in the court-martial book of the unit a record of the declaration.

(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-marshal may be appointed by the Officer Commanding the Burma Air Force and the powers and duties of such provost-marshal shall be regulated according to the established custom of war and the rules of the service.

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
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.

64. For the purposes of this Act there shall be three kinds of courts-martial, that is to say,—

(1) general courts-martial ; (2) district courts-martial ; and (3) field 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.

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.

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.

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.

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

70. A district court-martial shall consist of not less than three officers.

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.
(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—
(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.

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.

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.

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.

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.

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.
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.

81. (1) Notwithstanding anything contained in section 26 of 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.

(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.

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.

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.

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.

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.

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.

(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.

(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.

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.

92. A court-martial may take judicial notice of any matter within the general naval, military or air force knowledge of the members.

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.

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.

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.

(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.
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.

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.

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.

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.

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.

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.

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.

(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.

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.

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.

(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:

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
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—

(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.

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.

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:

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.
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.

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.

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.

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.

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.

19. (1) If an officer of the Burma Air Force thinks himself wronged by his commanding officer, or other superior officer, and on the 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.
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.

(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.

(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.

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.

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.

(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.
Burma Air Force (Discipline).

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.

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:

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.

(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.

CONTENTS.

Sections.
1. Commencement.

PART I.

Articles of War.

Public Worship.

2. Facilities for the performance of religious duties.
3. Penalty for misconduct in action.
4. Penalty for not pursuing the enemy, and of not assisting a friend in view.
5. Penalty for delaying or discouraging the service or deserting his post, etc.
6. Penalty for misconduct of subordinate officers and men in action.

Communications with the Enemy.

7. Penalty for spies.
8. Penalty for corresponding, etc., with the enemy.
9. Penalty for improper communication with the enemy.

Neglect of duty.

10. Penalty for abandoning post, etc.

Mutiny.

11. Penalty for mutiny accompanied by acts of violence.
12. Penalty for mutiny not accompanied by acts of violence.
13. Penalty for inciting to mutiny.
14. Penalty for civilians endeavouring to seduce from allegiance.
15. Penalty for making mutinous assemblies or uttering seditious words.
16. Penalty for concealing any traitorous or mutinous practice, design, or words.
17. Punishment for striking or attempting to strike, etc., superior officer.

Insubordination.

18. Penalty for disobedience or using threatening language to superior officer.
19. Penalty for quarrelling, etc., or using reproachful speech or gestures.

Desertion and absence without Leave.

20. Penalty for desertion.
21. Penalty for inducing any person to desert.
22. Penalty for entertaining a deserter.
23. Penalty for breaking out of ship.
24. Penalty for absence without leave.
25. Forfeiture of effects for absence without leave.
26. Penalty for assisting, etc., desertion.
27. Penalty for persuading to desertion, etc.

Miscellaneous offences.

28. Penalty for swearing and other immoralities.
29. Penalty on officer for cruelty or oppression.
Sections.

30. Penalty for suffering ships or aircraft to be improperly lost.
31. Penalty for not taking care of and defending ships under convoy.
32. Master of merchant vessel to obey orders of convoying officer.
33. Penalty for taking any goods on board other than for the use of the vessel, except gold, silver, jewels, etc.
34. Penalty for embezzling public stores.
35. Penalty for burning any magazine or vessel, etc., not belonging to an enemy.
36. Penalty for making or signing false returns.
37. Penalty for misconduct in hospital.
38. Penalty for endeavouring to stir up any disturbance on account of unwholesomeness of the victuals or other just grounds.
39. Penalty for not sending to the Government all papers found aboard prize ships.
40. Penalty for taking money or other effects out of any prize before the same shall be condemned.
41. Penalty for stripping or ill-using persons taken on board as prize.
42. Penalty on commanders capturing as prize by collusion or collusively restoring ships or goods.
43. Penalty for breaking bulk on board prize ship with a view to embezzlement.
44. Penalty for offences against naval discipline not particularly mentioned.
45. Crimes to be punished according to laws and customs in use.

