

CHAPTER VII.

GENERAL DISCIPLINE.

Section I.—Guarding.

Cardinal
principles
of guarding.

298. The cardinal principle to be observed in guarding a jail is that every prisoner shall at all times, both by day and night, be in charge of some officer, whose responsibility for an escape, resulting from negligence, can be proved in a criminal court. To effect this a record of the names of prisoners made over to each officer shall be kept in a gang book (Form No. 83), and every subsequent change of a prisoner, from one gang to another, shall be recorded therein ; also at every change of a guard a responsible officer shall be present to witness and verify the number of prisoners made over to the relieving officer. It is also expedient, during the daytime, when prisoners are moving about the jail, to have the outer wall of the jail watched by convict officers patrolling inside or posted on a central tower or look-out, or by paid sentries on the top of the walls ; but, except in special cases (such as guarding low or otherwise insecure workyard walls) and for limited portions of the day, paid sentries can be more usefully employed in other capacities. This is, however, only an additional precaution and shall not be an excuse for neglect of principle enunciated above.

Jailors and
warders to
be present at
the opening
of the jail.

299. The following procedure shall be observed :—

(a) All warders on the paid establishment (excluding gate-keepers and the reserve guard) shall come on duty with the jailors, on the opening of the jail.

Searching
and count-
ing of
prisoners at
unlock.

(b) The wards shall then be opened and the prisoners searched and counted out in pairs in the presence both of the warders of the last watch responsible for each ward and of the jailor or senior warder on duty. The convict officers will then take charge of their gangs and conduct the different parades prescribed in paragraph 344. The number counted out shall be carefully verified by the jailor, by comparison with the lock-up register. The free warders of the night watch should be detained in the jail for duty until the early morning meal parade is over. When this has been carried out, the relieved warders of the last night watch will be marched out of the jail.

Division of
prisoners
into gangs.

(c) When the morning parades are completed the prisoners shall be distributed in gangs, and a responsible officer, paid or convict, shall be placed in charge of each gang. The

responsibility for the charge of a gang shall never be divided between two or more officers.

(d) Warders of the paid establishment escorting gangs extramurally employed (excepting those working at a considerable distance, *vide* paragraph 351) shall return to the jail with their charges at the hour for breakfast. Each gang shall be counted by the gate-keeper, and each warder shall be formally relieved by the senior convict officer belonging to the gang, after it has been counted and passed through the inner gate. After the morning meal or midday rest the warder will formally re-assume charge of the gang from the senior convict officer at the same place. Warders of the paid establishment employed inside the jail shall be relieved for two hours at breakfast time by members of the reserve guard.

Return of
extramural
gangs for
midday meal.

(e) Each gang shall be counted and verified in the presence of the officer receiving charge of it, whose name shall then be recorded in the gang list. At each subsequent change of guard, during the day, the same procedure shall be followed, whether the change is made in the ordinary course or on account of sickness or other cause. The list shall always remain with the officer responsible for the gang.

Counting of
prisoners
before taking
charge.

(f) In the evening, when work is stopped, the gangs shall be collected for the parades, and shall again be counted and verified.

Evening
parade.

(g) Including the convict officers attached, the strength of a gang working inside jail walls shall never exceed 20, and that of a gang working outside jail walls shall never exceed 10. A convict officer shall usually be placed in immediate charge of the former, whereas the charge of the latter shall invariably be held by a paid warder. Convict night watchmen shall be as evenly distributed as possible between the various working gangs.

Strength and
composition
of gangs.

(h) For greater security and convenience in supervision, extramural gangs shall be combined, as far as practicable, and the senior paid warder attached to two combined gangs shall be given general control of the other paid warder attached to the party. When the combined gangs contain more than 20 prisoners, a senior paid warder shall be appointed to supervise the whole. Thus, with 20 prisoners the escort shall consist of two warders, the senior in supreme charge ; with 30, three paid warders, *plus* a senior paid warder in supreme charge ; with 40, four paid warders, *plus* a senior warder, and so on. If the nature of the outside work or of the locality offer facilities for escape, or if the gang or gangs to be sent outside contain a considerable proportion of convicts who have not completed half their terms of imprisonment, or who, for any other reason,

Guard over
extramural
gangs.

might be likely to escape, Superintendents must exercise discretion in determining the strength of the paid escort, and may post a warder, with a loaded rifle, so as to warn the jail in case of any emergency.

Extra guard
to be pro-
vided when
more than
40 prisoners
are sent out.

(i) When more than 40 prisoners are taken beyond jail precincts to be worked together as one party, two paid warders, in addition to the escort prescribed in clause (h), armed with breach-loading rifles and buck-shot cartridges, shall be told off to follow the gangs and station themselves in suitable positions for rendering assistance should it be required.

Careful
watch to be
kept over
extramural
prisoners.

(j) Warders in charge of extramural gangs and convict officers assisting them must be specially careful to keep their prisoners together as much as possible ; they are on no account to let the prisoners wander about, or go out of their sight, on any pretext whatever. Any prisoner temporarily detached from such a gang for a special purpose shall be under the charge of a paid warder. When prisoners are kept working all day at a distance from the jail a temporary latrine, surrounded by a bamboo screen not more than three feet in height, shall be provided in close proximity to the work, preferably in a central position surrounded by the working party and under the eye of the warder. Paid warders shall always accompany prisoners (sweepers for instance) when they go outside the jail.

Temporary
warders to
do intram-
ural duties.

(k) When temporary warders are entertained they shall, as far as possible, be employed on intramural duties.

Search
before
lock-up.

(l) After completion of the evening parades, the paid night watch shall be brought in by the senior reserve warder, and the jailors, chief and head warders shall search and count the prisoners into their respective wards in the presence of the paid warder, and convict officer, who are to take charge of each ward for the first watch. When all are locked up, the total number of prisoners shall be verified.

Warders to
watch over
convict
patrols
at night.

(m) When convict officers are employed as patrols outside the wards to assist the paid night watch they must be so distributed that every convict night guard shall be under the eye of a paid warder, who shall be held responsible that he patrols properly.

Convict
officers not
to guard
condemned
prisoners.

(n) Convict officers shall not be employed to guard prisoners condemned to death.

(o) Convict night patrols, when not on duty, should be locked up together in a separate ward from other prisoners.

Officers in
charge of
gangs not to
leave their

300. No paid warder, convict warder, or overseer in independent charge of a gang, shall leave his charge, on any account whatever, without first being relieved by a head

warder who, in case the warder's or convict officer's presence is required by the Superintendent or other superior officer, or in case of sickness, shall place some other warder, or convict officer, in charge. No prisoner shall, on any account, be allowed to leave his work or place without permission, and if he has to be sent to any other part of the jail, he shall be accompanied by a convict officer or other responsible person.

posts without
being
relieved.

301. Convict officers, in suitable cases and with the previous sanction of the Inspector-General in each instance, may be deputed to assist the paid establishment in patrolling outside the wards at night, and, similarly, convict warders and overseers, with unexpired terms not exceeding six months, including remission likely to be earned during the remaining sentence, may be deputed to assist paid escorts in guarding extramural gangs. In submitting recommendations, Superintendents shall supply particulars as to crime and sentence with date thereof and as to nationality and usual home or place of residence.

Convict
officers may
be employed
in patrolling
at night
or guarding
extramural
gangs.

302. During the day it will ordinarily be most convenient to divide all the prisoners into the following gangs:—

Division of
prisoners
into gangs
by day.

(a) Garden gang, with which should be incorporated all sweepers or other jail servants, whose duties require them to go outside the jail.

(b) Jail servants (inside sweepers, watermen, cooks, etc.), civil prisoners, prisoners in hospital, and under-trial prisoners.

(c) Manufactory gangs, as many as are required.

303. A convict officer shall at all times, both by day and night, be present in the under-trial ward. In selecting a prisoner for this duty, the Superintendent must satisfy himself, from the man's previous conduct, that he is not likely to corrupt the prisoners in his charge.

Under-trial
ward to be
under the
charge of
a convict
officer.

304. Prior to the wards being locked for the night the jailor shall see that the convict officers, constituting the night watch in each ward or corridor, correspond with the names on the roster board. These officers shall be drawn up in line in the order in which they come on duty, and each shall be made to name the hour on which he comes on duty and the convict officer by whom he is to be relieved. The convict watch, during the count in, shall call the attention of the jailor to any prisoner about to enter the ward who did not sleep in it the night before, and, immediately after the ward is closed shall count all the inmates and forthwith bring to the notice

Lock-up.

of the jailor should any change in the number have taken place since last lock-up.

Division of
night into
five watches.

305. The night shall ordinarily be divided into five watches, namely, from 6 p.m. to 9 p.m., 9 p.m. to 11 p.m., 11 p.m. to 1 a.m., 1 a.m. to 3 a.m., and 3 a.m. to 6 a.m.

Strength,
disposition
and duties
of night
guard.

306. The strength and disposition of the night guards vary with the size and construction of the jail, and with the number and class of prisoners confined. Instructions detailing for each jail all necessary particulars in this connection shall, from time to time, be prescribed by the Inspector-General. One copy of these instructions, in English, shall hang in the office for the guidance of the upper subordinate establishment and another in the Vernacular in the reserve guard for the guidance of the lower subordinate establishment. No deviation from the scheme so prescribed shall be permitted, except with the sanction of the Inspector-General.

Duties of
night patrol.

307. It shall be the special duty of every officer patrolling by night outside a ward to ascertain that the number of prisoners in each dormitory is correct, to satisfy himself that the ward sentries are on the alert, to examine locks, gratings, doors, walls and roofs, and to see that they have not been tampered with; to see that the lamps are properly alight, the wards properly ventilated, and the inmates not exposed to draughts or rain, and to report at once, to the senior officer of the watch, any unusual occurrence.

Beat of night
sentry.

308. The beat of every night sentry and outside patrol shall be numbered, beginning with that over the reserve guard and proceeding from left to right, ending with that to the right. When the time bell strikes the hour or half-hour each sentry or patrol in rotation will call "Number one" ("two," "three," etc., as the case may be), "all is well" sufficiently loud to be heard by the next sentry or patrol.

Equipment
of night
guard.

309. The night guard whilst on duty shall not be allowed to shelter themselves from the inclemencies of the weather, but waterproof caps and capes will be provided for their use. They shall carry no weapons, except batons, and each shall be provided with a whistle.

Duties of
convict night
watch.

310. There shall be a special system of watch, by convict officers, in each ward or corridor: the changes of watches

to correspond with the changes of the outside patrols. In cases where the wards require exceptional precautions or are of unusual length, there shall be two or more officers on duty at one time. The convict officers, whilst on watch, shall keep moving inside the wards or in the corridor, as the case may be, and shall prevent any prisoner leaving his place or committing any breach of jail discipline, and also satisfy themselves, by counting, that all the prisoners in their charge are safe. On change of watch, both the relieving and relieved convict officers shall report to the patrol, or other duly authorized official, the number of prisoners made over. In case of any important occurrence the convict officer on watch shall give immediate notice to the patrol. It is the duty of such officer to see that all the night lamps are kept properly alight. Any prisoner wishing to visit the night latrine must obtain the permission of the convict officer on duty, who will report, on the following morning, all such as resort to it for the purpose of defecating. In case of apparently serious illness, the matter shall be at once reported to the outside patrol.

311. A roster on Form No. 62, showing the tours of duty of each paid and convict warder and overseer, shall be prepared every week by the jailor, or under his orders, and posted up so as to be accessible to the convict watch, as well as to the paid patrol. If it should be necessary to change any warder's or overseer's tour of duty in the course of the week the change must be noted on the roster. Each warder's beat should be changed every night, and no warder should be informed beforehand, to what beat he will be put. A record shall be kept in the lock-up note book, of the officers put on each beat in each watch. Of the warders off duty, half the number shall always be on the jail premises ready for any emergent duty. Any warder not present during his tour of duty shall be liable to fine or dismissal.

Rosters showing tours of duty of paid and convict officers.

312. Where there are no electric lights, a kerosene lamp suspended from an iron rod to a height of 8 or 9 feet from the floor, shall at night be kept burning in every sleeping ward. The quantity of oil allowed for each lamp must be regulated by paragraph 1180. All warders shall be instructed in the proper management of the lamps in use. A shallow tray, two feet square, containing dry pulverized earth should be placed on the floor immediately below each lamp, for use in extinguishing flames in the event of accident, or of the lamps bursting. The use of naked lights is prohibited.

Lighting of wards.

Duties of
senior night
patrol.

313. The senior officer of the night patrol shall see that the duties of the paid and convict patrol, and of the convict watch prescribed in paragraphs 307 and 310, and the requirements of paragraphs 308, 309 and 312, are duly carried out. For this purpose he shall keep moving about inside the jail, visiting the various beats during the whole time of his watch. In cases of serious sickness he shall give notice to the Sub-

S.A.S. to be
sent for in
case of
sickness.

Assistant Surgeon and, if ordered by him to do so, shall remove the sick prisoner to hospital. Should any irregularity, either on the part of warders or prisoners, occur, the circumstances shall be reported by him next morning either to the jailor or Superintendent. Immediate notice shall be given to the jailor of any occurrence requiring prompt action on the part of a higher authority, such as attempt at escape, riot, fire or serious sickness.

Precaution
whilst open-
ing a ward
at night.

314. Should it be necessary to open a sleeping ward at night for purposes other than the emergency of fire, previous to unlocking the gate or door a short chain must be so attached thereto as allow only one man at a time to pass out, and thus prevent any possible rush of the prisoners from the ward, and, as a further precaution, at least two paid warders and a jailor shall be present.

Letting out
cooks to
prepare early
meal.

315. When it is necessary to let out some of the cooks before daybreak, to prepare the early morning meal, the senior warder of the fifth watch shall let out the necessary number, and put them in charge of a paid or convict warder. Only prisoners with short unexpired sentences should be selected for this work.

Position of
locks on
grated iron
doors.

316. The locks of all grated iron doors and cells shall be so arranged that no prisoner can reach them from the inside. Locks shall be constantly changed to avoid tampering.

Section II.—Escapes and Outbreaks.

317. In exercise of the powers conferred by section 59 (6) of the Prisons Act, 1894, the following rules have been made by the Governor:—

Use of
firearms
against
prisoners
attempting
to escape.

(a) Any officer of the prison may use a sword, bayonet, firearm, or any other weapon, against any prisoner escaping or attempting to escape; provided that resort shall not be had to the use of any such weapon unless such officer has reasonable ground to believe that he cannot otherwise prevent the escape.

(b) Any officer of the prison may use a sword, bayonet, firearm, or any other weapon, on any prisoner engaged in any combined outbreak or in any attempt to force or break open the outer gate or enclosure wall of the prison, and may continue to use such weapon so long as such combined outbreak or attempt is being actually prosecuted.

(c) Any officer of the prison may use a sword, bayonet, firearm, or any other weapon, against any prisoner using violence to any officer of the prison or other person; provided that such officer has reasonable ground to believe that the officer of the prison, or other person, is in danger of life or limb, or that other grievous hurt is likely to be caused to him.

(d) Before using firearms against the prisoner under the authority conveyed in clause (a), the officer of the prison shall give a warning to the prisoner that he is about to fire on him.

(e) No officer of a prison shall, in the presence of his superior officer, use arms of any sort against a prisoner in the case of an outbreak, or attempt to escape, except under the orders of such superior officer.

NOTE.—For the rules framed by Government regulating the use by police officers or soldiers, who are called to the assistance of prison officers, of arms against any prisoner, or body of prisoners, in the case of an outbreak, or attempt to escape, see Appendix XXI.

318. Immediately a prisoner is found to be missing, notice shall be sent to the Chief Jailor and by him to the Superintendent. If the prisoner is missed from a gang working beyond jail walls, all the gangs working in the same place shall be at once collected by their warders and marched back to the jail gate, and, if there are spare warders with them, one shall proceed with speed, in advance, to inform the Chief Jailor. If the prisoner is missed from a ward at night, or after all the gangs are inside the jail, the alarm should at once be raised by the warder on duty, who will sound his whistle. The alarm should forthwith be taken up by the reserve guard, the walls shall immediately be guarded as in an alarm parade, and the

Alarm to be
given of
escape.

Duty of
Chief Jailor.

Procedure in
regard to
search for
escaped
prisoner.

Notices and
descriptive
rolls to be
sent.

Chief Jailor shall then take in the reserve guard and spare warders, unarmed, to search for the prisoner. If it appears probable that the prisoner is still lurking within the jail walls, the convict warders and night guards off duty shall also be taken out and posted inside round the outer walls. They should be furnished with lighted torches and be ordered to give notice if any prisoner approaches the walls. Torches, ready for use on such occasions, should be kept in stock. If the prisoner has escaped over the wall, or from near the jail, and may be lurking in the vicinity, the Chief Jailor shall despatch as many of the warders off duty, as can be spared, to search for him, and shall at the same time send notices to the nearest police-station, to the chief local Magistrate and Police Officer, with full descriptive rolls of the missing prisoner, sufficient for his identification, and stating his usual place of residence. For this purpose bilingual Form No. 5 should be used. If the prisoner belongs to any district other than the one in which he was confined, a report in the same form shall be made to the Deputy Commissioner of the District in which the prisoner resides, and to the Deputy Commissioners of all districts which he is likely to traverse on his way to his own district; and a report shall also be furnished to the Superintendent, Railway Police, if the prisoner is likely to avail himself of the railway. If it appears expedient, information shall be sent *by telegraph* to the police of other districts.

Procedure on
recapture.

319. On recapture, the fact shall be notified to all officers who have been addressed under the preceding rule. An escaped prisoner, who is recaptured, may be admitted into, and detained in, jail on the authority of his original warrant. The time he is at large does not count as sentence served; the date of expiration of sentence shall be calculated as prescribed in paragraph 386, read with paragraph 385.

Disposal of
warrants of
escaped
prisoners.

320. On the day after the escape of a prisoner, the jailor shall produce the original warrant and warrant cover (Form No. 85) of such prisoner, and the Superintendent of the jail shall endorse a note thereon to the following effect:—

The prisoner herein mentioned escaped from custody on theday of.....

(Signed).

Superintendent.

If at the time of making the above endorsement the prisoner has not been recaptured, the warrant and warrant cover shall

be lodged in the compartment for warrants of escaped prisoners in the warrant almirah, and retained in the jail for 10 years. If by this time the prisoner has not been recaptured, the warrant only should be returned to the convicting court.

321. A separate report of the escape of each prisoner shall at once be submitted in Form No. 5 to the Inspector-General, to be followed by a full report detailing particulars resulting from the enquiry which the Superintendent shall make as soon after the occurrence as possible. Information regarding the punishments imposed, whether judicial or departmental, shall be submitted as soon as possible. Where, as the result of the enquiry, facts have been disclosed involving the misconduct or negligence of Government Servants which may lead to their dismissal or removal from service, or reduction, the provisions of Government's General Department "G" Circular No. 49 of 1930, dated the 15th October 1930, and Judicial Department Circular No. $\frac{1400}{1435}$ 335-Main, dated the 18th January 1937, issued by the Inspector-General of Prisons, regarding departmental enquiries will apply. In the case of escapes that do not arise from mere negligence, but from some defect in the building or in the jail rules, such defect shall, in all cases, be clearly pointed out.

