

THE BURMA INDEMNITY AND VALIDATING ACT, 1945.

² [BURMA ACT XVIII, 1945.] (3rd October, 1945.)

Preamble.

WHEREAS it is necessary to indemnify servants of the Government and other persons in respect of acts and things ordered or done or purporting to have been ordered or done in the reasonable belief that such acts and things were necessary for the execution of their duty or for the purpose of prosecuting the war or maintaining or restoring order or for enforcing discipline or ensuring public safety or maintaining supplies and services essential to the life of the community or for the defence of the Union of Burma or otherwise in the public interest ;

AND WHEREAS it is also necessary to validate certain proclamations, orders, rules, regulations and legislative acts made or issued, and sentences, judgments and orders passed, given or made, by or under the authority of servants of the Government and other persons exercising or purporting to exercise authority in the Union of Burma under the above circumstances :

* * * * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Burma Indemnity and Validating Act, 1945.

Definitions.

2. In this Act—

(a) " act ", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to omissions ;

¹ The Schedule to this Act is not reprinted because it is purely in the nature of a Repealing and Amending Act. The necessary amendments have been made in their appropriate places.

² Published in Home Department Notification No. 132, dated the 3rd October, 1945.

- (b) "war period" means in relation to any area the period commencing from the eighth day of December, 1941, and continuing until such date as the President of the Union may, by notification, declare to be the end of the war period for the purposes of this Act in relation to that area.

3. (1) No suit, prosecution or other legal proceeding whatsoever, whether civil or criminal, shall be instituted or maintained in any Court for or on account of or in respect of any act or thing done during the war period whether within or without the Union of Burma if done in good faith and done or purporting to be done in the execution of his duty or for the purpose of prosecuting the war or maintaining or restoring order or enforcing discipline or ensuring public safety or maintaining supplies and services essential to the life of the community or for the defence of the Union of Burma or otherwise in the public interest, by a person holding office under or employed in the service of the Government in any capacity, whether naval, military, air force or civil, or by any other person acting under the authority of a person so holding office or so employed.

Bar to legal proceedings against persons acting in good faith.

(2) Where it is alleged that any act done during the war period whether within or without the Union of Burma and done or purporting to be done in the circumstances specified in sub-section (1) by a person acting for any of the purposes and in any of the capacities therein described was not done in good faith, no suit, prosecution or other legal proceeding shall be maintained in any Court for or on account of or in respect of the act complained of unless instituted with the previous sanction of the President of the Union.

(3) For the purposes of this section a certificate issued by or under the authority of the President of the Union or the Supreme Allied Commander, South-East Asia, or the General Officer Commanding in the Union of Burma that any act or thing was done under the authority of a person so holding office or so employed as aforesaid or was done in the execution of a duty shall be sufficient evidence of such authority or duty and of such act or thing having been done thereunder or in execution thereof, and any such act or thing done by or under the authority of a person so holding office or so employed as aforesaid shall be deemed to have been done in good faith unless and until the contrary is proved.

4. (1) Any sentence passed, judgment given, or order made during the war period by any British or Allied Military Court or by any other British or Allied tribunal (other than a Court Martial constituted in pursuance of any statute) established or convened by the authority administering any area in the Union of Burma for the administration of justice therein, including any order made in reference to any such sentence, judgment or order by the confirming or reviewing authority, shall be deemed to be and always to have been valid and to be and always to have been within the jurisdiction of the Court or Tribunal.

Validation of judgments, sentences and orders.

(2) Every person confined or otherwise punished howsoever under and by virtue of any sentence passed by any such Court or Tribunal acting in a judicial capacity shall be deemed to have been lawfully so confined or punished and shall continue liable to confinement or punishment until the expiration or execution of the said sentence or until he is released by the President of the Union or otherwise by the exercise of His Britannic Majesty's prerogative.

(3) Where at the date of the coming into operation of this Act any such sentence, judgment or order as is mentioned in sub-section (1) is still subject to confirmation or review the powers exercisable by the confirming or reviewing

¹ The 1st day of February 1947 has been declared to be the end of the war period for the purposes of this Act in relation to the whole of the Union of Burma. *Vide* Judicial Department Notification No. 49, dated 5th February 1947.

authority may be exercised by such person as may be designated by the President of the Union in this behalf and such person shall be deemed to be the confirming or reviewing authority within the meaning of sub-section (1).

Validation
of legislative
acts.

5. All laws, proclamations, orders, rules, regulations and legislative acts whatsoever made or issued during the war period by or with the assent of any British or Allied Military authority shall be deemed to be and always to have been valid and of full effect until such military authority shall have been superseded in the relevant area by the lawfully constituted legislative authority of the Union of Burma, notwithstanding that any such law, proclamation, order, rule, regulation or legislative act may have repealed or amended or have been inconsistent with any law previously in force in such area.

Savings.

6. Nothing in this Act shall be deemed to affect—

- (a) the institution or prosecution of proceedings by or on behalf of the Government ; or
- (b) the institution or prosecution of proceedings in respect of rights under, or alleged breaches of contract, if such proceedings are instituted within one year from the termination of the war period or the date when the cause of action arose, whichever may be the later ; or
- (c) the institution of any proceedings that may lie against the Government for the purpose of recovering compensation for war damage.