Offences punishable by Ordinary Law.

46. Penalty for offences punishable by ordinary law.
47. Offence when punishable.
48. Provisions where offender has ceased to be subject to the Act.

PART II.

General Provisions.

49. Power of court-martial to find intent with which offence committed.
50. Power of court-martial to find prisoner guilty of lesser offence on charge of greater.
51. Rebels and mutineers to be deemed enemies.
52. Power to arrest offenders.
53. Penalty for not assisting in detection of prisoners.

PART III.

Provisions as to punishments.

54. Punishments.
55. Provisions as to infliction of punishments.
56. Limitation of time for trials.
57. Scale of punishment.
58. Authorities having power to try offences.
59. Forfeiture of time or seniority.
60. Trial of officer for disciplinary offences in time of war.
Burma Naval Discipline.

PART IV.

COURTS-MARTIAL.

Sections.

Constitution of Courts-Martial.


62. Where courts-martial to be held.
63. As to time of sittings of court-martial.
64. Appointment of officiating judge advocate.
65. Proceedings at trial.
66. Oaths to be administered to members of courts-martial.
67. Oaths to be administered to judge advocate, etc.
68. Power to President to make orders for procedure and practice of courts-martial.
69. Summoning witnesses.
70. Penalty on persons giving false evidence.
71. Where persons are insane at the time of offence or trial.
73. Evidence of rank, etc., of officers.
73a. Power of confirming officer to mitigate, remit or commute sentences.
73b. Revision of finding or sentence.
73c. Substitution of a valid finding or sentence for an invalid finding or sentence.
74. Transportation or imprisonment of offender already under sentence for previous offence.
75. Term and place of imprisonment.
76. Power to suspend sentences.
77. Place of imprisonment may be changed, etc.
78. Expenses of removal or subsistence of prisoners.
79. Proviso for discharge or removal of prisoners.
80. Proviso as to time of detention in naval custody.
81. If case of insanity prisoners to be removed to some lunatic asylum.
82. The President may set apart buildings and ships as naval prisons.
83. Penalties on aiding escape or attempt to escape of prisoners and on breach of prison regulations.
84. Penalty as regards gaolers, etc.

PART VI.

85. Persons subject to this Act.
86. Land and air forces embarked as passengers.
87. Other persons embarked as passengers.
88. Provisions respecting discipline in ships in naval service in war.
89. Relations between military, naval and air forces acting together.
90. Crews of ships lost or destroyed.
91. All the officers and crew of lost ship may be tried by one court.
92. Or by separate court.
93. For subsequent offence, separate court.
94. Pay of crews of ships lost or taken.
95. When ship of senior officer is lost he may dispose of officers and crew of lost ship.
Burma Naval Discipline.

Sections.
96. Restriction on arrest of seamen, etc., for debt.
97. Discharge from arrest.
98. Liability of seamen, etc., for maintenance of wives and children.
99. Power to make rules.

PART VII.

SAVING CLAUSE.

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.

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.

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,—
   (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.

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.

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.

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, 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.

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.

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.

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.

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.

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] 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 1, 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.

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.

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.

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] as is hereinafter mentioned.

16. Every person subject to this Act who willfully 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] as is hereinafter mentioned.

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] as is hereinafter mentioned.

Insubordination.

18. Every person subject to this Act who willfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with attempt to his superior officer, shall be punished with dismissal, with disgrace, from naval service, or suffer such other punishment as is hereinafter mentioned.

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.

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.

1 Inserted by Act 1, 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] 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.

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.

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.

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.

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.

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.

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.

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
and corruption of good manners, shall be dismissed from naval service, with disgrace,
or suffer such other punishment as is hereinafter mentioned.

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.

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.

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
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.

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.

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 whatever, 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.

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.

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 thereto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death or such other punishment as is hereinafter mentioned.

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.

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.

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.

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.

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.