Report to
Inspector-
General.

322. Full particulars in respect of every prisoner escaping from jail custody, who is not recaptured and brought back before lock-up, shall be maintained in Jail Form No. 5.

Escape to
be recorded
in a register.

323. On the recapture of an escaped prisoner, the fact shall be at once reported to the Inspector-General, with particulars of date and circumstances of recapture, and such additional details of the escape as may be elicited from the recaptured man.

Report to
Inspector-
General
regarding
recapture.

324. A reward, according to the following scale, will be paid to the persons who secure the recapture of an escaped prisoner :—

Scale of
reward for
recapture of
escaped
prisoners.

	Rs.
For a prisoner under sentence of seven years' imprisonment or more	80
For any other prisoner, whether under-trial or convict ...	40

325. The reward will be paid by the Magistrate of the district in which the prisoner is captured, or, if the prisoner is captured in Rangoon, by the Commissioner of Police. No rewards shall be paid in any case in which an escaped prisoner voluntarily gives himself up, or to any person responsible for

Payment of
reward.

Higher rewards may be sanctioned by the Inspector-General or Government.

the safe custody of the prisoner when he escaped. For reasons to be recorded, the Magistrate of the district or the Commissioner of Police, as the case may be, may in any case reduce the amount of the reward or withhold the payment thereof. Whenever peculiar circumstances may render it advisable to offer a larger reward than is authorized above, a special application must be made to the Inspector-General, who is empowered to dispose of all such cases and to sanction rewards up to Rs. 300. Should he consider a higher reward necessary, he shall refer the case for the orders of Government.

NOTE.—For the rules on the subject of the proclamation and payment of reward for the arrest and conviction of criminals, and for information in respect of the commission of offences, see Appendix XVII, to Rule 12, of which particular attention is drawn.

Recaptured prisoners to be placed in fetters and to wear a red cap.

326. Prisoners, who have escaped from jail or from police custody, or who have attempted or conspired to escape, may be placed in fetters under section 56 of the Prisons Act, with the sanction of the Inspector-General. Such prisoners shall be distinguished from all other prisoners by a red cap and shall be permanently disqualified for extramural employment. The Superintendent may remove the red cap when, by good behaviour, the prisoner has shown himself deserving of consideration.

Liability of prisoners convicted for offences committed in jail to forfeit remission.

If a prisoner is convicted of an offence committed, after admission to jail, under sections 147, 148, 152, 224, 302, 304, 304A, 306, 307, 308, 323, 324, 325, 326, 332, 333, 352, 353, or 377 of the Indian Penal Code, or of an assault, committed after admission to jail on a warder or other officer, the remission of whatever kind earned by him under these rules up to the date of the said conviction may, with the sanction of the Inspector-General, be cancelled.

Imposition of fetters on prisoners likely to attempt escape.

327. Prisoners (including under-trials), who, in the opinion of the Superintendent, are of so desperate a character that they are likely to attempt to escape may be placed in fetters under section 56 of the Prisons Act. Fetters intended for the security of prisoners may be link or bar.

(a) Link fetters are fetters composed of a chain and ankle rings. The total weight of such fetters, including the ankle rings, shall not exceed 3 lb. and the chains shall be not less than two feet in length.

(b) Bar fetters are fetters composed of two bars joined together by a link and attached to ankle rings. The total weight of such fetters, including the ankle rings, shall not

exceed 5 lb. and each bar shall be not less than twenty inches in length. When any prisoner is placed in fetters under this paragraph, a report should be submitted by the Superintendent to the Inspector-General.

328. As a temporary measure of restraint handcuff may be imposed on violent prisoners (including under-trial and civil prisoners) to prevent them from doing injury to themselves or others, or from damaging Government property. In this connection *see* paragraph 175. The handcuff should be of the type known as chain handcuffs weighing not more than 1 lb. each. They should be placed on the wrists in front, by day or night, and should be removed as soon as circumstances permit. Fetters imposed on prisoners under paragraph 327 should be removed when it is found necessary to handcuff a prisoner under this paragraph.

Imposition
of handcuffs
on violent
prisoners.

329. Prisoners sentenced to imprisonment for seven years and upwards, whilst confined in a district jail and pending transfer to a central jail, may, for greater security, be placed in fetters. Under section 57 (1) of the Prisons Act, transportation prisoners may be confined in fetters for three months from date of admission to jail, but no transportation prisoner shall be confined in fetters for more than that period without the special orders of the Inspector-General. As such prisoners will be detained in district jails for only short periods, it will not ordinarily be necessary to keep them in fetters for so long as three months. In any case when the Superintendent of a central jail is of opinion that it is necessary to keep a transportation prisoner in fetters, or a Superintendent of a district jail deems it necessary to retain fetters on a transportation prisoner for more than three months, he shall apply to the Inspector-General for sanction to do so, specifying the period for which he considers the imposition of fetters necessary. Fetters intended for the security of prisoners may be link or bar, as described in paragraph 327.

Class of
prisoners
that may be
placed in
fetters for
safe custody.

330. Superintendents shall submit to the Inspector-General once in each year (on the 31st January) a statement in Form No. 84 showing the nature of cases in which fetters were imposed and the length of time for which they were worn. Superintendents may order the removal of fetters imposed under these rules in any case, as soon as they are of opinion that this can safely be done.

Record of
imposition
of fetters.

Removal of
fetters.

Jail and convict officers to be reminded of liabilities incurred in negligently or otherwise permitting escape.

331. Enquiries held into escapes of prisoners either from inside the Jail or from the extramural gangs have in some instances indicated great laxity of discipline and it is necessary to impress upon Jail Officers of all ranks that they are responsible for the discipline of the staff and convict officers under them, and that this responsibility will always be strictly enforced. Whenever an escape of prisoners is facilitated by laxity of discipline and supervision, attention will be directed not merely to the conduct of the warder staff and convict officers immediately concerned, but also the extent to which superior officers such as Superintendent/Officer-in-Charge, Deputy Superintendent, Jailors including the Chief Jailor and Chief and Head Warders have failed generally to maintain proper order and strict discipline. It is not sufficient for superior officers to impress upon their subordinates their duties in connection with the safeguarding of prisoners, or to pay occasional visits to sentries at night. The main point to make clear is that it is the duty of superior officers to see that their orders are carried out and to maintain a high standard of discipline. All prisoners shall also be held responsible for the prevention of escapes, and any prisoner, who appears to have been instrumental in aiding an escape, or to have been privy to it in any way, shall be punished under paragraph 811. For escapes and offences connected therewith, see paragraph 810. On no pretext, whatever shall an offence connected with escapes be treated as a minor breach of jail rules.

Prisoners facilitating escape.

Reward to prisoners preventing an escape.

332. All prisoners who prevent an escape, or apprehend a prisoner in the act of escaping, or give such information as may lead to the prevention of an escape, or to the apprehension of a prisoner attempting to escape, shall be brought to the notice of Inspector-General for reward; and, if the prisoner comes under the remission rules, extra remission may be given, or recommended, as the case may be.

Care and use of locks.

333. All locks used for securing wards, cells and the main gates shall be thoroughly examined daily to ascertain that they are in good working order. Any lock out of order shall forthwith be brought to the Chief Jailor. Lever locks must not be oiled with vegetable oil, as such treatment causes the levers to stick together, and thus renders the lock easy to pick. The keys of the wards, cells, godowns or any other place of which the security must be assured, shall not be put into the hands of a convict officer or of any prisoner. If convict officers are allowed to have common padlocks and keys for temporarily locking up tools or materials in their charge during the day time, the keys shall be taken from them before the lock-up.

334. The fetters of prisoners, fettered for safe custody under section 56 of the Prisons Act, should be examined daily by the chief or head warder and once a week by the jailor, who should certify, in his report book, that he has complied with this rule on each occasion. Fetters and rivets for district jails should be obtained from the Rangoon Jail. Care should be taken that the fetter rings fit the ankles, so that the feet cannot be withdrawn, and that the rivets fit the holes and have sufficient head on each side ; also to see that the rivet heads are not rubbed off.

Inspection
of fetters.

335. Broken glass must not be fixed on the top of the outer walls of a jail, as it affords a hold for a blanket or cloth thrown on to the wall, and thus facilitates escape ; for a similar reason, such walls should not be provided with a cornice or other ornamental projection. At every junction of a partition wall with the outer wall there shall be a bats wing addition to the latter, of sufficient height to prevent a prisoner from scaling it when standing on the former. As a rule, the wall of the main enclosure shall be not less than 15 feet high. No building of any sort should be permitted to touch or abut upon any enclosure wall ; a clear space of 16 feet on all sides should divide such wall from any building.

Precautions
to be taken
to prevent
buildings or
walls facili-
tating
escape.

336. In the event of any attempt to break out of the jail, or on any other disturbance occurring, the whole reserve guard shall immediately be placed under arms with loaded rifles, and, under the order of the senior officer present, shall take steps for its suppression in accordance with the rules prescribed in paragraphs 339, 340 and 341. Messages shall at once be despatched to the Superintendent and Chief Jailor.

Procedure to
be observed
in quelling
outbreaks or
disturbances.

In the event of any concerted insubordination by a large number of prisoners, the removal of the ringleaders should be effected and they should be dealt with under the rules. When special disciplinary measures are required, the District Magistrate, if the jail is situate at the Headquarters, or the Subdivisional Magistrate, if the jail is in a subdivision, should be informed so that he might attend and assist the Superintendent of the Jail in restoring order.

337. There shall be a pre-arranged signal by which to notify, to the police and the military, the occurrence of an outbreak (or for an alarm parade), which signal may be the beat of a drum placed near the reserve guard sentry, or the ringing of a bell or gong in a prominent part of the jail, or some other

Alarm to be
sounded on
occurrence
of out-break.

suitable arrangement. If a bell or gong is used for the alarm, it should be of different tone to that used for conducting the daily parades, so that the purpose and meaning should be unmistakably clear. When the alarm is given, all warders in charge of prisoners shall march them to the nearest ward or secure place, and lock them up.

Defence of
main gate.

338. When an outbreak occurs, the reserve sentry, having given the alarm, shall with his rifle defend the gate, and protect from violence any officer of the prison, or other person, as provided for, and subject to the restrictions imposed by the rules in paragraph 317.

Duties of
staff in
quelling
outbreak.

339. On the sound of the alarm, every jail official outside the jail, whether he is in proper uniform or not, shall proceed immediately to the entrance gate and, if necessary, call for, and be supplied with, arms from the jail armoury. The senior officer present shall at once despatch two squads of men to the opposite angles of the jail enclosure with a view to preventing any attempt on the part of the prisoners to scale the walls. A shot fired in the air will be the signal that the prisoners are breaking over the wall in the direction from where the sound comes. The senior warder present shall, on hearing this signal, take the rest of the ordinary warder guard to the spot indicated, and shall use all the means in his power to prevent the prisoners breaking out.

Duties of
staff in
quelling
outbreak.

340. The Superintendent or, in his absence, the Chief Jailor, deputy or assistant jailor, shall, if necessary, with the reserve guard and such other armed warders as may be available, after the walls have been guarded, enter between the two gates. The outer gate shall then be locked, and, if the sentry over the reserve guard reports that the inner gate is clear, it shall be opened, and the guard passed into the jail to act in such manner as the officer in command at the time may think necessary in accordance with paragraph 317.

Police to
take part in
alarm
parades.

341. Where the police lines are sufficiently near a jail for the alarm signal to be heard there, the policemen stationed at the police lines shall take part in alarm parades (see paragraph 337), and if there is an outbreak, they shall march to the jail to assist to quell it. The Superintendent of the Jail shall, with the Superintendent of Police, make such arrangements as seem advisable for a concerted plan of action in the case of an outbreak.

342. An immediate report shall be submitted to the Inspector-General, by the Superintendent, of any serious assault committed by any prisoner upon a paid or convict officer, or of any combined outbreak amongst prisoners, *vide* paragraph 64. Convicts of a sulky, morose or violent temperament shall on no account be allowed to have in their possession, in the workyard or elsewhere, a knife or other instrument which might be used as a weapon of offence.

Report of assault to be made to the Inspector-General.

Dangerous convicts not to possess weapons of offence.

342. An immediate report shall be submitted to the Inspector-General, by the Superintendent, of any serious assault committed by any prisoner upon a paid or convict officer, or of any combined outbreak amongst prisoners, *vide* paragraph 64. Convicts of a sulky, morose or violent temperament shall on no account be allowed to have in their possession, in the workyard or elsewhere, a knife or other instrument which might be used as a weapon of offence.

Report of assault to be made to the Inspector-General.

Dangerous convicts not to possess weapons of offence.

Section III.—Discipline and Routine.

Unlocking
wards at
daybreak.

343. The barracks and cells shall be unlocked at daybreak throughout the year. It shall be the duty of the convict watch to wake up all the prisoners, and to superintend the proper folding up of the bedding. The prisoners shall then sit in pairs in a file down the centre of each ward, ready to march out. Thereafter, and in the presence of the jailor, the wards shall be opened and the prisoners searched and counted out, their number being checked with the entries in the lock-up register (Form No. 54).

Morning
parade.

344. The prisoners shall then be marched in gangs to the early morning latrine parade, the whole in turn being made to wait outside the latrine, sitting in double rows, until the parade is finished (*see* paragraph 1001). They shall next be marched in the same manner to the bathing platforms, where they will wash their faces and hands, and clean their teeth. After the washing parade, the early morning meal shall be distributed. When the early morning meal is finished, the working gangs shall be formed, and, under the orders of the convict officers, shall march to the workyard, or, if employed outside, to the space in front of the entrance gates.

Frequent
change of
labour to be
avoided.

345. Frequent and unnecessary changes of labour are to be avoided, and every such change is to be entered in the prisoner's history ticket and initialled by the Chief Jailor.

Prisoners
working
together to
sleep in the
same ward.

346. As a general rule, and subject to the orders as to classification detailed in Chapter VIII, section II, convicts who work together should, as far as possible, sleep in the same ward, so as to facilitate the formation of gangs, prevent intercommunication, etc. Prisoners concerned in the same case should not, if possible, occupy the same ward, or be employed in the same gang.

Time for
commence-
ment of
work.

347. Work must be commenced within half an hour after the wards are opened, or not later than 6 a.m. Every workshed should be locked after the prisoners have entered it, and the key shall remain with the officer specially deputed for this duty.

Provision of
latrine con-
veniences.

348. A jar, one-third filled with water, shall be placed for convenience as a urinal inside each workshed or other place where the prisoners are employed. Prisoners shall only be allowed to use the latrine out of hours in cases of actual

necessity. Latrine conveniences, for gangs employed outside the jail walls, shall always stand in an open space well inside the circle of sentries ; a screen, three feet in height, of bamboo matting, or brushwood, will meet the requirements of decency.

349. At 9 a.m. all intramural work shall be stopped and the prisoners searched and then marched to the cook house, where breakfast will be distributed. Any apparent deficiency in the ration should at once be brought to the notice of the jailor, or warder, presiding at the distribution. The prisoners shall then move on in files to their respective messing sheds, and shall sit down in a double line. After breakfast is completed, all shall rise up and pass along towards the trough into which unused food shall be emptied, and, piling the empty platters on a stand near by, shall proceed in turn to the drinking tank, the bathing platform, the latrine, and thereafter back to the workshed where they will resume their duties. In jails where the food is not distributed to the prisoners direct from the cook house, or where the cook house does not stand between the workyard and dormitories, some modification of the manner in which messing parades are conducted will be necessary.

Midday meal
parade.

NOTE 1.—Bath soap for toilet purposes shall be supplied at the rate of one ounce per prisoner per week.

350. From 10 a.m. to 4 p.m. the six remaining hours work will be exacted ; at the latter hour work will be stopped and materials collected, the tools and implements being checked and locked up.

Afternoon
work.

On return from the workyard, the distribution of the evening meal and the various parades shall be conducted on the lines detailed in the foregoing paragraph. When these parades are finished, the prisoners shall be mustered in front of their barrack, and, after being searched, shall be counted in. The jailor or jailors on duty shall personally superintend the lock-up, after having previously examined all the wards and dormitories in company with the head night watchman. On being satisfied that the reports from the several wards agree, in the aggregate, with the daily long roll (Form No. 101), the jailor or jailors on duty and head night watch warder shall sign the lock-up book. Lock up must be completed by night-fall, at latest by 6-30 p.m.

Procedure
on cessation
of work in
the evening.

351. All prisoners working in gangs outside the jail, excepting those working at a considerable distance, and for whom special arrangements for the conveyance to them of their morning meal are made, shall be brought inside at 10-15 a.m. for feeding, bathing, and latrine parades.

Prisoners
working
outside to
be brought
in for meals.

Precaution in
opening
main gates.

352. Special precaution must be taken against the rushing of the inner gate during the egress and ingress of out-gangs. It must not be opened when prisoners are at large in the vicinity inside, and the wicket only should be used.

Midday rest.

353. Prisoners not employed under cover may, in Upper Burma, from March to October, be allowed a midday rest of two hours. In Lower Burma prisoners, similarly exposed, may be granted a like indulgence from March until the setting in of the south-west monsoon. But in such cases the prescribed nine hours must be made up by starting earlier and working later.

Care of in-
firm and
convalescent
gang.

354. The infirm and convalescent gang should sleep in a separate barrack particularly well guarded from chills and draughts; they must be locked into their sleeping ward for a midday rest of two or three hours at all seasons.

Strict dis-
cipline to be
enforced.

355. Every detail of the daily routine shall be carried out systematically, the prisoners being always moved about in files by word of command, the paid or convict officers in charge occupying positions on the right or left or in the rear of the gang. Loud talking, singing or quarrelling in the wards or elsewhere is prohibited.

NOTE 1.—For Prison Department Circular No. 44—248 (G) Main, dated the 27th March 1925, on the subject of "Talking among prisoners and conversation between officers and prisoner," see Appendix XXIX.

NOTE 2.—For rules on the subject of marks of respect to be shown by prisoners in Jails to Government officials and visitors see Appendix XXX.

Procedure
in cases of
illness at
night.

356. If a prisoner requires medical attention during the night other than what can be afforded through the grated window, or if, for any other reason, it becomes necessary to open a ward, or cell, the jailor on duty shall be sent for, and barring cases of emergency, such as fire, or attempt to commit suicide, no ward, or cell shall be opened, except in the presence of that officer. As a precaution against a rush, before the door of a ward is unlocked at night, it should be so secured by a chain that, when opened, only one person at a time can get through.

Opening of
ward at
night.

Convict
officers to
maintain
discipline in
wards.

357. In every ward there shall be one or more convict officers, whose duty it shall be to prevent loud talking, singing or quarrelling, to look after the lights, to take care that no prohibited articles are introduced, to prevent any prisoner leaving his sleeping berth without permission, to maintain order in all respects, and to report all breaches of jail rules.

358. For each ward two or more glazed vessels, with dry earth, shall be provided. No prisoner shall resort thereto without the previous permission of the convict officer on duty. As prisoners are afforded sufficient opportunities of resorting to the day latrines, the use of the glazed receptacles for night use for purposes of defecation should, as far as possible, be discouraged, and, as laid down in paragraph 1008, the convict watch shall report any prisoner making such use of them. If he is found to be sick, he shall immediately be placed under observation, separate from other patients.

Provision of receptacles for defecation at night. Defecation at night to be discouraged.

359. To every prisoner a sleeping berth shall be assigned, to which he must confine himself whilst inside the ward. On no account shall a prisoner be permitted to lie on a cement, asphalt, brick or earthen floor, or in any place other than that assigned to him. The number of berths in each ward shall be in accordance with its capacity, calculated on the scale prescribed in paragraph 991.

Provision of sleeping berths at night.

360. If, in the course of the day, any prisoner wishes to visit the latrine out of the regular time, he will be accompanied by a convict officer. If the prisoner apparently visits the latrine from idleness, or as an excuse for communicating with other prisoners, the convict escort shall report him; if it appears that the prisoner is suffering from diarrhoea or dysentery, the circumstance will be reported to the jailor, who shall send the prisoner to hospital for observation.

Visit to latrine out of hours.

361. The latrines will be cleaned every morning and afternoon, and at other times, when necessary. The glazed receptacles for night use will be placed in position in the wards by 3-30 p.m. The urinal should be one-third full of water.

Cleansing of latrines and urinals.

362. The daily routine detailed above shall also be observed on the following prison holidays, but no prisoner shall be required to labour on these days otherwise than in the performance of menial offices (cooking, cleaning latrines, watering plants, etc.) and other necessary work:—

Only menial work permitted on prison holidays.

- (1) Sundays.
- (2) New Year Day.
- (3) Independence Day.
- (4) Full Moon of *Tabaung*.
- (5) Resistance and *Arzani* Day.

- (6) Burmese New Year Day.
- (7) May Day.
- (8) Full Moon of *Kasôn*.
- (9) Beginning of Buddhist Lent.
- (10) Martyrs' Day.
- (11) End of Buddhist Lent.
- (12) Bakr-id.
- (13) Dewali.
- (14) *Tazaungdaing*.
- (15) National Day.
- (16) Christmas Day.
- (17) Karen New Year Day.

Feeding of
prisoners
by outsiders
on special
occasions.

With the sanction of the Inspector-General, requests for feeding prisoners on special occasions by charitable bodies or persons on the understanding that this privilege is allowed on only one or two days in the year may be granted, provided the food is prepared in the Jail premises, the provisions being supplied by the bodies or persons making requests for feeding them. There is no objection to the prisoners being treated with sherbat (cold drinks) and aerated waters with the previous sanction of the Inspector-General. When not otherwise engaged on these days, prisoners shall be locked into the wards and cells, one hour for exercise, in gangs, being allowed them before breakfast, and one hour before lock-up.

Weekly
washing of
clothing.

363. Every prisoner shall wash his clothing at least once a week, at such time as the Superintendent may direct. This shall usually be the day preceding the weekly parade. For this purpose in each division of the jail at the bathing platform, a tub shall be placed, filled with a solution of alkaline earth (*sajimatti*) or *dhobi soap* of sufficient strength. Into this solution each prisoner, as he passes in file, shall dip his clothes so as to saturate them, and then proceed to scrub and cleanse them. Dry *sajimatti* or *soap* shall not be given to the prisoners. If necessary, the Superintendent may detail prisoners, periodically, for the purpose of boiling and washing any special portion of prison clothing, *e.g.* blankets and bedding.

Prisoners to
be inspected
every Mon-
day.

364. Every Monday morning, all the prisoners shall be paraded (under shelter from sun or rain, when necessary) before the Superintendent for inspection. The prisoners shall bring out their bedding and clothing, and arrange it in file with the

history ticket at the top. On the arrival of the Superintendent the prisoners, at word of command, shall stand up, take off their coats, and exhibit their history tickets. The Superintendent shall then pass down the line, listen to all complaints and requests of every description, and issue orders thereon; examine each man's bedding or kit, satisfying himself that they are complete, clean and in good repair; see whether each prisoner's hair is kept according to regulation, whether their persons are clean and free from skin disease, and whether, in any instance, loss of health is apparent. He shall also satisfy himself that remission has been duly awarded and communicated to the prisoners, and that the prisoners know what remission they have earned; see that the classification rules are carried out; note that history tickets are supplied to all prisoners and are written up; that weighment have been duly made and recorded on the tickets; that the weighments are carefully considered in the distribution of labour, and that prisoners, losing weight, are set apart for medical inspection. Petitions regarding the removal of fetters, interviews, letterwriting, etc., should, as a rule, be made at the Superintendent's weekly parade, and his orders noted on the history ticket. Where the Superintendent is not also the Medical Officer, he shall be accompanied by the Medical Officer, at these inspections.

365. Every prisoner in the Jail shall be weighed once a fortnight, on Sunday, the weighments being taken by the Sub-Assistant Surgeon detailed for this duty, and recorded carefully on the history ticket. When a prisoner is wearing fetters, their weight, before they are riveted, shall be entered on his history ticket, so that the exact deduction may be made before the result of weighment is recorded (see paragraph 931). The Medical Officer shall, after the fortnightly weighment on Monday, check the weights of a dozen or more prisoners taken haphazard with a view to satisfying himself that weighments have been correctly made.

Fortnightly
weighments
of prisoners

366. An abstract of the results of each weighment shall be prepared by the Sub-Assistant Surgeon detailed for weighment showing the number and percentage of prisoners in each barrack who have lost or gained weight or have remained stationary since the last weighment. The register number of all prisoners, who have lost more than 3 lbs. since the last weighment, or who have lost more than 7 lbs. since first admission, or who have been losing weight in small amounts for more than three successive weighment periods, shall be noted on the abstract, and such prisoners shall, in each yard,

Sub-Assis-
tant Sur-
geons to
maintain
record of
weighments
of prisoner.

be separately paraded before the Superintendent and Medical Officer (see paragraph 932).

Complaints
or represen-
tations from
prisoners.

367. No prisoner shall leave his work, or his line, to make any representation to the Superintendent or Chief jailor. The Chief Jailor shall, at least once in the day, visit all prisoners, and give them the opportunity of making representations and complaints on any urgent matter, such as appealing to the Courts, assaults, or ill-treatment. Any prisoner, wishing to appeal or making such a complaint, shall be brought by the Chief Jailor before the Superintendent, but minor complaints and petitions should, as a rule, await the Superintendent's general parade. In district jails Superintendents shall see each prisoner every day, and in central jails at least once in every two days.

Prisoners
bound to
obey orders.

368. Prisoners shall obey the orders of the Superintendent and jailors. They shall also obey the orders of the Chief and Head Warders, warders and convict officers, unless an order is distinctly contrary to jail regulations, in which case the prisoner shall report the matter, as soon as possible to the Chief Jailor.

Prisoners to
be warned
against
committing
prison
offences.

369. Prisoners shall be warned to avoid the acts which constitute prison offences according to the provisions contained in Chapter X.

Warning
instruction
to prisoners
regarding
alarms and
outbreaks.

370. Prisoners shall be warned that, in the event of any riot or violent outbreak, the guards are authorized to fire upon them and they shall be instructed as to the course they are to pursue on the occasion of an outbreak, or when the alarm is sounded.

Matters
affecting
caste or
religion.

371. All interference with the religion or caste prejudice of prisoners is prohibited, but care shall be taken that this rule is not made an excuse for frivolous complaints, or unnecessary neglect of jail rules. If the Superintendent feels any doubt as to the validity of any plea advanced by a prisoner on the grounds of caste or religion, he shall refer the matter for the orders of the Inspector-General, whose decision shall be final. Prisoners shall be allowed to wear one religious symbol such as a sacred thread, or other such symbol, and to renew it if necessary, and shall be allowed to perform their devotions in a quiet and orderly manner provided there is no interference with jail routine and discipline.

372. A prisoner shall not receive, or have in his possession, any spirituous or fermented liquor, tobacco, intoxicating or poisonous drug, or any prohibited article, except under the express sanction of the Superintendent or the Medical Officer.

Prisoners not to possess prohibited articles.

373. Section 42 of Act IX of 1894 provides for the punishment of any person who introduces into, or, without authority, removes from, any jail, or supplies to any prisoner any prohibited article, or who, contrary to rule, communicates with any prisoner, or who attempts to commit or abets the commission of any of these offences. The following articles are prohibited within the meaning of this section :—

Prohibited articles defined.

- (1) Alcohol or spirituous liquors of any kind ;
- (2) Materials for smoking, chewing or snuffing, such as tobacco, pipes, *chilums*, etc. ;
- (3) Ganja, opium, or any other drug or poisonous substance ;
- (4) Poisonous materials, materials for making fire, or materials which would cause disfiguration ;
- (5) Money, currency notes, valuable securities, jewellery or ornaments of any kind ;
- (6) Books, printed matters, letters, or writing materials of any kind not authorized by the Superintendent ;
- (7) Knives, arms, ropes, string, bamboos, ladders, sticks, implements of any kind, and any article likely to facilitate escape, except during work hours, and at such places as they are required for jail work those issued for use in the performance of the work ;
- (8) Any article which has not been issued for the use of prisoners, from the jail stores and supplies.

374. A jail garden, or permanent brickfield, shall always be enclosed either by a thick hedge of bamboos, aloes or cactus, planted in several rows on a bank with a ditch on either side, or by a mud wall protected by tiles, so that the prisoners may not be able to see outsiders, or be seen by them. No gaps should be allowed, and the hedge or wall should be impassable to thieves, or cattle. The number of openings should be strictly limited to those absolutely necessary for purposes of ingress and egress, and should be provided with efficient gates or doors.

Jail garden and permanent brickfields to be enclosed by fence, etc.

CHAPTER VIII.

PRISONERS.

Section I.—Admission of Prisoners.

NOTE.—The term “warrant” in this chapter means any order of a Court directing the detention or otherwise of any person.

Powers of
Superintendents.

375. The power of Superintendents of jails to give effect to sentences and orders of Courts is defined in sections 15 and 16 of Act III of 1900.

NOTE.—Offenders who are subjects of His Majesty domiciled in Burma sentenced to imprisonment under the China and Korea Order in Council, 1904, should, if sent to Burma for imprisonment under that Order, be admitted to jail in the same manner as prisoners sentenced to imprisonment by Burma Court.

Admission
of new
prisoners.

376. The Chief Jailer shall ordinarily admit new prisoners into the jail at any time between the hour of opening the jail and 6 p.m., when lock-up takes place. After lock-up, he shall not receive any prisoner, except on the special written order of the Sessions Judge, or of the District Magistrate, or of the Subordinate Magistrate in charge of the District Magistrate's current duties during the latter's absence from headquarters, or of the Magistrate trying the case in which the prisoner is concerned. No newly convicted prisoner shall be admitted into the convict ward after lock-up. A prisoner brought to the jail upon conviction after lock-up shall be remanded, for the night, to the observation ward, if there be one available. If not, he shall be confined in the undertrial ward. A prisoner condemned to death must be relegated to a cell used for the purpose.

Newly
admitted
prisoners
to be segregated.

377. All newly admitted prisoners shall, if the Superintendent considers it necessary, be detained in the segregation section for a period which shall, ordinarily, not exceed seven days. Details of all such prisoners shall, without delay, be entered in the Labour Register (Form No. 206). This register shall be maintained by the jailor in charge of the Admission section.

Warrants to
accompany
prisoners on
admission.

378. No prisoner shall be admitted into any jail, except on a warrant signed by competent authority. There should be a separate warrant for every prisoner, even though two or more prisoners have been jointly charged or convicted. If a prisoner is brought to a jail without a warrant, the jailor shall refuse to admit the prisoner, and shall report the matter to the Superintendent at his next visit. Before admitting a prisoner

the jailor shall question him and ascertain that his name and other particulars correspond with those entered in the warrant and descriptive roll attached (see paragraph 432).

NOTE.—A descriptive roll shall be attached to the warrants of imprisonment, in the case of all prisoners sentenced to imprisonment for a term of over one month, the descriptive roll being dispensed with in the case of prisoners sent to jail for less than one month.

379. All warrants shall be examined to ascertain whether they conform to the Criminal Procedure Code * and the orders of the High Court. If a warrant is not correct it may, in the case of minor irregularities, be returned, for correction, to the officer who issued it. If the Superintendent doubts the legality of any warrant sent to him for execution he shall follow the procedure laid down in section 17 (1), Act III of 1900, but the reference therein prescribed shall be made to Government, through the Inspector-General.

Scrutiny of warrants.

Illustration 1.—A warrant, ordering imprisonment without specifying whether it is to be simple or rigorous, shall be returned for correction. Where a recommendation for inclusion in Class A or B has been made by the convicting Court, it should be specified in the warrant that the prisoner is to be placed provisionally in Class B.

Illustration 2.—If a warrant, purporting to have been issued by a Magistrate of the third class, direct that a prisoner be subject to rigorous imprisonment for a single offence for over one month, the orders of Government shall be taken, through the Inspector-General, whether the sentence shall be carried out.

Illustration 3.—A sentence of flogging is irregular (a) in the case of a prisoner also sentenced to death or transportation or penal servitude, (b) in the case of a prisoner whom the Court considers to be more than 45 years of age, (c) in the case of a woman, (d) in the case of a prisoner who is also sentenced to imprisonment on an aggregate term of imprisonment exceeding seven years if the sentences are passed in the same trial and (e) if a prisoner is sentenced to imprisonment and whipping, when the law lays down that, for such an offence as the prisoner was convicted of, the punishment is whipping in lieu of imprisonment ; in this connection attention is drawn to the Whipping Act (Act IV of 1909).

380. Any case of importance, in which the Superintendent's representations have not been attended to by the Court addressed, shall be reported by the Superintendent to the Inspector-General, who may refer the matter to Government, if necessary.

Cases of importance represented to court and not attended to, by court addressed, to be reported to the Inspector-General.

* See Chapter XXVII, Criminal Procedure Code, for warrants of imprisonment and sections 167, 220 and 344 for warrants of detention under investigation on trial and section 123 for imprisonment in default of security.

Copies of warrants returned to be kept.

Receipt of revised warrants to be acknowledged.

Multiple sentences.

Instructions of court to be taken in regard to the order in which sentences should take effect. Prisoners not to be detained beyond period indicated in warrants.

Calculation of date of release.

381. When a warrant is returned for correction, a copy shall be retained, in the appropriate compartment of the warrant almirah, until the original is returned. Blank forms of warrants shall be kept for this purpose. The receipt of the revised warrant shall be acknowledged by the jail authorities by special letter, and until such letter is received, the Court issuing the warrant shall be held responsible by Government for any mistakes that may occur.

382. If a warrant directs that any person shall undergo two or more sentences on separate charges, such sentences, when consisting of imprisonment or transportation, shall commence the one after the expiration of other, in such order as the Court may direct (section 35, Criminal Procedure Code). When any person, already undergoing a sentence of imprisonment, penal servitude or transportation, is sentenced to imprisonment, penal servitude or transportation, the sentences shall be served, the one after the expiration of the other, in order of award, unless the Court awarding a sentence of transportation shall direct that such sentence of transportation shall take effect immediately (section 397, Criminal Procedure Code), or unless the prisoner is an escaped convict, in which case the provisions of section 396 of the Criminal Procedure Code will apply (see paragraph 394).

383. In case of doubt in regard to the order in which sentence shall take effect under paragraph 382, the instructions of the Court imposing the latest sentence shall be taken. In whatever order the sentences are served, a prisoner is liable to serve the aggregate terms of the whole of his sentences, provided that under no circumstances shall a prisoner be detained in jail beyond the period indicated by the terms of the warrant or warrants, of commitment.

384. The date on which a prisoner is entitled to be released shall be calculated by the Superintendent and jailor and an entry shall be made in the release register under that date, giving the name and serial number, etc., of the prisoner. It is not the duty of the committing officer to note the date of release on the warrant. If the date of release is stated on the warrant incorrectly, or omitted, the warrant shall not be returned for correction on that account. The entry in the Release Register shall be made by the jailor (*vide* paragraph 187), and in case the term of imprisonment be charged, either by the judicial imposition of additional imprisonment or by

remission of any part of the sentence, or by absence from the jail on bail, or after escape, the entry shall be scored through with red ink, and a reference made to the date of release under the new order, under which date a new entry shall be made. Particular care shall be taken to reproduce, in the appropriate column of the admission register opposite the original entry concerning the prisoner, all red ink alterations of sentence, or date of release, etc.* The Superintendent shall himself check each entry in the Release Register and Admission Register, and shall be personally responsible for the correctness of such entries and for any illegal detention of a prisoner, or failure to execute a sentence due to neglect of this rule.

Superintendent personally responsible for correctness of entries in Release and Admission Registers

He shall, before the seventh of every month, personally examine again the Release and Admission Registers and submit to the Inspector-General a certificate (in Form No. 207) that they are correctly posted and up-to-date.

Monthly verification of Release and Admission Registers.

385. The duration of a prisoner's sentence † shall be calculated by the calendar year or month, unless stated in days. The day on which the sentence is passed and the day of release shall both be included and considered as days of imprisonment. Similarly, if a convict is released on bail or if he escapes, the day on which he was released or escaped, and the day on which he was re-admitted, or re-captured, shall both be counted as days of imprisonment. For example: A prisoner sentenced to one year's imprisonment on the 15th January 1919 shall be released on the 14th January 1920; a prisoner sentenced on the 1st January to one month's imprisonment shall be released on the 31st January, and not on the 1st February following; a prisoner sentenced to one day's imprisonment must be released on the same day; but, if he be sentenced to imprisonment for 24 hours, he shall be kept in confinement for that period. In such a case, however, the committing Court should be required to specify the hour from which the sentence begins. If the month in which the sentence expires has no date corresponding to the date of sentence, then the last day of the said month must be taken to be the date of expiration of sentence.

Calculation of duration of sentence.

Illustration.—A, B and C are sentenced respectively to one month's imprisonment on the 29th, 30th and 31st January, 1919; all three sentences will expire on the morning of the 28th February, and the prisoners will be released accordingly.

This rule shall also apply to civil prisoners.

* NOTE.—With regard to prisoners sentenced to judicial solitary confinement see Chapter VIII, Section IV, and for whipping Section V.