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 offen­
ding shall be dismissed from naval service, with disgrace, or suffer such other
punishment as is hereinafter mentioned.

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,
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 shall forfeit and lose his share of the capture.

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.
162

Burma Naval Discipline.

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.**

46. Every person subject to this Act who is guilty of an offence punishable under section 302, 304, 304A, 377, 377A read with 511, 379, 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.

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.

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.

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.

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

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 56 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.

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.

PART III.

PROVISIONS AS TO PUNISHMENTS.

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

(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.
Burma Naval Discipline.

(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.

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;

(3A) The punishment of transportation may be inflicted for the term of life or for any other term of not less than seven years;

(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;

(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 1, 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.

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.
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 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.

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.

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] or of higher rank.

1 Inserted by Act I, 1953.
2 Substituted \textit{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:

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;

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 second-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.


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.

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 exceed­
ing 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.

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.

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 here­
before 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.

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,

"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":

Appointment of officiating judge advocate.
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.

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.

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.

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.

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.

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.

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.

73A. Subject to such restrictions or conditions as may be contained in any commission issued under section 55 (5), 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.

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.

(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.

(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.
(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.

174. 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.

175. (1) Every term of [transportation or 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 [transportation or imprisonment] or detention, whether the [transportation or 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 [transportation or 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 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] or detention, as the case may be, cannot be duly executed, then, subject as hereinafter mentioned, an offender under sentence of [transportation or 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 [transportation or 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 [transportation or imprisonment] 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 1, 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, and until he reaches such place of transportation or imprisonment, or detention for detaining him in naval custody, or in the case of a person sentenced to transportation or imprisonment in any civil prison or place of confinement.

76. Where a person has been sentenced to transportation or imprisonment or detention the President of the Union or officer who by virtue of sub-section (5) 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—

(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 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, 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 1, 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.

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 into his custody and shall confine pursuant to such sentence
or order every such offender.

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.

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 Govern-
ment 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.

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.

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.

(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 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 prisoner 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
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.

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.

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.

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.

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.

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, and 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 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 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.

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.

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.

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.

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.

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 I, 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.

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.

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.

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.

(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.

(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.

199A. The President of the Union may dismiss from naval service any person subject to this Act.

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.

SCHEDULE.

Table showing Relative Ranks.

<table>
<thead>
<tr>
<th>Naval Rank</th>
<th>Relative Army Rank</th>
<th>Relative Air Force Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Commander</td>
<td>Lieutenant-Colonel</td>
<td>Wing Commander</td>
</tr>
<tr>
<td>2. Lieutenant-Commander</td>
<td>Major</td>
<td>Squadron Leader</td>
</tr>
<tr>
<td>3. Lieutenant</td>
<td>Captain</td>
<td>Flight-Lieutenant</td>
</tr>
<tr>
<td>4. Sub-Lieutenant</td>
<td>Lieutenant</td>
<td>Flying Officer</td>
</tr>
<tr>
<td>5.</td>
<td>Second Lieutenant</td>
<td>Pilot Officer</td>
</tr>
<tr>
<td>7.</td>
<td>Warrant Officer Class II</td>
<td>Flight-Sergeant</td>
</tr>
<tr>
<td>8. Chief Petty Officer</td>
<td>Company Quarter-master Sergeant</td>
<td>Pilot and Navigator Grade I</td>
</tr>
<tr>
<td>9. Petty Officer</td>
<td>Sergeant</td>
<td>Sergeant</td>
</tr>
<tr>
<td>10. Leading Seamen *</td>
<td>Corporal</td>
<td>Corporal</td>
</tr>
<tr>
<td>11. Able Seamen and equi-</td>
<td>Trooper, gunner, sapper, signalman, driver, rifleman or private.</td>
<td>Pilot and Navigator Grade III</td>
</tr>
</tbody>
</table>

* Junior to Army ranks.

1 Inserted by Act I, 1953
B.—PROTECTION OF THE CONSTITUTION.

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.