† But in cases of sentences passed on Europeans under the Army Act, the month shall be reckoned as a lunar month of 28 days unless it is expressly specified to be a calendar month.

Date of
release of
prisoners
who were
at large or
on bail.

386. The following method * shall be adopted in calculating the date of release of a prisoner who, after conviction, is released on bail pending the hearing of his appeal, and is afterwards remanded to jail to serve out his sentence, or who escapes and is at large for a certain period:—

Add the period the prisoner has been on bail or at large, in years, calendar months, and days, to the term of his sentence; the date on which the sum of these periods will elapse, counting from the date of conviction, is the date of expiration of sentence. The Court, to which a prisoner surrenders, after being at large on bail, should note, in the prisoner's warrant, the date of his recommitment to jail.

Date of
release of
prisoners
reconvicted
after condi-
tional
release.

387. In cases where the conditional release granted to prisoners under section 401, Criminal Procedure Code, is revoked and the prisoner ordered back to jail to serve out the original sentence, he shall be forwarded to a jail, accompanied by the original warrant, copy of the order of Government and an endorsement in the form prescribed in Judicial Department "L" Circular No. 25 of 1941, dated the 14th August 1941.† The period of confinement to be undergone shall be determined as in paragraphs 385 and 386.

Sentence not
to be execu-
ted anterior
to the date
of warrant.

388. Unless provided for by a special order of an Original or Appellate Court, no sentences or portion of a sentence (save as stated in the note following the illustration to paragraph 487) can be executed anterior to the date of the warrant on which such sentence is awarded.

Effect of
annulling
one or more
sentences.

389. When a prisoner has been committed to jail to undergo two separate sentences of imprisonment or transportation one of which is to take effect from the date of expiry of the other (whether the sentences have been passed on the same or on different days), if the first sentence is set aside on appeal or revision the second sentence will take effect from the date on which it (the second sentence) was passed.

Calculation
of sentence
modified on
appeal.

390. Where the Appellate Court simply modifies a sentence passed by a Lower Court without change of section, or when

* NOTE 1.—A prisoner released on bail in Court on the day he is sentenced without having been sent to jail, shall not be deemed to have served any part of his sentence.

NOTE 2.—This rule does not apply in the case of a prisoner, who, at the time of his release on bail or of his escape, is not undergoing a substantive sentence of imprisonment but is detained in prison under the terms of an order passed under the provisions of section 128 of the Code of Criminal Procedure, 1898. Such a prisoner cannot legally be detained, under such order, after the expiration of the period specified therein, however short a portion of such period he may actually have spent in prison.

† See Appendix XVIII.

the Appellate Court passes a new sentence by changing the conviction section or the punishment section or otherwise, the sentence finally passed shall count, unless otherwise specially directed, from the first day of imprisonment under the original sentence.

391. When a prisoner is sentenced on different days to two or more sentences, to run consecutively, the date of release shall be reckoned as if the sum of the terms had been awarded in one sentence, and be calculated from the first date.

Dat of release when two or more sentences run consecutively

Illustration.—A prisoner sentenced, on the 21st June 1919, to one year's imprisonment, is, for another offence subsequently, sentenced to a further term of one year, the period to commence from the expiration of the first sentence; he will be released on the 20th June 1921, not on the 19th June 1921.

392. (1) When a person in respect of whom an order requiring security is made under sections 106 or 118 of the Code of Criminal Procedure is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiry of such sentence—See section 120, Code of Criminal Procedure. If such a person fails to give security on or before the date of expiry of his substantive sentence he shall be detained in jail until the expiry of the period for which security is required to be furnished, or until the requisite security is given. It is not necessary in such cases that a formal warrant should be issued by the Magistrate for the detention of such person in the jail after the expiry of the substantive sentence.

Imprisonment in default of giving security plus a substantive sentence.

Illustration.—A prisoner while undergoing three months' imprisonment is ordered by a competent Court to execute a bond under section 106, Criminal Procedure Code, for keeping the peace for a term of 6 months in a sum of Rs. 25 and one surety for like amount, but fails to give security on or before the date on which the three months' substantive imprisonment expires. He should be detained in the jail until he furnishes the required security, or until the term for which such security is to be given is completed, but no formal warrant is necessary for such detention.

(2) If a person, while undergoing imprisonment under an order under section 123, Criminal Procedure Code, in default of furnishing security, is convicted of an offence committed prior to the making of the order and sentenced to imprisonment, such sentence shall commence from the date on which it was passed; if such sentence should expire before the period

of the Chief, Deputy or a Senior Jailor. The search of a female prisoner, if necessary, shall be conducted in the manner laid down in paragraph 883. All property taken from prisoners shall be dealt with as ordered in section VII of this chapter. The search must be thoroughly and carefully done, as prisoners frequently conceal articles in their hair and beards and in other parts of their person.

Medical
examination
of newly
admitted
prisoners.

397. All prisoners shall be seen, immediately after admission, by the Medical Subordinate. For action to be taken in regard to notifying the Public Health Authorities concerned of the fact of the admission of a leper prisoner see paragraph 776A. If there is an observation ward for new admissions, the new arrivals shall be located there until the Medical Officer directs that they shall be placed with other prisoners and their names shall be duly entered in the Labour Register in Form No. 206. If any epidemic is prevalent, and accommodation for new admissions is provided outside the jail, prisoners shall not be admitted within the jail till orders have been given by the Medical Officer, or, in his absence, by the Sub-Assistant Surgeon, for their admission. They shall at once be provided with necessary bedding and protection from cold.

Clothing of
newly
admitted
prisoners.

398. Immediately after admission (or, in the case of prisoners received late, or after lock-up, or early next morning) all prisoners shall be made to wash themselves thoroughly, also their clothing; convicted prisoners shall each be furnished with full jail equipment prescribed in Chapter XVI. Such of the private clothing received with convicted prisoners as can be boiled, without damage, shall be boiled before it is stored.

Record of
health, etc.,
of newly
admitted
prisoners.

399. All newly admitted prisoners shall be brought before the Medical Officer on the morning following their admission, and he shall then make, or cause to be made, in the Admission Register (Form No. 21) and prisoner's history ticket, a record in respect of each prisoner, of his or her age, health on admission, with such particulars of previous illness as may be ascertained, weight on admission, and (in the case of a prisoner sentenced to rigorous imprisonment) the class of labour for which the prisoner is fit (see paragraphs 882 and 1031), with any other observation he may find necessary. In describing a prisoner's health, if he is in bad or indifferent health,* he should enter the general cause, such as enlarged spleen.

* See terms in which health is to be described, defined in paragraph 928.

anaemia, etc. The Medical Officer shall also record whether the prisoner has been vaccinated, or inoculated, or has had small-pox. Subject to the provisos of paragraph 887 every prisoner shall be vaccinated as soon as convenient after arrival in jail, and the operation shall be repeated whenever it may appear necessary.

400. Every prisoner shall receive a serial number corresponding with the entry relating to him in the admission register and this register number shall be his distinguishing mark whilst in the jail. The series in each jail shall run from 1 to 10,000. The prisoner's number, and a letter signifying his class (casual or habitual) shall invariably precede his name when he is referred to in any official communication, thus: "Prisoner No. 236—Shwe Tha," inserting after the number, "C" or "H" according as to whether the prisoner is a casual or a habitual. In nominal rolls the father's name shall invariably be added. A prisoner's nominal roll in Form No. 32 shall always be sent to the Inspector-General, with any reference that may be made concerning the prisoner. The age, last birthday, shall be shown in all cases where the age of a prisoner is required to be recorded.

Assigning of serial number to every prisoner.

Nominal roll to accompany every reference made to Inspector-General regarding prisoners.

401. Deleted.

402. In the Admission Register (Form No. 21) shall be recorded, for the purpose of identification, a full personal * description of every prisoner, giving a general account of his appearance and habit of body, and a note of any special marks on his person. If the finger impressions of the prisoner have been taken by the Police, the fact should be noted in the Admission Register, on his history ticket, and on the warrant, giving the date on which the impressions were taken. Any police officer, deputed to take the finger impressions of a prisoner, shall be allowed to do so.

Record of identification marks. Finger Impressions.

* Personal descriptions should embody the main characteristics of manner and feature, so as to be easily recognized. Non-distinctive items should be carefully excluded: "Brown complexion" where all are shades of brown, is obviously worthless as a distinctive mark. "Tattooed on thighs" is almost as useless in a country where the vast majority of the male population are tattooed. "Round face and brown eyes" are similarly of little value. Differences noted between facts obtained by the enquiry in the jail and those furnished in the descriptive roll submitted by the police should be promptly communicated to the District Superintendent of Police, and the discrepancies formally reconciled.

On admission to jail, prisoners should be asked if they are habituated to opium, and, if so, the average quantity consumed by them daily should be ascertained and noted in the Admission Register against their names. At the end of the year, the Inspector-General should be furnished with these statistics in Form No. 113.

Central jails shall report half-yearly (in Form No. 110) particulars of convicts qualified to act as clerks (see also paragraph 1052 on this subject).

of English to be reported to the Inspector-General.

408. After prisoners are received into the jail, an abstract of the rules relating to the conduct and treatment of prisoners shall be read over to them, and proper means shall afterwards be taken, by the Superintendent, to make them acquainted with the effect and purport of such rules. A copy of this abstract, in the vernacular language of the district, shall be hung up in the criminal wards, or in some conspicuous part of the jail.

Prisoners to be acquainted with jail rules.

409. After the admission of a prisoner, the jailor shall, by way of acknowledging receipt of the original warrant, return to the Court, through the officer in charge of the Police escort the duplicate warrant endorsed, signed and duly stamped with a moveable date stamp showing the name of the jail which received the prisoner.

Return of duplicate warrants, duly endorsed.

To obviate delay in the despatch of finger-prints by the Police to the Finger Print Bureau owing to the jail number of the prisoner not being readily available, the District Superintendent of Police or other officer concerned, will fill in and send a list (Form $\frac{\text{Crime}}{48A}$) along with the warrant committing the prisoner to jail. The Superintendent of Jail will cause the necessary particulars to be entered in columns 5 and 6 of the form and will return it with the escort that brought the prisoner, or, if that is not possible, will return it, duly filled in, to the issuing officer within 24 hours (Sundays and Jail holidays excepted).

Despatch of finger-prints.

410. On completion of the necessary entries, including cross references where required, in the Admission and Release Registers, and of the procedure ordered in the foregoing rules, which shall ordinarily be effected within the day following the admission of the prisoners, the Chief Jailor shall bring these registers and the prisoners (with their warrants) before the Superintendent, who shall satisfy himself that the entries in the registers and warrants (which he shall attest) are correct and that the rules have been carried out. The Superintendent shall, before the seventh of every month personally examine these registers and submit to the Inspector-General a certificate (in Form No. 207) that they are correctly posted and up-to-date.

Production of newly admitted prisoners before Superintendent.

Monthly verification of registers.

Record of
prisoner's
property.

411. The list of every prisoner's property, including cash, shall be noted in column 19 of the Admission Register (Form No. 21) and on the warrant cover (Form No. 85), the list being first read over to him in the Superintendent's presence, and acknowledged by the prisoner to be correct.

Record of
prisoners
sentenced to
whipping
and those
desiring to
appeal.

412. If the prisoner has been sentenced to solitary confinement or whipping, or if he expresses a desire to appeal, the Superintendent shall see that the necessary entries have been made in the respective special registers. The Superintendent shall also, at the same time, write any special order regarding the treatment of any prisoner that may be necessary in his history ticket.

Prisoners
whose
transfer is
considered
expedient.

413. The Superintendent shall submit, to the Inspector-General, the descriptive roll of any prisoner who has influence in the district, or who was formerly a member of the jail staff, and whose transfer to another jail is therefore expedient.

Hair cutting.

414. The hair of the head of every male convict shall be clipped short and the hair of the whiskers, beard and moustache and the nails of fingers and toes, shall be close trimmed, subject to the following exceptions:—

I.—No convict's hair shall be cut until the time allowed for appeal (if any) has elapsed, or until the final confirmation of his sentence.

II.—The hair of convicts of the following classes shall not be cut:—

- (1) Convicts whose confinement in prison does not extend beyond one month, calculated from the date of confirmation of the sentence, or expiry of the term allowed for appeal, if no appeal is preferred; or convicts, with longer sentences, who are within one month of their release.
- (2) Convicts sentenced to simple imprisonment.
- (3) Convicts sentenced to imprisonment for a term not longer than three months for an offence, abetment of, or attempt to commit an offence, under any chapter of the Indian Penal Code (except Chapters XII and XVII).
- (4) Convicts who are Sikhs, or Mughls.

III.—The undermentioned portions of the hair of certain classes of convicts shall not be cut, namely,—

- (1) the lock of hair on the crown of the head of every Hindu convict,

- (2) the long lock hanging from the back of the head of a Chinese convict,
- (3) the beard of every Mussulman convict, to the length of one inch,
- (4) the long hair on the heads of Burman convicts who have maintained long hair since childhood.

Explanation.—Nothing herein contained shall be deemed to prevent the cutting, shaving or trimming of the hair of any convict at any time with the consent of such convict, and under the written orders of the Superintendent of the Jail. Hair of any value shall be dealt with as the property of the prisoner to whom it belongs.

NOTE 1.—For instructions regarding cutting the hair of convict overseers, convict warders, prisoners under trial, undergoing simple imprisonment and females, *see* paragraphs 291, 295, 588, 607 and 710.

NOTE 2.—Prisoners whose hair is not cut may, when the need arises, be allowed a supply of oil, soap or soapnut once a week.

Section II.—Classification and Separation of Prisoners.Statutory
provisions.

Under section 27 of the Prisons Act, 1894, the following separation of prisoners is requisite, viz.—

- (1) female prisoners shall be so separated as to prevent their seeing, conversing or holding any intercourse with male prisoners ;
- (2) male prisoners under 21 years of age shall be separated from male prisoners above that age ;
- (3) among male prisoners under 21 years of age, those who have arrived at the age of puberty shall be separated from those who have not attained puberty ;
- (4) convicts shall be kept apart from unconvicted prisoners ; and
- (5) civil prisoners shall be kept apart from criminal prisoners.

Subject to these requirements, under section 28 convicted criminal prisoners may be confined either in association or individually in cells, or partly in one way and partly in the other.

Provision of
separate
accommo-
dation for
different
classes
of prisoners.

415. By section 4 of the Prisons Act, Government is required to provide accommodation in prisons constructed and regulated in such manner as to comply with the requisitions prescribed by section 27 of the same Act, which are as follows :—

(1) In a prison containing female as well as male prisoners, the females shall be imprisoned, in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing, or holding any intercourse with, the male prisoners.

(2) In a prison where male prisoners under the age of 21 are confined, means shall be provided for separating them altogether from the other prisoners, and for separating those of them who have arrived at the age of puberty from those who have not.

(3) Unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners.

(4) Civil prisoners shall be kept apart from criminal prisoners.

Separation
of different
classes of
prisoners to
be enforced.

416. The Superintendent shall see that the requirements detailed in the preceding paragraph are complied with, and shall, moreover, as far as circumstances permit, provide separate accommodation for, and allow no intercourse between, such as are sentenced to simple imprisonment and such as are sentenced to rigorous imprisonment or transportation and, as regards prisoners sentenced to rigorous imprisonment or transportation, he shall segregate, both by day and by night, those who have been classed as “habituals” from the general body of convicts.

417. Prisoners condemned to death shall be separately accommodated in cells.

Separation
of condemned
prisoners.

418. Prisoners of Classes A and B shall be provided with separate accommodation and be kept entirely apart from prisoners of Class C.

Separation
of A, B and
C class
prisoners.

NOTE.—Persons committed to a workhouse under the provisions of the European Vagrancy Act, No. IX of 1874, as amended by the Criminal Law Amendment Act, 1923, Act No. XII of 1923, shall be provided with separate accommodation specially set apart for their use. A building for this purpose is provided in the vicinity of the Rangoon Central Jail.

419. State prisoners shall be detained in such manner as may, from time to time, be prescribed. See paragraphs 743 to 756, inclusive.

Detention of
State prisoners.

420. Convicted prisoners shall be divided into three classes, A, B and C. The definition of prisoners falling within these classes and the treatment to be accorded to them are laid down in Section XV. The C or ordinary class shall be further subdivided into the casual and habitual classes.

Classification
of prisoners
into A, B
and C
classes.

421. For the purposes of jail discipline, the following persons shall be liable to be classified as "habitual criminals," namely :—

Classification
of habitual
criminals.

(i) any person convicted of an offence punishable under Chapters XII, XVII and XVIII of the Indian Penal Code, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he is by habit a robber, house-breaker, dacoit, thief or receiver of stolen property, or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps, or forgery ;

(ii) any person, convicted of an offence punishable under Chapter XVI of the Indian Penal Code, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he habitually commits offences against the person ;

(iii) any person committed to, or detained in, prison under section 123 read with section 110 of the Code of Criminal Procedure, or any person committed to, or detained in, prison under section 123 read with section 109 of the Code, who on a previous conviction has been classified as an habitual ;

(iv) any person convicted of any of the offences specified in (i) above when it appears from the facts of the case, even

although no previous conviction has been proved, that he is by habit a member of a gang of dacoits or of thieves or a dealer in slaves or in stolen property ;

(v) any member of a criminal tribe ;

(vi) any person convicted of an offence and sentenced to imprisonment under the corresponding sections of the Indian Penal Code and the Code of Criminal Procedure as applied by order under sections 2 and 4 of the Government of Burma Act, 1935, or by the authority of any Karenni Chief or State ;

(vii) any person convicted by a Court or tribunal acting outside Burma under the general or special authority of His Majesty of an offence which would have rendered him liable to be classified as an habitual criminal if he had been convicted in a court established in British Burma.

Explanation.—For the purposes of this definition the word “conviction” shall include an order made under section 118, read with section 110, of the Criminal Procedure Code.

NOTE.—Under sub-paragraphs (i) and (ii), a previous conviction in itself is not a sufficient reason for classifying a prisoner as an habitual ; it is only *one of the circumstances* to be taken into consideration in deciding whether a prisoner is by habit a robber, house-breaker, dacoit, thief, or receiver of stolen property, or habitually commits any of the offences specified in sub-paragraphs (i) and (ii). A prisoner who, although previously convicted of the offences mentioned in these sub-paragraphs has never been imprisoned (e.g., who was previously sentenced to whipping or to fine, was released under section 562, Criminal Procedure Code, or being a young offender, was detained in a Borstal or Senior Training School) should under no circumstances be classified as an habitual unless there are strong reasons for so classifying him under sub-paragraphs (iv) or (v).

Classification
of habituals
by courts.

422. The classification of a convicted person as an habitual criminal should ordinarily be made by the convicting Court, but if the convicting Court omits to do so, such classification may be made by the District Magistrate, or in the absence of an order by the convicting Court or District Magistrate, and pending the result of a reference to the District Magistrate, by the officer in charge of the Jail where such convicted person is confined :

Provided that any person classed as an habitual criminal may apply for a revision of the order.

* *NOTE.*—Whenever a prisoner is classified as an habitual criminal either by the convicting Court or by the District Magistrate, full reasons for classifying the prisoner as such must be set out, in the case of the convicting Court, in the judgment as well as the jail warrant ; in the case of the District Magistrate, on the warrant. Similarly, should the classification of a prisoner as an habitual criminal be made by the Superintendent of Jail, full reasons must be set out by him in a statement to be drawn up in duplicate, duly signed by him. One copy must be forwarded to the District Magistrate concerned and the other retained and attached to the jail warrant. For this purpose Jail Form No. 216 should be used.

423. The convicting Court or the District Magistrate may, for reasons to be recorded in writing, direct that any convicted person, or any person committed to, or detained in, prison under section 123 read with section 110 of the Code of Criminal Procedure shall not be classed as an habitual criminal and may revise such direction.

Exception to rule regarding classification of prisoners as habituals.

424. Convicting Courts or District Magistrates, as the case may be, may revise their own classifications, and the District Magistrate may alter any classification of a prisoner made by a convicting Court or any other authority provided that the alteration is made on the basis of facts which were not before such Court or authority.

Courts empowered to alter or revise classification.

NOTE.—The expression “District Magistrate,” wherever it occurs in paragraphs 422, 423 and 424 means the District Magistrate of the District in which the criminal was convicted, committed, or detained.

425. Every habitual criminal shall as far as possible be confined in a special jail in which no prisoner other than habitual criminals shall be kept:

Confinement of habituals in special jails.

Provided that the Inspector-General may transfer to this special jail any prisoner, not being an habitual criminal, whom, for reasons to be recorded in writing, he believes to be of so vicious or depraved a character and to exercise or to be likely to exercise so evil an influence on his fellow prisoners, that he ought not to be confined with other non-habitual prisoners, but a prisoner so transferred shall not otherwise be subject to the special rules affecting habitual criminals.

426. Deleted.

427. In cases of doubt as to whether a prisoner is to be classed as an “habitual” or not, Subordinate Magistrates should, if possible, refer to the District Magistrate for guidance. If such reference be not possible, Magistrates should leave the matter undecided, and omit the certificate at the foot of the warrant. The classification will then be made by the Superintendent of Jail. In order that the control of the District Magistrate over classification by the Jail authorities may be effectual, the Superintendent should report to the District Magistrate cases in which the classification has been made by him because of the omission on the part of the Subordinate Magistrate.

Doubtful cases in respect of classification of prisoners.

Classification
as habitual,
consequent
on previous
classification
as such.

428. Whatever the nature of the offence, a prisoner, who has once been classed as an habitual, shall, in all subsequent convictions be so classed, unless so long a term has elapsed since his previous conviction as may be held to have purged him of the criminal habit. When a prisoner has been wrongly classed as a non-habitual after classification as an habitual, the Superintendent should apply to the convicting Court to correct the mistake.

Nature of
proof
required in
regard to
previous
conviction,
for classifica-
tion as
habitual.

A point on which there appears to be some misapprehension is as to the nature of the proof, which should be required of a previous conviction, before a prisoner is classified as habitual. The classification of prisoners is an executive and not a judicial act, and for the purposes of such classification, a previous conviction need not be proved in the same way as it has to be proved for judicial purposes. It is sufficient* if the Court is satisfied, on such evidence as may be produced by the police or the Superintendent of Jail, that such a prisoner has actually been previously convicted.

* NOTE.—It should be clearly understood, however, that this merely refers to the sufficiency of proof of the fact of previous conviction, and not to the sufficiency of evidence for classification as an habitual. It does *not* mean that to be satisfied that a prisoner has been previously convicted is sufficient ground for classifying him as an habitual.

District
Magistrates
to be
informed of
omission on
the part of
subordinate
courts to
revise incor-
rect classifi-
cation.

429. Under paragraph 424 a convicting Court may revise its own classifications and Superintendents of Jails should not fail to move Subordinate Courts to revise incorrect classifications, where necessary. Any refusal or neglect to do so on the part of a Subordinate Court should be brought to the notice of the District Magistrate.

NOTE.—A prisoner shall not be classed as re-convicted merely because more than one sentence has been passed against him at one and the same trial.

Habitual
prisoners
convicted of
offences
committed
in jail to be
classed as
habituals.

430. An habitual prisoner who, while in jail, is convicted of some such offence as causing hurt and is sentenced to an additional term of imprisonment, shall be classified as an habitual for the additional term.

Careful
examina-
tion of casu-
als to ensure
correct classi-
fication.

431. Before being admitted to the casual class every prisoner shall, with a view to his identification in the event of his being an habitual criminal, be carefully inspected by the jail officials and by such prisoners as are likely to recognize him, and the jail authorities will be held strictly responsible that no previously convicted prisoner is admitted to this class owing to neglect of this precaution. With the same object the jail records shall be carefully examined.

432. On the conviction of every prisoner, the descriptive roll sent up by the police will be attached to his warrant and shall accompany it to the jail. The descriptive roll in the case of first offenders shall be drawn up on Police Form No. 43 or on ^{Lower Burma Criminal Form No. 92} (Upper Burma Judicial Criminal Form No. 89 (a)) on white paper, and for previously-convicted prisoners on unbleached paper ^{Lower Burma Criminal Form No. 92-A} (Upper Burma Judicial Criminal Form No. 89 (b)). Should this descriptive roll not accompany the warrant, the fact shall be brought to the notice of the Court concerned on Form No. 93A. Repeated omissions should be reported to the District Magistrate and, if necessary, to the Commissioner of the Division.

Descriptive roll to accompany warrant of every convicted prisoner.

NOTE.—The descriptive roll referred to in this paragraph is required only in the case of all prisoners sent to jail for over one month (*vide* note to paragraph 378).

433. Particulars of all re-convictions shall be recorded in column 20 of the Admission Register of convicted criminal prisoners. When the particulars noted in this column are obtained from jail records or from the admissions of the prisoner, and do not appear in the certificate furnished by the police, the circumstances should be brought to the notice of the District Superintendent of Police, through the District Magistrate. If the prisoner confesses to be an habitual and the record of previous conviction is not traceable in the jail, the committing Court shall be applied to on Form No. 93A, for confirmatory information. When entries are made in respect of previous convictions of prisoners received on transfer from other jails, they should be made in red ink so as to be distinguished from direct admissions.

Record of particulars of reconviction.

434. The police, when desiring information as to the previous conviction of a prisoner, will, at the time of sending the prisoner for identification, supply as much information as possible on Police Form 31. The Superintendent shall, after collecting all the information obtainable from records and from the testimony of warders and prisoners, fill up and sign the required certificate.

Supply of information to Police regarding previous conviction.

435. All prisoners of the casual class who have committed any offence other than that for which they were first convicted, and have been punished judicially for the offence, shall be removed to the habitual class. When, by good behaviour, such a prisoner shows himself to be deserving of consideration,

Casual prisoners classified as habituals for jail offences may be reclassified as casuals.

the Superintendent may, with the previous concurrence of the Inspector-General, restore him to the casual class.

NOTE.—A non-habitual prisoner who escapes or attempts to escape from lawful custody (*i.e.*, while in the hands of the Police, or after admission to jail) need not necessarily, for such an offence, be classified as habitual (*See* paragraph 326).

Prisoners to be informed of their classification and warned as to restrictions entailed.

436. Every prisoner shall be informed, as soon as possible after his admission, of the class in which he has been placed, and he should be warned that he will be liable to punishment if he converses with a prisoner of the other class, or if he is found in any part of the jail set apart for prisoners of that class.

Dress for different classes of prisoners.

437. Prisoners of the casual and habitual classes shall be distinguished by their dress. The casual class shall wear white cotton clothing, and the habitual class the same with five blue stripes, half inch broad and two inches apart. Refractory and dangerous prisoners may be distinguished by their wearing a red cap such as is used in the case of a prisoner who has escaped from jail or from police custody; lifers of the casual class by five yellow stripes, half inch broad and two inches apart, and lifers of the habitual class by alternate blue and yellow stripes.

438. If in the opinion of the Superintendent, the presence of any prisoner in association with others is detrimental to good order or discipline, or is likely to encourage or lead to the commission of any offence, such prisoner should be kept separate in a cell. This confinement is entirely distinct from "cellular" and "separate" confinement inflicted as a punishment under section 46 of the Prisons Act. Separation under this paragraph is not to have any irksome conditions attached to it, as in the case of punishments.

Section III.—Appeals and Petitions.*

439. Every convicted prisoner desiring to appeal, and entitled to do so, shall be granted every facility for appealing, and a request to be allowed to appeal, made at any time within the period prescribed by law for appealing (*vide* paragraph 446), shall be attended to at once.

Prisoners to be afforded facilities for appealing.

440. Superintendents shall keep a register of the powers of the Subordinate Magistrates in the districts from which convicts are received in their respective jails. This can be done by means of the *Civil List* and Parts I and IV of the *Burma Gazette*. The register may, from time to time, be sent to the District Magistrate for verification. If any Subordinate Magistrate appears to the Superintendent of the jail to have passed a sentence beyond his powers, the Superintendent shall, as directed in paragraph 379, bring the matter to the notice of the Inspector-General, through the District Magistrate.

Register of powers of Magistrates to be maintained.

441. The following are the powers of Criminal Courts:—

Powers of Committal Courts.

Court of Sessions.—A Sessions Judge, or Additional Sessions Judge, may pass any sentence authorized by law; but a sentence of death, passed by any Judge, shall be subject to confirmation by the High Court.

Court of First Class Magistrate.—Imprisonment not exceeding two years, fine not exceeding Rs. 1,000 and whipping.

Court of Second Class Magistrate.—Imprisonment not exceeding six months, fine not exceeding Rs. 200.

Court of Third Class Magistrate.—Imprisonment not exceeding one month, fine not exceeding Rs. 50.

442. The above are the ordinary powers of Magistrates. But District Magistrates in Burma have been specially empowered, under section 30 of the Criminal Procedure Code, and may pass sentences of transportation, or imprisonment not exceeding seven years. Government may invest any Magistrate of the first class with similar powers. Magistrates of the second class in Lower Burma may be specially invested by Government with powers to pass sentences of whipping. Magistrate of the second class in Upper Burma have powers to

Special powers granted to Magistrates.

* NOTE.—This section does not apply to petition for mercy from prisoners condemned to death. (See Section XIV.)

pass sentences of whipping and Magistrates of the third class may be invested with similar powers.

Appeal
against
sentence of
whipping.

443. When a Magistrate passes a sentence of whipping, he shall ask the prisoner whether he wishes to appeal and, if the prisoner wishes to do so, he shall release the prisoner on bail, and the sentence of whipping shall not be carried out till the appeal is disposed of. When the prisoner declines to appeal, the whipping shall be carried out at once.

Non-appeal-
able cases.

444. The only sentences that are NOT appealable are:—

- (a) a sentence of imprisonment not exceeding one month passed by a Court of Sessions ;
- (b) a sentence of fine not exceeding Rs. 50 passed by a Court of Sessions or Magistrate of the first class ;
- (c) IN SUMMARY TRIALS, a sentence of fine only not exceeding Rs. 200 passed by a Magistrate empowered under section 260 of the Criminal Procedure Code.

NOTE 1.—If, at the joint trial of two or more persons by a 1st Class Magistrate, an appealable sentence is passed upon any one of them, all those convicted have the same right of appeal, even though their sentences may be of the kind against which appeal would have been barred by section 413 or 414 of the Code of Criminal Procedure, if they had been tried singly.

NOTE 2.—If the sentence in a case tried SUMMARILY is not otherwise appealable, the addition of an order to find security to keep the peace does not make it appealable, but the addition of an order under the Rangoon Police Act, to find security for good behaviour, does.

Appellate
Courts.

445. Where an appeal lies, the Court to which it should be presented is shown below:—

A. In the case of any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge (including a Superintendent or Assistant Superintendent exercising jurisdiction in a tract in the Chin Hills to which the whole of the Chin Hills Regulation, 1896, has been extended, and Deputy Commissioners or Assistant Commissioners exercising jurisdiction in a hill tract and in regard to a member of a hill tribe to which the Kachin Hill Tribes Regulation, 1895, has been extended) the appeal lies—

- (a) to the High Court at Rangoon or Mandalay as the case may be ;
- (b) in tracts in the Chin Hills to which the whole of the Chin Hills Regulation, 1896, has been extended, and when the accused is a Chin, to the Commissioner of the Sagaing Division, but as regards the Pakôkku Hill Tracts (described in Political Department Notification No. 16, dated the 7th July 1898),

the Commissioner of the Magwe Division exercises the powers of a High Court and accordingly, appeals from the Sessions Judge of the Pakôkku Hill Tracts lie to the Commissioner, Magwe Division ;

- (c) in hill tracts and, when the accused is a member of a hill tribe to which the Kachin Hill Tribes Regulation, 1895, has been extended, to the Commissioner. (The Kachin Hill Tribes Regulation, 1895, has been extended to all Shan States, *vide* Political Department Notification No. 34, dated the 27th September 1922).

B. In the case of any person convicted on a trial by an Assistant Sessions Judge, a District Magistrate or a Magistrate of the first class, or sentenced by a Magistrate of the first class under section 349 of the Criminal Procedure Code, the appeal lies to the Court of Sessions.

In Upper Burma where a district, or part of a district, has been excluded from a Sessions Division, the appeal lies to the Sessions Division from which the district, or part of a district, has been excluded.

C. From a Magistrate of the second or third class, the appeal lies to the District Magistrate.

The Government may invest Magistrates of the first class with power to hear appeals from 2nd and 3rd Class Magistrates.

Exceptions.

(i) In the case of European British subjects and persons jointly charged with European British subjects convicted on a trial by a Sessions Judge or Additional Sessions Judge in any part of Burma (inclusive of the Shan States), the appeal lies to the High Court of Lower Burma.

(ii) A European British subject convicted on a trial by an Assistant Sessions Judge, a District Magistrate or a Magistrate of the first class may, at his option, appeal either to the Court of Sessions or the High Court of Lower Burma, unless the conviction is under section 124A of the Indian Penal Code, in which case the appeal lies to the High Court of Lower Burma.

(iii) Appeals from Magistrates or Courts exercising jurisdiction in Rangoon Town lie to the High Court of Lower Burma, and not to the Court of Sessions.

(iv) If a sentence is one of more than four years and is passed by a Magistrate in the exercise of his special powers under section 30 of the Criminal Procedure Code, then the

appeal lies to the High Court at Rangoon or Mandalay as the case may be.

NOTE 1.—The words “more than four years” must be taken to mean the substantive sentence of imprisonment apart from any sentence of fine or of imprisonment in default of payment of the fine.

NOTE 2.—In a case in which any accused is sentenced to a term of imprisonment exceeding four years or to transportation, the appeal of any other accused, who has been convicted in the same case, lies to the High Court, even though the sentence passed on him does not exceed four years.

(v) In any case of a conviction under section 124A of Indian Penal Code, the appeal lies—

- (a) in Lower Burma, and in all cases against European British subjects and persons jointly charged with European British subjects, to the High Court at Rangoon ;
- (b) in Upper Burma to the High Court at Mandalay.

(vi) In the Shan States an appeal lies—

- (a) from a judgment or order of a 2nd or 3rd Class Magistrate in the Myelat, to the Assistant Superintendent for the Myelat ;
- (b) from a judgment or order of any Assistant Superintendent or any Magistrate (other than one of the 2nd or 3rd class in the Myelat), to the Superintendent; and
- (c) from a judgment or order of any Superintendent to the Commissioner, Federated Shan States.

Any person, convicted by an Assistant Superintendent, where the sentence is subject to confirmation by the Superintendent, may appeal to the Commissioner, Federated Shan States ; but the appeal shall not be presented until the case has been disposed of by the Superintendent.

Period
allowed
for
appeal.

446. The periods within which appeals must be brought in the Court to which an appeal lies (*vide* Schedule II of Act XV of 1877, the Indian Limitation Act) are given below :—

- I. From a death sentence passed by a Sessions Judge—
Seven days from the date of the sentence.
- II. In an appeal to any Court other than a High Court—
Thirty days from the date of the sentence.
- III. In an appeal to a High Court, except where a death sentence has been passed—Sixty days from the date of the sentence.

Calculation
of time
allowed for
appeal.

447. In the calculation of the time within which an appeal may be admitted, the time spent in obtaining a copy of the judgment is excluded. The date of the presentation of the

petition of appeal to the Superintendent is, for purposes of limitation, deemed to be the date of presentation to the Appellate Court. It is, therefore, very important that the following dates should be accurately recorded, namely:—

(1) Date of application by the prisoner, to the Superintendent of the jail, for a copy of the judgment ;

(2) Date on which the copy was delivered to the prisoner ; and

(3) Date of presentation of the appeal, to the Superintendent.

448. Superintendents shall ask each prisoner sentenced in respect of an offence, on admission, if he desires to appeal, and, if the prisoner expresses a wish to do this, a note of the fact shall be made in the Admission Register, and his name and other particulars entered in the Appeal Register (Form No. 67).

Appeal register.

Copies of judgments must invariably be applied for on Form No. 68, and must accompany the memorandum of appeal in cases where appeals lie to the High Court from the judgments of Sessions Judges or Magistrates, other than the Magistrates of the Rangoon Town District. Unless they specially ask for them, prisoners will not ordinarily be supplied with copies of judgments for purposes of appeals, when appeals lie to Courts other than the High Courts, and, in such cases, the memoranda of appeal from prisoners in jail need not be accompanied by a copy of the judgment appealed against. If, however, a special request is made by any prisoner, copies of sentence and judgment should be obtained at once.

Application for copy of judgment.

Superintendents shall, before the seventh of every month, personally examine the Admission and Appeal Registers and submit to the Inspector-General a certificate (in Form 207) that they are correctly posted and up to date.

Monthly verification of registers.

449. If the copy of judgment is not received within ten days of date of application, a reminder should be sent to the Court concerned through the District Magistrate, and if, after the lapse of a further period of seven days, no reply be received, a second reminder should be sent registered, through the same channel. It is not expected that this procedure, if observed, will fail in its purpose, but if, after a reasonable interval, no reply be received the matter shall be specially reported to the Commissioner of the Division concerned except in the case of the Pegu, Irrawaddy and Tenasserim Divisions, when the Sessions Judge should be addressed. On receipt of the copy of judgment, if the prisoner can write, he shall be allowed at once to write his appeal ; if he cannot write, another prisoner or a paid official

Delay in the receipt of copies of judgment.

Submission of appeal.

shall write it for him. The appeal must be written legibly, and his case should be put, as far as possible, in his own words. The appeal shall be forwarded without delay by the Superintendent, with the copy of judgment, to the Appellate Court. Superintendents must see that no appeal is delayed through neglect on their part in procuring copies of the judgments or in forwarding petitions of appeal, with the copies, to the proper Court.

Form of
appeal.

450. Every appeal shall be made in the form of a petition in writing, and, if the appellant is in jail, such petition is exempt from stamp duty. Care shall be taken to see that the appeal has been duly signed by the appellant. The signature shall be witnessed and attested by the jailor. No petition whatsoever shall be written, except on the order of the Superintendent, and all petitions shall be endorsed and forwarded by that officer, Form No. 89 being used. Prisoners in jail convicted in the same case may appeal or apply for revision, either jointly in one petition, or separately.

Prisoners
convicted
in same trial
entitled to
appeal jointly
or separately.

Language in
which
petitions of
appeal
should be
written.

One copy of
judgment,
sufficient
for several
prisoners
convicted in
same trial
appealing to
one Court.

Method
of preferring
appeal by
outside
agency.

451. Petitions of appeal, or for revision, or for copy of judgment, from prisoners who are Burmans shall be in Burmese and those from prisoners who are non-Burmans may be written in Burmese or in English as they desire. If several prisoners, sentenced in the same case, petition at one time to the same Court, one copy of judgment, or one charge to the jury, will suffice for all.

452. If a prisoner desires to communicate with any person with a view to arranging for an appeal against his conviction, intimation should be sent by the jailor to the person named in the address given by the prisoner, and such person shall be admitted to see him. A copy of the judgment obtained on an application from the jail shall, if the prisoner so desires, be handed over to such person.

A petition of appeal which a prisoner procures to be drawn up outside the jail shall, if signed by the prisoner after it has been read over and explained to him, be forwarded to the Appellate Court, provided that, when a copy of the judgment has been delivered at the request of the prisoner to any person, such copy must be returned in order to be forwarded with the petition of appeal.

NOTE.—Appeals from military prisoners, against sentences passed on them by Court-Martial, must be forwarded to the Officer Commanding the district in which the prisoner was convicted, for transmission to Command Headquarters.

Petitions from prisoners sentenced by Court-Martial must be forwarded direct to the General Officer Commanding, Burma District, for disposal in accordance with the provisions of section 112 of the Indian Army Act, 1911.

453. A prisoner shall be permitted, whenever occasion so requires, to sign a power of attorney in favour of any person authorizing him to act for the prisoner during his imprisonment, and a *wakalatnamah* authorizing an advocate or pleader to appear and act for him in any Court.

Prisoners authorized to sign power of attorney.

A power of attorney must be stamped with the proper stamp under the Indian Stamp Act, 1899, before it is signed. A *wakalatnamah* need not be stamped before it is signed, but, if stamped, the stamp should be the proper court-fee label under the Court-Fees Act, 1870.

NOTE.—See Chapter XIV regarding appeals and petitions for mercy, of prisoners condemned to death.

454. The Superintendent shall note on every petition of appeal or for revision presented to him the three dates specified in paragraph 447, viz., the date of application by the prisoner to the Superintendent of the jail for a copy of the judgment, the date of the actual delivery of the copy to the prisoner, and the date of the presentation of the petition to the Superintendent of the jail.

Appeals to bear date of application for copy of judgment, etc.

NOTE.—When more than a week elapses between the receipt of a copy of the judgment and the presentation of the petition of appeal to the Superintendent, a statement of the causes of the delay should be endorsed upon the petition of appeal, and, where he is in a position to do so, the Superintendent should certify which of them are correct.

When an appeal is clearly time-barred, the prisoners should be informed and given the opportunity of stating in his petition facts which may tend to satisfy the Court, under section 5 of the Limitation Act, that he had sufficient cause for not filing his appeal within the prescribed period.

455. Petitions of appeal or for revision, not accompanied by the copies of the necessary papers, petitions of appeal in cases where no appeal lies, and petitions for revision which, for the reason given below, cannot be entertained, should not be transmitted to the Appellate or Revisional Court, but should be returned to the petitioner with an endorsement by the Superintendent showing the date of presentation.

Petition of appeal, or for revision, irregularly submitted to be returned to petitioner.

When the Superintendent refuses to forward an appeal to the Appellate Court, upon the ground that such appeal does not lie, he shall inform the prisoner that it is open to him to submit a petition for revision to the High Court. There is no statutory period of limitation prescribed for the presentation of a petition for revision, but (i) the High Court will not, as a rule, act upon such a petition, if filed more than 60 days after the order complained against, and (ii) in appealable cases, if no appeal is filed, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

Time limit for petition for revision.

Petitions to be sent direct to Appellate or Revisional Courts.

456. Petitions of appeal or for revision from a prisoner in jail against the sentence or order of a Sessions Judge, or Magistrate, shall be forwarded by the Superintendent direct to the Appellate or Revisional Court. In the case of an appeal, intimation of the fact shall at once be sent in jail Form No. 69 to the Court whose sentence or order is appealed against.

Convicting Courts to be informed of submission of appeals to Appellate Courts.

On receipt of the notice, the Sessions Judge or Magistrate, as the case may be, will at once forward the record of the case to the Appellate Court. No notice to the Sessions Judge or Magistrate need be given if the petition, presented to the Superintendent, is a petition for revision.

Communication of Appellate, or Revisional, Court's order to prisoner, when sentence is not modified, set aside, etc.

457. A Court of appeal, revision, or reference, in all cases where it does not (1) modify a sentence, or (2) order a retrial or commitment for trial, (3) set aside both the conviction and sentence, and at the same time direct the release of the accused, will, at the conclusion of its proceedings, send direct to the Superintendent of the Jail, in which the accused is confined, a certified copy of its formal order for the information of the prisoner. On receipt of this order it shall be communicated, by the jailor to the prisoner concerned, who shall be required to acknowledge the same, the order with the acknowledgment being thereafter carefully filed with the prisoner's warrant. Where a number of prisoners are concerned in a single case, and the Court only furnishes one order, copies of the order shall be made and attached to the warrants of each person. This rule, however, does not apply to cases in which the Revisional Court has not been moved by application of the accused to exercise its revisional jurisdiction and sees no ground for interfering with the conviction and sentence, passed by the Lower Court. In such cases the Court sends no copy of the order.

Communication of Appellate, or Revisional Court's order to prisoner, when sentence is set aside, modified, etc.

458. If a Court of appeal, reference, or revision (1) sets aside a conviction and sentence of the Lower Court and directs the release of a prisoner in jail, or (2) modifies the sentence of the Lower Court, or orders a re-trial or commitment for trial, it shall send direct to the Superintendent of the Jail in which the prisoner is confined (1) a warrant of release ^(Criminal Appellate 27 of the High Court) _(Criminal 175 of Subordinate Courts) or (2) a fresh warrant prepared in conformity with the orders passed ^(Criminal Appellate 25 and 26 of the High Court) _(Criminal 165, 170 and 171 of Subordinate Courts) and where necessary a warrant for the detention of the accused ^(Criminal Appellate 23 of the High Court) _(Criminal 172 of Subordinate Courts). On receipt of such warrant the Superintendent shall forward

the warrant under which the prisoner was originally sentenced, with an endorsement stating how it has been replaced, to the Court from which the Committal Warrant issued, and that Court shall thereupon inform the Appellate, Revisional, or Reference Court of the return of the Committal Warrant and of the Report made by the Superintendent (Criminal 125 and 125A of Subordinate Courts).

NOTE 1.—The effect of the issue of a warrant in ^(Criminal Appellate 23 of the High Court)
(Criminal 172 of Subordinate Courts)

will be to remove the prisoner, if he is undergoing no other sentence, from his status as convict to that of an under-trial.

NOTE 2.—Dangerous criminals, over whom surveillance is required to be exercised, are sometimes lost sight of through their being convicted and then released on appeal before the Police have been informed of the orders of the Appellate Court. Superintendents should therefore take steps to ensure that, when such a prisoner is released on appeal, the fact is at once communicated to the District Superintendent of Police of the district in which the jail is situated.

459. In cases dealt with by the High Court, it will comply with the provisions of paragraphs 457 and 458, so far as these latter provisions relate to acquittals or retrials or commitments for trial. Where the High Court alters the conviction only, or the sentence only, or both the conviction and sentence, of the Lower Court, it will, by the issue of a formal order, direct the Lower Court to make such orders as are conformable with its judgment or order, and such Court shall thereupon issue a fresh warrant carrying into effect the order of the High Court. On receipt of such fresh warrant the Superintendent shall forthwith return to the said Lower Court the committal warrant under which the prisoner was originally sentenced, with an endorsement stating how it has been replaced, and thereupon that Court shall forthwith inform the High Court (in Form Criminal 125A) of the issue of the fresh warrant and of the return of the committal warrant by the Superintendent. At the same time as the formal order to the Lower Court is issued, the High Court will also send direct to the Superintendent of the jail in which the prisoner is confined, a certified copy of its formal order for the information of the prisoner.

Commun -
caoin o
orders by
High Court
to prisoner.

460. If the prisoner shall have already undergone the modified sentence of imprisonment awarded by the Court of Appeal, Revision or Reference at the time when the order of that Court is passed, that Court will send a warrant of release to the Superintendent ^(Criminal Appellate 27 of the High Court)
(Criminal 175 of Subordinate Courts), on receipt of which the said officer shall proceed as laid down in paragraph 458.

Court of
Appeal,
Revision or
Reference to
send warrant
of release,
if prisoner
has already
served
sentence, as
modified.

Submission
of memorial
to Govern-
ment.

461. The previous consent of a Commissioner, or High Court, is not necessary in the case of a prisoner wishing to memorialize Government. Every prisoner is at liberty to petition Government for Clemency. Every such petition shall be addressed, either to the Secretary to the Government of Burma, Judicial Department, or to the Secretary to the Government of Burma, Defence Department, as the case may be through the District Magistrate of the district in which the Court convicting the prisoner is situated and the Inspector-General of Prisons, Burma. It shall be accompanied by a Nominal Roll in Form No. 32 and a Questionnaire on Form No. 221. Where it is not necessary for question Nos. 8 and 9 on the Questionnaire to be answered by the Inspector-General of Prisons, the petition, and its accompanying documents, should be submitted to the Secretary of Government concerned through the District Magistrate only. Particulars regarding the amount of sentences served, remission earned and the period of sentence to be served shall be furnished in the Nominal Roll. In the remarks column of the Nominal Roll, a note of the prisoner's behaviour in jail should be recorded. The date of submission of such a petition and the orders of Government thereon shall be noted on the prisoner's History Ticket. The order, after being explained to, and attested by, the prisoner concerned, shall be filed with his warrant.

NOTE 1.—The above instructions do not apply to clemency petitions from condemned prisoners.

NOTE 2.—In submitting, for Government's orders, a petition for clemency on the ground of sickness, the Superintendent and Medical Officer is required to exercise the greatest care and precision in reporting on the state of the prisoner's health. When submitting such petitions for release, not otherwise covered by paragraphs 576, 577 or 579 the Superintendent and Medical Officer shall, in addition to noting on the truth of the statements made in the petition, specifically state that the prisoner's case does not fall under any one or other of the paragraphs quoted.

Second
petition for
mercy to
Government
not permis-
sible, unless
advised by
Official
Visitors.

462. When a petition for mercy has been rejected by Government, no second petition from the same prisoner on the same subject need be forwarded, unless an official visitor thinks it advisable to do so.

Section IV.—Solitary Confinement.

Sentences of solitary confinement are to be executed as if they were sentences of cellular confinement as explained in clause (10) of section 46 of the Prisons Act, 1894, vide the Inspector-General's Statistical Department Circular No. 105—9A-4, dated the 19th July 1929. Statutory provisions.

463. Only cells of the standard plan, or such as have been certified as fit for the purpose by the Inspector-General, shall be used for solitary confinement (*see* paragraph 993). Type of cells.

464. *Omitted.*

465. When any prisoner, sentenced to solitary confinement under section 73 of the Indian Penal Code, is admitted into jail, the jailor shall enter, or cause to be entered, his name and particulars of the sentence under the various headings of the register of judicial solitary confinement (Form No. 11), and the entries shall be verified and attested by the Superintendent. At the time the above entry is made, the date on which the prisoner is to undergo his first term of solitary confinement shall be determined and noted in pencil, in the appropriate columns. The execution of a sentence of solitary confinement need not be postponed on account of an appeal. On the expiration of each term of solitary confinement, the date on which the prisoner will come on for solitary confinement shall likewise be determined and noted, in pencil, in the second column of the form. This register shall be examined periodically by the jailor who shall see that every prisoner, who has an uncompleted sentence of solitary confinement, is placed in a cell at intervals for the period prescribed in section 74 of the Indian Penal Code; or according to any order on his warrant, if not contrary to that section. Record of Judicial solitary confinement.

The Superintendent shall, before the seventh of every month, personally examine this register and submit to the Inspector-General a certificate (in Form 207) that it is correctly posted and up to date. Execution of sentence of solitary confinement not to be postponed on account of appeal.

466. To ensure the due carrying out of this form of judicial award arrangements shall be made, as far as possible, to admit and discharge prisoners from solitary cells on regular days and in particular batches. As confinement is regulated by the calendar month, it will be convenient to fix upon the 1st, 8th, 15th and 22nd of each month as days on which to commit batches to solitary confinement. It will accordingly be Monthly verification of solitary confinement register.

Method of executing sentence.

necessary to tell off the individuals who have to be confined, into two or four gangs, the constitution of which shall, as far as possible, with the concurrence of the Medical Officer, remain unchanged. Where changes are unavoidable, they shall as far as possible, be only temporary, and be made to conform with the above arrangement of days. For instance, a prisoner undergoing solitary confinement has, by reason of sickness, or other cause, to be removed from cells before the completion of the full term of 7 or 14 days; the cell vacated may be occupied for the remaining number of days, of the particular term, by any prisoner having an old term of solitary confinement to put in. A cell so occupied shall, in every case, be made available for a member of the next batch, on the date fixed for his advent.

Cell accom-
modation to
be fully
utilized.

467. If the number of cells be insufficient, the jailor must make the best arrangements possible. As soon as one batch has vacated the cells another shall be put in, and in this way each cell should provide for the carrying out of two or more terms of solitary confinement in every calendar month, according as the individuals are undergoing sentence of imprisonment of less or more than three months.

Medical
examination
of prisoner.

Cell Ticket.

468. Before a prisoner is put into cells to undergo solitary confinement, the necessary entries in both foils of Form No. 11 shall be made and the prisoner brought up before the Medical Officer and, after having been passed as fit to undergo the punishment, the outer foil of the Form shall be detached from the register and be suspended over the outer cell door. On completion of the confinement ordered therein, the necessary entries shall be made in both foils but, if the prisoner is discharged previously by reason of sickness or otherwise then, upon such discharge, the jailor shall certify in the "Remarks" column of the foil, suspended over the cell door, the actual number of days the prisoner passed in cells, explaining the reason of any shortage, and the information shall be copied in the counterfoil of the register and be attested by the Superintendent. On each discharge of the prisoner from cells, the outer foil of the register shall be taken charge of by the jailor and, on each successive time the prisoner is put into cells, the same procedure as noted above shall be followed; the same foil shall also be suspended over the cell door until the full period awarded is completed. On completion, the register shall be placed before the Superintendent for endorsing the certificate at the foot of both foils, and the outer foil shall then be carefully filed in the jail office till the prisoner's release, after which it shall be destroyed (*vide* paragraph 1233). The Superintendent

shall occasionally satisfy himself that the foils, suspended on the doors of the cells, answer to the inmates of the cells and are otherwise in order.

469. The Medical Officer, Medical Subordinate and jailor shall visit, at least once daily, every prisoner undergoing solitary confinement under these rules, for more than 24 hours.

Daily visit
of cells by
jail officials.

470. If the period of solitary confinement is stated on the warrant in months, one month's solitary confinement shall be counted as 30 days, two months as 60 days, and three months as 90 days.

Calculation
of periods
in days.

471. If any warrant contains an order, relating to solitary confinement, which is contrary to section 73 or 74 of the Indian Penal Code, the Superintendent shall, in the first instance, bring the matter to the notice of the committing Court. Any neglect to modify the sentence in conformity with law shall be reported to the Inspector-General in accordance with paragraph 379; for example, such action will be necessary if a prisoner, sentenced to eleven months' imprisonment, be ordered three months' solitary confinement, or if sentences of solitary confinement passed for separate offences exceed three months in the aggregate, notwithstanding that they do not for each offence exceed the maximum provided for one offence.

Defective
warrants to
be referred
to Commit-
tal Courts.

472. When a prisoner is sentenced to imprisonment under two separate warrants, of which the second alone awards any period of solitary confinement, the solitary confinement shall not be executed during the first term of imprisonment. Similarly, if solitary confinement is ordered in the first term of imprisonment, it shall be executed during that term, and shall not be postponed to the second term of imprisonment.

Execution
of sentence
of solitary
confinement
when two or
more sen-
tences are
awarded.

473. If, prior to any period of judicial solitary confinement, a prisoner is declared by the Medical Officer to be unfit to undergo such confinement, or if, during any period of judicial solitary confinement, it becomes necessary, under the Medical Officer's orders, to remove a prisoner on the ground of injury to mind or body, the fact shall be reported to the Inspector-General and to the Court by which the sentence was passed, and shall be recorded in the Solitary Confinement Register (Form No. 11). If subsequently, there be time, without infringing the conditions of section 74 of the Indian Penal Code, and if the prisoner then be fit, he shall serve, in solitary confinement, the portion of the period which remains uncompleted.

Procedûre on
prisoner
being found
unfit.

If a prisoner, sentenced to judicial solitary confinement, be declared by the Medical Officer to be permanently unfit to undergo such confinement, the matter shall be reported to the Court which awarded the sentence, and to the Inspector-General, who will take the orders of Government under section 401 of the Criminal Procedure Code.

**Restriction
on similar jail
punishment.**

474. No prisoner, who has undergone a period of judicial solitary confinement, shall be punished with separate or cellular confinement for a jail offence within a period equal to the judicial solitary confinement he has undergone after the expiration of such confinement. Consequently, a prisoner, who has to undergo 14 days' judicial solitary confinement in any month, cannot be punished for a jail offence with separate or cellular confinement during the same month.

**Record of
solitary con-
finement on
warrant.**

475. On the expiration of the sentence of every prisoner awarded judicial solitary confinement, the endorsement on the warrant, by the Superintendent certifying to the execution of the sentence, shall state, in weeks, the total period of judicial solitary confinement the prisoner has undergone, and, if any portion of such sentence has not been duly executed, the reason shall be explained.

**Search of
prisoner and
cell.**

476. Every prisoner before being placed in solitary confinement shall be thoroughly searched, and any article which it is considered dangerous or inexpedient for him to retain shall be removed. Both the cell and the person of the prisoner shall be carefully searched daily so long as the solitary confinement continues.

Section V.—Whipping.

The procedure in regard to the execution of sentence of whipping imposed by Criminal Courts is laid down in sections 390 to 395 of the Code of Criminal Procedure. The following rules are supplementary to these directions :—

Statutory provisions.

477. When a prisoner is awarded whipping in addition to imprisonment, an entry shall be made in the register of prisoners to be whipped (Form No. 27). This register shall be consulted daily by the Superintendent in order to ensure the prisoner being brought up on due date to receive the stripes awarded him.

Record of prisoners sentenced to whipping.

478. (1) When a prisoner is sentenced to WHIPPING ONLY, he shall, if he desires to appeal, be released on bail, if he is able to furnish bail, to appear before the Sentencing Court at the expiry of 15 days and then, if an appeal is preferred within that time, the sentence of whipping shall not be carried out until it has been confirmed by the Appellate Court; or if no appeal is filed, the sentence shall be carried out at the expiry of the period of 15 days.

Sentenced to whipping only.

(2) If a prisoner sentenced to whipping only is unable to furnish bail, the sentence shall be carried out as soon as possible. If, owing to lateness of the hour of the admission, or on account of the absence of the Medical Officer or Medical Subordinate, the sentence cannot be carried out the same day, the warrant is sufficient authority for the detention of the prisoner till such time as the sentence can be legally carried out. A sentence of whipping shall not be inflicted on any of the authorized holidays for prisoners, and if a prisoner is admitted for whipping on one of these days, the execution of the sentence of whipping may be deferred till the next day.

(3) If a prisoner is sentenced to WHIPPING IN ADDITION TO IMPRISONMENT the sentence of whipping shall be carried out on the fifteenth day after the date of sentence, but if an appeal is made within that time, the sentence shall not be carried out until the sentence of whipping is confirmed by the Appellate Court.

Sentenced to whipping in addition to imprisonment.

(4) If a prisoner is sentenced to a term of imprisonment in one case and to a term of imprisonment and whipping in a second case, the sentence of whipping in the second case shall be carried out on the fifteenth day after the date of sentence, or on receipt of the order confirming the sentence on appeal, even though the execution of the sentence of imprisonment in the second case has to be postponed under

Sentenced to imprisonment, and, in addition, to imprisonment and whipping.

section 397 of the Code of Criminal Procedure until the sentence in the first case has been served.

Physical
fitness.

(5) A prisoner shall be certified by the Medical Officer to be fit to receive the sentence of whipping which shall be administered in the presence of the Superintendent and the Medical Officer or Medical Subordinate. If the prisoner be declared by the Medical Officer to be physically unfit to receive the punishment of whipping, the warrant shall be returned to the convicting Court for necessary action under section 395 of the Code of Criminal Procedure.

Maximum
number of
stripes that
can be
inflicted.

(6) The total number of stripes inflicted shall not exceed thirty. Double sentences of whipping are not contemplated by the Whipping Act, 1909—and section 35 of the Criminal Procedure Code, which authorizes the passing of concurrent sentences, properly applies only to sentences of imprisonment. Double sentences of whipping as well as concurrent sentences of whipping on conviction for two offences at one trial, are therefore illegal [see (1937) Rang. 366]. If, however, a prisoner who has already undergone thirty stripes for one offence is subsequently sentenced to a further number of stripes for another offence, there is nothing to prevent his being whipped again.

Double or
concurrent,
sentences of
whipping
for two
offences at
one trial
illegal.

Certificate of
execution
of sentence
of whipping.

479. After the whipping has been duly inflicted, the Superintendent shall endorse a certificate on the warrant to that effect recording the date of execution.

480. *Omitted.*

Method of
execution.

481. No punishment of whipping shall be inflicted in instalments. Judicial and departmental floggings should be carried out by persons trained and practised in the wielding of the rattan. Such whippings, in jail, shall be inflicted in the presence of the Superintendent and of the Medical Officer or Medical Subordinate with a light rattan not less than half an inch in diameter upon the buttocks. In order to prevent undue laceration of the skin, a piece of thin cloth, soaked in some antiseptic lotion, shall be spread over the buttocks of the prisoner during the infliction of the punishment. The "drawing stroke" which is calculated to lacerate the flesh, is strictly prohibited. When canes of the prescribed thickness are not locally obtainable, they shall be procured on indent from the Superintendent of the Rangoon Jail. No prisoner shall be punished with whipping within a week after any previous infliction of whipping, or until any sores, caused by a previous whipping, are entirely healed.

481A. A sentence of whipping passed on a person under sixteen years of age should be carried out at the Court House, in the presence of Magistrate, by a peon specially trained for the purpose. In no circumstances should a person under sixteen years of age be sent to a jail to be whipped.

NOTE.—Smooth Penang canes only should be used in carrying out sentences of whipping.

Section VI.—Fines.

Statutory provisions.

The law regarding fines is contained in section 63 et seq of the Indian Penal Code. Sections 68 and 69 relate to the termination of imprisonment awarded in default of payment of fine.

Calculation of date of release.

482. If a prisoner be sentenced to imprisonment of which the whole, or any portion, is in default of the payment of any fine, and if the fine, or a portion of it, be not immediately paid, the date of release shall be fixed and entered in the release registers on such dates as shall correspond to payment, as well as non-payment, of the fine. When any portion of the fine is subsequently paid, the date of release shall be altered accordingly.

Illustration.—If a prisoner be sentenced on the 1st January to six months' imprisonment and to pay a fine of Rs. 300, or in default of payment to be imprisoned for a further period of six months, then, supposing that the prisoner, immediately on conviction, pays Rs. 100, the date of release shall be first fixed as the 31st October (namely, six months *plus* four months, being the term proportionate to the amount of the fine unpaid), and entries shall be made in the Release Register on the 30th June and 31st October: if he afterwards pays another Rs. 100, the latter date shall be changed to 31st August; and, on his paying the whole, the fact shall be noted opposite the entry of the 30th June.

Calculation of period in months.

483. If a prisoner who is sentenced to a fine, and in default to imprisonment for a certain number of months, pays any part of his fine, the remission for the payment shall be calculated in calendar months, and not in days. Any fraction of a month obtained by such calculation shall be reduced to days. A fraction of a day less than one-half shall not be counted; any greater fraction shall count as one day.

Illustration.—If a prisoner be sentenced on the 15th July to six months' imprisonment and to pay a fine of Rs. 300, or in default of payment to serve six months' further imprisonment and he pays Rs. 63 the calculation shall be made as follows:—

Rs. $\frac{63}{300} \times 6 \text{ months} = \frac{63}{50} = 1\frac{13}{50}$ month. The date of release, deducting one month, would fall on the 14th June. As the month preceding June has 31 days, the $\frac{13}{50}$ of a month will be calculated on 31 days.

$\frac{13}{50} \times 31 = \frac{403}{50} = 8\frac{3}{50}$ days. Here the remission for payment of Rs. 63 is one month and 8 days.

Calculation of period in months.

484. If the prisoner had been sentenced on the 15th June instead of 15th July, the calculation of the $1\frac{3}{50}$ th of a month would have to be on a 30 days' month, because from any date in April to the same date in May is 30 days, as follows:—

$$\frac{13}{50} \times 30 = \frac{39}{5} = 7\frac{4}{5} \text{ days,}$$

so that, in that case, the remission would be only 1 month and 8 days.

485. If such fine, or any portion of it be paid immediately on conviction, the Magistrate issuing the warrant endorses upon the warrant the fact of such payment. If payment be made afterwards, the Court receiving the fine will, unless it has already received back the prisoner's warrant with any endorsement showing that he has been released, notify the fact direct (and not through any other Court) to the jail in which the prisoner was first confined after conviction, provided that if the fine is paid to the Deputy Commissioner of the district in which the prisoner is confined, not being the district in which he was convicted, the Deputy Commissioner shall also send intimation direct to the jail in which the prisoner is. The responsibility of the Court shall not cease until it has received back an acknowledgment from the jail in which the prisoner is confined, showing that the necessary corrections have been made in the Release Register. This notification shall be filed with the warrant.

Intimation
as to pay-
ment of fine.

486. When a prisoner, whose sentence includes an order of imprisonment in default of payment of fine, is received in any jail by transfer from some other jail, intimation shall forthwith be given by the receiving jail to the jail where he was first confined after conviction. A record of the receipt of every such intimation of transfer shall be made in *red ink* in the convict's Admission Register, in the place where the prisoner's admission is entered. The Superintendent of the jail in which a prisoner was first confined after conviction is responsible for seeing that warrants of Courts, notifying the realization of fines, are promptly transmitted to the jail in which the prisoner is confined at the time, and his responsibility in this matter shall not cease until he receives an acknowledgment from the Superintendent to whom the warrant has been forwarded. This acknowledgment he shall pass on to the Court which issued the warrant.

Notification
of realiza-
tion of fines
in case of
prisoners
sentenced to
imprison-
ment in
default of
payment of
fine, and
transferred
from jail
first confined
after convic-
tion.

487. If a prisoner sentenced to imprisonment in default of payment of fine receives another sentence while under-going such imprisonment the second sentence shall begin from the date on which the first sentence expires, or if the fine is paid, from the date of payment.

Mode of
execution of
sentence in
default of
payment of
fine.

Illustration.—A prisoner is sentenced on the 31st January to a fine of Rs. 30, or in default to two months' rigorous imprisonment and on the 12th February of the same year he is sentenced on another account

to an additional term of imprisonment for four months. The fine is paid in full on the 28th February. The sentence for four months should begin from the 28th February and not from the 31st January.

NOTE.—But see section 398 (2) of the Criminal Procedure Code in regard to sentences of imprisonment in default of payment of fine which are annexed to several substantive sentences of imprisonment or transportation.

Payment of
fines, or
proportion
of fines,
at jail.

488. The Superintendent is authorized to receive fines offered at the jail. In the absence of the Superintendent, the Chief Jailor shall receive the fine, or proportion thereof, still due, in lieu of imprisonment, if offered to him; and if no further period of imprisonment be ordered in the original warrant or warrants or if any such period of imprisonment shall have been completed, the jailor, after noting the payment in the Admission Register and endorsing the warrant shall at once release the prisoner.* The amount of fine received shall be handed to the Superintendent on his next visit, who shall, after attesting the note in the admission register and signing the endorsement on the warrant, duly record the facts of payment and release in the release register, pay the amount into the treasury, and forward the duplicate treasury chalan to the committing Court. If the sentence of the committing Court has been wholly satisfied and the prisoner released, the warrant, duly endorsed, shall also be forwarded.

* Whenever a prisoner, received into jail with a sentence of imprisonment in default of fine, deposits money or valuables with the Jailor, the circumstances shall at once be reported to the committing Court.

Section VII.—Prisoners' Property.

Under section 25 of the Prisons Act, 1894, all money or other articles in respect whereof no order of a competent Court has been made and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Statutory provisions.

489. At the time of admission every convict shall be carefully searched, and particulars of all money, clothing or other property, brought with or found on him, shall be recorded under the initials of the jailor in the prisoners' Admission Register (Form No. 21), and an extract from the same shall be noted on the prisoners' warrant cover (Form No. 85).

Prisoners' property to be recorded in Admission Register.

490. All money, clothing or property sent to the jail afterwards, provided the prisoner is still an inmate of the jail, shall likewise be received and recorded, but live-stock, or cumbrous and bulky articles, such as trunks, *charpoys*, etc., the jailor is authorized to refuse.

Receipt of prisoners' property after admission.

491. Prisoners' property shall be dealt with, by the jailor, under the following rules:—

Disposal of property.

(a) Prohibited articles such as tobacco, opium, *ganja*, intoxicating liquor, shall be destroyed.

(b) If the Medical Officer considers there are sanitary objections to the retention of the clothing of any prisoner, or if a prisoner is suffering, on admission, from any infectious or contagious disease, the clothing shall, under the written order of the Medical Officer, be destroyed.

(c) If the clothing of a prisoner is ragged and absolutely worthless, it shall be destroyed, and the Superintendent shall enter his order (for destroying it) opposite the items in the property column of the Admission Register.

(d) If the case of every prisoner sentenced to rigorous imprisonment for five years or upwards (except in the case of a prisoner sentenced to imprisonment in default of payment of fine, or a convicted *pongyi* prisoner of the "A" or "B" Class) his clothes shall be made over to his friends, or relatives, or sold on confirmation of sentence on appeal, or if no appeal is made, on expiration of the time allowed for appealing, and the proceeds shall be dealt with under Rule (f). This shall invariably be done before a prisoner is transferred to a Central Jail, if sentence has been confirmed. In other cases, the clothing of a prisoner sentenced to rigorous imprisonment shall be thoroughly washed and disinfected, if necessary, and

tied in a bundle, and stored. *Lotas*, and other non-perishable articles, susceptible of storage, shall be included in the clothing bundle. Every such bundle shall be labelled with the number and name of the prisoner and date of release. The bundles shall be arranged in the storage godown according to the month of release for the current year, and according to the year of release for subsequent years.

(e) Jewellery and other valuable property shall be made up into a separate packet which shall be sealed by the Chief Jailor in the presence of the Superintendent and the prisoner. Each packet shall be labelled with the number and name of the prisoner to whom it belongs together with the date of release and shall be arranged according to number. Packets of valuables shall be locked up, the key being in the Chief Jailor's charge. A Ledger Account shall be maintained in Form No. 213.

(f) (1) Money, which is the property of prisoners, shall be deposited in the Treasury at the close of each month except as provided in clauses (2) and (3) of this rule.

(2) Out of monies in possession of prisoners on their arrival, or subsequently received on their behalf, a sum of Rs. 50 in all in the case of a Central Jail and Rs. 25 in all in the case of a District Jail may be retained to meet small disbursements, any excess over the above limits being sent to the Treasury at the close of the month as prescribed in clause (1). If petty disbursements have exceeded receipts and the sum in hand has fallen below the fixed limits, it may be brought up by drawing the difference from the Treasury.

(3) If, at any time during any month, large sums are received, or are required for disbursement, special payments into, or withdrawals from, the Treasury, as the case may be, may be made without awaiting till the month closes.

(4) All sums of money, the property of prisoners paid into the Treasury, shall be credited in the Treasury to a personal ledger account, and all withdrawals of such money shall be debited to this account. The Ledger Account shall be maintained in Form No. 208.

(5) The receipt and disbursement of all monies, together with the balance of cash, belonging to prisoners, which is in the Chief Jailor's charge, shall be entered daily by the Chief Jailor in his cash book and the date of entry of every receipt shall be noted in the Admission Register and on the prisoner's warrant cover.

(6) The Superintendent shall, at intervals, satisfy himself that the amount of prisoner's cash with the Chief Jailor corresponds with the balance shown in the cash book; that the

book balance is correctly made out that payments are promptly made into the Treasury, and that the money is withdrawn from deposit in strict accordance with rule.

(7) All deposits and withdrawal of prisoner's cash property shall be made by the Superintendent on the challan (to be obtained from the Treasury) and by cheque (Treasury Form No. 117) respectively. The provisions of Article 21 of the Civil Account Code should be observed.

492. On the transfer of a prisoner, from one jail to another, all his property shall be sent with him. Sums of Rs. 15 and over shall be sent by remittance transfer receipt, those for less than Rs. 15 being remitted by postal money order, money order commission being borne by Government. Property or money, tendered to a jail in respect of a prisoner already transferred to another jail, shall not be accepted or forwarded by the jail authorities to the jail to which he has been sent. When the custody of property or money is declined under this rule, the person tendering it shall be told to which jail the prisoner has been transferred.

Disposal of property on transfer of a prisoner.

493. Any property or money belonging to a prisoner may at any time, during his imprisonment, be delivered to his friends, with the approval of the Superintendent, under an authority signed by the prisoner; but no prisoner, with a sentence of less than five years, shall be allowed to make over any of his clothing if he will thereby, on his discharge, leave himself with insufficient clothing; and no prisoner shall be permitted to make over any of his property to any other prisoner, either during imprisonment, or on release.

Disposal of property by prisoners.

494. Unauthorized property found on a prisoner, other than a civil prisoner, subsequent to the original search on admission, shall be forfeited to Government, and the money, or the sale proceeds of any article sold shall be paid into the treasury *in full* under "Miscellaneous Jail receipts." The Superintendent may at his discretion award to the subordinate, discovering the unauthorized property, not more than one-third of any sum of money so found or realized, drawing the same under and debiting it to the head "Rewards for recaptures and services."

Disposal of property found on original search.

495. In the event of a prisoner dying in jail, his property shall be made over to the officer-in-charge of the nearest police-station, and the Superintendent shall forward, with the property, the prisoner's Descriptive Roll and a certified copy of

Disposal of property not deceased prisoners and those escaped from jail.

the record relating to the prisoner's property. The wishes of any dying prisoner, about his property, should be mentioned to the police in the forwarding letter. The Chief Jailor is responsible that, on the prisoner leaving the jail, or dying, the property made over to him, or sent with him, or made over to the police, as the case may be, corresponds with the record of what had been retained. The property of an escaped prisoner shall be retained for one year from the date of his escape. If he is not recaptured within that period, his property shall be sold, and the proceeds, with any cash belonging to the prisoner, shall be paid into the treasury as unclaimed prisoners' property.

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Section VIII.—Prisoners' History Tickets.

"History-ticket" is defined in section 3 (6) of the Prisons Act, 1894, as the ticket exhibiting such information as is required in respect of each prisoner by the Act or rules thereunder. Statutory provisions.

496. Every convicted prisoner, whether sentenced to simple or to rigorous imprisonment, shall be provided with a History Ticket* in which shall be recorded in chronological sequence (in addition to the information regarding crime, section of Act under which sentenced, sentence, date thereof, etc., as required by the heading), every occurrence of importance in his jail life, and every order specially relating to him. Every entry in the ticket shall be dated. Provision of History Tickets.

497. In the heading of the History Ticket of each prisoner, the Medical Officer shall himself enter, or cause to be entered under his instructions, the prisoner's weight on admission, his state of health, the class of labour for which the prisoner is fit, if sentenced to rigorous imprisonment, and whether he has been protected by vaccination, inoculation, or small-pox (see paragraph 399). Medical Officer to record particulars as to health, etc.

498. He shall also subsequently enter, or cause to be entered on the ticket, the fact of vaccination having been performed in jail and the result, admission into and discharge from hospital on every occasion, with the disease for which admitted and any special instructions for the treatment of the prisoner, change of work or food, etc., other than matters for which either he himself or his Medical Subordinate is solely responsible. On discharge of a prisoner from hospital or the convalescent or special gangs, he shall invariably enter whether the prisoner may revert to his original work or task, or whether some other work and task should be allotted to him. He shall also see that the fortnightly weighments are duly recorded on the History Ticket. Record in ticket of subsequent entries by Medical Officer.

499. The following particulars shall also be entered on the ticket:— Particulars to be entered on History Tickets.

(a) Date of admission into jail.

(b) Issue of clothing and kit on admission, and subsequently.

* Form No. 10 History Tickets, with a supplemental leaf, are provided for use in case of prisoners sentenced to terms of imprisonment exceeding one year.

(c) Particular work and task in weight, number, or measurement, to which the prisoner is put.

(d) Every subsequent change of work or task.

(e) Any complaint, made by the prisoner, of sickness, or report of his sickness.

(f) Action taken to carry out any direction of the Medical Officer, or recommendation of the Medical Subordinate, relative to the prisoner, or reason why such order cannot be carried out.

(g) Date of application for a copy of judgment, if the prisoner wants to appeal.

(h) Dates of receipt of copy of judgment, and delivery to the prisoner.

(i) Dates of presentation of the appeal to the Superintendent, and despatch of appeal or memorial to Government for clemency.

(j) Substance of order of Appellate Court, and, in case of memorial, the orders of Government.

(k) The fact of appeal not being made before expiration of term allowed for appealing.

(l) The amount of ordinary and special remission awarded, from time to time.

(m) The total remission earned up to the end of each quarter.

(n) Any offence committed, including omission to perform tasks.

(o) Any interviews allowed, and the receipt or despatch of private letters (*see* paragraph 781).

(p) Despatch to a Court, or transfer, discharge or death.

(q) Any recommendation specially relating to the prisoner.

(r) Action taken on any order entered by the Superintendent.

(s) The dates on which a prisoner is placed in, and taken out of cells, for the purpose of undergoing solitary confinement.

Entries of items (a), (b), (e), (g), (h), (i), (j), (k) (m), (n), (o), (p), and (s), may be made by the Deputy or Assistant Jailor, and item (l) may be entered by the Deputy Jailor or any officer authorized to award remission. The duty of making the entries referred to in clauses (c), (d), (f), (q) and (r), shall not be delegated to any officer subordinate to the Chief Jailor.

Data to be
recorded in
History
Ticket by
Superinten-
dent.

500. The Superintendent shall record on a prisoner's History Ticket—

(a) any special order he may have to give as to the treatment of the prisoner, *e.g.*, location in the juvenile

- ward, separation at night in cubicles or cells, any particular work or duty, etc. ;
- (b) the award of any punishment (including formal warning) or an admonition [see paragraph 817 (1) and 819] ;
 - (c) sanction for extramural employment ;
 - (d) promotion to the grade of night watchman, overseer, or warder ;
 - (e) the award of remission, if given by himself.

501. The Medical Subordinate, and Deputy or Assistant Jailor, if deputed to assist him in weighing the prisoners, shall enter the fortnightly weighments of every prisoner in his History Ticket.

Fortnightly weighments of prisoner to be recorded in History Ticket.

502. The History Ticket of each prisoner shall be kept in a proper receptacle by the convict officer, in whose charge the prisoner is placed, to be produced by him whenever required. It shall go with the prisoner whenever he is changed to another gang or work, or sent to hospital. At the weekly parades each prisoner shall hold his ticket in both hands for the Superintendent's inspection ; and it shall invariably be produced with the prisoner when he is reported for an offence, or brought before the Superintendent or Medical Officer, for any reason or when remission is awarded.

Custody and production of History Tickets.

503. In the case of prisoners sent to jail pending trial, the History Ticket shall be maintained in Form No. 9.

History Tickets of undertrials.

Section IX (a).—Transportation.

Method of giving effect to a sentence to transportation.

504. Under section 58 of the Indian Penal Code a convict sentenced to transportation shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

Place of confinement of convicts sentenced to transportation.

505. Under section 32 of the Prisoners Act (Act III of 1900) all Central Jails have been appointed as places to which convicts sentenced to transportation shall be sent. Under the provisions of the same section, the Inspector-General has been authorized to order the removal to the jails at Rangoon, Insein, Tharrawaddy, Bassein, Myaungmya, Thayetmyo, Mandalay, Myingyan, Akyab, Moulmein, Meiktila, Mogok and Pagan of convicts sentenced to transportation subject to the following restrictions in the case of the four last named District Jails:—

(1) Only dangerous and refractory convict shall be sent to the Moulmein Jail which is provided with a cell block for 120 prisoners.

(2) Only juvenile convicts shall be sent to the Meiktila Jail.

(3) Only convicts from Hill Districts shall be sent to the Mogok Jail.

(4) Only convicts suffering from, or developing, leprosy in any Central or District Jail shall be sent to the Pagan Jail.

Consideration of cases of juvenile lifers.

506. When a convict, below the age of eighteen years and sentenced to transportation for life, is admitted to jail, his case shall be reported to the Inspector-General by whom application will be made to Government for orders as to where the convict will be detained until he reaches the age of eighteen, how he shall, in the meanwhile, be treated, and whether there are any grounds for consulting the High Court as to a revision of the sentence either immediately or after the expiration of a period of observation. If the convict appeals against the sentence, the result of the appeal shall be awaited before the case is reported to the Inspector-General.

Section IX (b).—Transfer of Prisoners.

Orders of the Government.

507. Attention is invited to the provisions of the prisoners Act,* 1900, relating to the transfer of prisoners. Orders regarding the transportation of prisoners sentenced to transportation will be found in section IX (a). The following general

* See Appendix IV.

orders have been issued by the Government of India * under section 29 (1) of the Act:—

I. Any prisoner belonging to any of the following classes:—

(a) Members of criminal tribes and police-registered criminals not being natives of the province in which they are undergoing sentence ;

(b) Ex-military policemen of the Burma Military Police, and prisoners, being natives of India, undergoing sentence in Burma, who are, or at the time of their trial, were, subject to the Indian Articles of War (Act V of 1869) ;

(c) Followers of the Burma Military Police, who have been recruited in India and are undergoing sentence in Burma ;

may be removed by order of the Inspector-General of Prisons of the province in which he has been undergoing sentence at any time not exceeding two months prior to his release either to the prison of the district to which he belongs or to the prison nearest to his native place.

Notice shall, in each case be given to the Inspector-General of Prisons of the province to which a prisoner is removed :

Provided that, if a Local Government appoints any prison or prisons as receiving depôts for prisoners removed from other provinces, orders made under this rule shall, in each case, direct that the prisoner be removed to such prison.

II. Any prisoner whose detention in a prison of the province in which he is undergoing sentence is deemed inexpedient, may be removed with the previous consent of the Inspector-General of Prisons of the province to which it is proposed to remove him.

III. Any prisoner undergoing sentence in a prison in the Punjab, whose services, by reason of his possessing special qualifications or a knowledge of special trades, are required for purposes of prison administration in the North-West Frontier Province, may be removed to any prison in the North-West Frontier Province by order of the Inspector-General of Prisons of the Punjab.

IV. Any European military or ex-military prisoner, undergoing a sentence imposed by a Civil Court, whom it is intended to remove from India, may be removed by order of the Local Government of the province in which he has been undergoing sentence, at any time not

NOTE.—The Penitentiary at Madras has been appointed as the receiving depot for prisoners removed from Burma. In the North-West Frontier Province, the jails at Peshawar and Dera Ismail Khan have likewise been appointed, the former for prisoners belonging to the Peshawar, Kohat and Hazara Districts and the Political Agencies of Khyber, Kurram and Dir, Swat and Chitral, and the latter for those intended for the districts of Dera Ismail Khan and Bannu and the Political Agencies of Northern and Southern Waziristan. In Assam, the jails at Gauhati and Sylhet have been appointed as the receiving depôts, the former for prisoners intended for the districts of Goalpara, Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur, Naga Hills, Khasi and Jaintia Hills and Garo Hills, and the latter for those intended for the districts of Sylhet, Cachar, the Lushai Hills, and the Manipur State.

* This order remains in force in Burma under paragraph 9 of the Government of Burma (Adaptation of Laws) Order, 1937. However, section 29 of the Prisoners Act as adapted to the Government of India (Adaptation of Laws) Order, 1936, does not give the Government of India, or any of the Provincial Governments in India, power to transfer prisoners to Burma.

exceeding three months prior to his release, to a prison at the port from which it is proposed that he should embark.

Powers of
Courts.

508. Under Part IX of the Prisoners Act, 1900 (III of 1900) a civil or criminal court has power ordinarily to require the attendance of a person confined in any prison within the limits of the High Court to which it is subordinate. If, however, the person whose attendance is required is confined in a prison over one hundred miles distant from the court in which he is to give evidence, whether in a civil or in a criminal case, then under section 39 of the Act, the Court requiring his attendance must apply in writing to the High Court of Judicature at Rangoon; this restriction does not apply to the case of person whose attendance is required by a criminal court to answer a charge of an offence. When a convict is required to appear before a Court either as a witness or an accused person, he should appear in ordinary clothes, and not in convict garb. If he has no clothes of his own, suitable clothing should be provided for him.

Dress for
prisoners
appearing
before a
Court.

Limitation
of powers
of Courts.

509. The powers set forth in paragraph 508 are, however, limited by the restrictions which Government, in exercise of its powers conferred by section 42 of the Act, has imposed in Judicial Department Notification No. 16,* dated the 21st January 1909. These limitations are three in number, and based on three separate conditions, namely, the nature of the offence which the prisoner has committed; the nature of the sentence which has been passed on the prisoner, and the presence or absence of a prison at the station in which the Court, requiring the prisoner's attendance, is situated. If the prisoner is a State prisoner, or if he is under sentence of death, he cannot be removed from the prison where he is confined without the sanction of Government. Where such sanction is required, the Court may address Government direct. If there is no prison at the station in which the Court requiring the prisoner's attendance is situated, and the prisoner is under sentence of death or transportation, or of imprisonment, for more than four years, he cannot be produced before the Court at the said station without the sanction and order of Government. Where such sanction is refused the evidence of the prisoner must either be taken on commission in the manner laid down in Chapter XL of the Code of Criminal Procedure, 1898, or, if the case is a civil case, in sections 44 to 46 of the Prisoners Act; or else the trial of the case must be transferred to a Court situated at a station where there is a prison.

* See Appendix V.

510. Superintendents of jails are bound to obey an order for the production of a prisoner, passed by a Civil or Criminal Court, provided it is made in conformity with the law as explained above, except in the circumstances detailed in section 43 of the Act. In case a prisoner has been sent back to the prison, whence he came, before the conclusion of his examination or trial, a fresh production order will be necessary to secure his attendance. But the Court may remand any such prisoner to custody in any local prison or lock-up until it has dispensed with his further attendance.

Compliance with Court's orders regarding production of prisoners.

511. (1) When a production order requiring the attendance of a convict at Court for the purpose of giving evidence or of standing trial, is received by a Superintendent of Jail, from a Court in a district other than that in which the jail is situated the Superintendent shall—

Removal of prisoners to give evidence, or to stand trial, at Court.

- (a) temporarily transfer the prisoner to the jail in the district in which the Court requiring his attendance is situated, or
- (b) if there is no jail in that district, or, if there is a jail in the district, but it is not at the place in which the Court requiring the attendance of the convict is situated, send him, if it is more convenient, to the Court from which the production order was received.

(2) The Superintendent shall hand over to the Officer in-charge of the escort—

- (a) a certified copy of the order of the Court ;
- (b) a Descriptive Roll of the prisoner, and
- (c) a warrant under his hand and seal, for retention of the prisoner in safe custody (Form No. 210).

(3) The Superintendent shall transmit to the Superintendent of the receiving jail, a report of the date on which the prisoner left on transfer (Form No. 75B).

(4) In the case of a convict sent to a Court in a district where there is no jail, the Superintendent shall similarly transmit, to the Magistrate of the Court from which the production order issued, a report of the date of departure of the prisoner (Form No. 75C).

(5) (a) If, prior to the receipt of the production order by the Superintendent, the convict has submitted an appeal to

the Appellate Court concerned, or, if it is known to the Superintendent that an appeal has been submitted on behalf of the convict from outside, and, if, in either case, at the time the convict is removed from jail on the authority of the production order, no orders on the appeal have been received, intimation should be sent to the Appellate Court by the Superintendent as to the particular jail or Court, to which the convict has been transferred or removed. This intimation should be sent, if possible, on the day on which effect is given to the production order.

(b) Similarly, if, and when, the convict is re-admitted to the jail at which the production order was originally received, and, if at the time of such re-admission, there are no documents, or if evidence is otherwise lacking, indicating that the Appellate Court concerned has communicated its orders in appeal either to the Jail or to the Court, to which the prisoner was temporarily transferred or removed, the fact of the re-admission of the prisoner should be intimated to the Appellate Court. This intimation should be sent, if possible, on the date the prisoner is re-admitted.

Powers of
Superintendents
regarding
transfer of
prisoners.

512. Except in the cases referred to in the foregoing three paragraphs, the sanction of the Inspector-General is necessary for the transfer of any prisoner, from one jail to another, within Burma ; but, in the following cases, transfers shall be carried out by Superintendents, full particulars of such transfers being recorded on the reverse of the monthly abstract of population and mortality (Form No. 55):—

- (a) Prisoners with long terms (*see* paragraph 4).
- (b) Prisoners transferred to relieve, or prevent, overcrowding (*see* paragraph 515).
- (c) Prisoners sentenced to transportation (*see* paragraph 505).
- (d) Convicted prisoners of the " A " and " B " classes (*see* paragraph 665).
- (e) Prisoners belonging to the special classes (*see* paragraph 549).
- (f) Prisoners required to give evidence, or to undergo trial on another charge under sections 35, 37 and 39 of Act III of 1900 ; provided they are not State prisoners, prisoners sentenced to transportation or to rigorous imprisonment exceeding four years (*see* paragraph 540).
- (g) Prisoners of the classes referred to in paragraph 541 to the Rangoon Jail.

(h) Female prisoners to undergo sentence, or for release (see paragraphs 598 and 609).

(i) Juveniles for confinement in the Meiktila or Insein Jail, or for release, or for detention in a Borstal or Training School (see paragraph 615).

(j) Prisoners whose release (on security or otherwise) has been ordered by the Government, at a specified place and whose transfer is made with a view to give effect to those orders (see paragraph 583).

(k) Tuberculous prisoners, for confinement and treatment in the Myingyan Central Jail :

Provided that no prisoner shall be transferred—

- (1) until he has been certified by the Medical Officer as physically fit to undergo the journey ;
- (2) until he has completed his term of appeal without appealing, or until his appeal has been rejected ;
- (3) until any corporal punishment, which may have been judicially awarded, has been executed ;
- (4) while cholera or other dangerous epidemic disease is prevalent in the transferring institution, or until two weeks after the total disappearance of such disease.

NOTE 1.—But the restrictions in clauses (2), (3) and (4) do not apply in the case of a prisoner required to give evidence, or to undergo trial on another charge

NOTE 2.—There is no objection to transferring prisoners to a jail infected with small-pox, cholera or plague, provided the prisoners being transferred are previously protected by vaccination in the case of small-pox and by inoculation in the case of the other two diseases.

NOTE 3.—The restriction in clause (2) against transferring a prisoner before he has completed his term of appeal without appealing shall not apply to prisoners selected for transfer to the Mokpalin Camp Jails, who have declined to appeal. All cases of prisoners so transferred should be reported to the Appellate Courts concerned.

513. Applications for orders to transfer prisoners in cases other than those referred to above shall be submitted to the Inspector-General and shall be accompanied by a Nominal Roll in Form No. 32. In the case of lepers and prisoners suffering from tuberculosis the Nominal Roll shall be accompanied by a brief statement of the chief medical features, and in respect of juveniles, not committed to a Borstal or Training School, a note shall be made as to whether the convicting Magistrate has considered the suitability of committing the juvenile to that School, and whether a copy of judgment was submitted by him to the Government.

Transfer of special cases to be referred to Inspector-General. Details regarding juveniles, leper and tubercular prisoners be given.

Procedure
of transfer
in ordinary
cases.

514. The transfers indicated under clauses (a), (b) and (c) in paragraph 512 shall be carried out in accordance with the subjoined scheme:—

Transferring jails. (1)	Receiving jails. (2)	Classes of prisoners to be selected for transfer. (3)
Kyaukpyu ...	Akyab ...	All prisoners with sentences over five years.
Prome ...	Thayetmyo ...	All prisoners with sentences over five years.
Paungde ...	} Rangoon ...	All casuals with sentences over five years. All habituals with sentences over five years.
Moulmein ...		
Tavoy ...		
Mergui ...		
Toungoo ...	Insein ...	
Maubin ...	} Bassein ...	All casuals with sentences over five years. All habituals with sentences over five years.
Henzada ...		
Bhamo ...	} Shwebo ...	Casuals with sentences not exceeding five years. Casuals with sentences over five years, and all habituals.
Katha ...		
Shwebo ...	Mandalay ...	Casuals with sentences over five years, and all habituals.
Mogok ...	Mandalay ...	All prisoners with sentences over five years, excluding those belonging to hill districts.
Pagan ...	Myingyan ...	Casuals with sentences over six months, and all habituals. (Non-lepers only)
Magwe ...	Myingyan ...	All prisoners with sentences over five years.
	or Thayetmyo ...	
Yamethin ...	Toungoo ...	All prisoners with sentences not exceeding five years.
	Mandalay ...	All prisoners with sentences over five years.

Selection of
convicts to
relieve over-
crowding.

515. In arranging transfers to relieve overcrowding Superintendents should be careful to select prisoners with the longest terms unexpired, but, if sufficient relief cannot be obtained in the manner indicated in the scheme prescribed under the foregoing paragraph, discretion must be exercised. For example, if the Superintendent of the Moulmein Jail cannot avert risk of, or actual, overcrowding by transferring, to the Rangoon Jail, only such prisoners as have sentences exceeding five years, he may add to the batch as many prisoners, as circumstances require, with sentences of four, three or two years.

516. When overcrowding is threatened at any of the receiving district jails, the Superintendent shall send, by telegram, if necessary, timely intimation of the fact to Superintendents of transferring jails, so that no delay may arise in determining the destination of proposed transfers.

Timely intimation to be sent to transferring jails in case of overcrowding in receiving jails.

517. When prisoners are transferred in batches exceeding ten, intimation of the date of their despatch should be sent by wire to the receiving jail in order that timely arrangements may be made for their reception and provision of diet.

Telegraphic intimation in cases of transfer of more than ten prisoners.

518. The following documents shall be sent when prisoners are transferred from one jail to another:—

Documents to accompany prisoners.

- | | | |
|-----------------------------------|---|--|
| By post registered | { | (1) List of property and personal effects made over. |
| | | (2) Descriptive Roll in Form No. 48. |
| | | (3) Warrant. |
| By escort in charge of prisoners. | { | (4) Copy of Descriptive Roll in Form No. 48. |
| | | (5) History tickets in a sealed packet. |
| | | (6) Remission cards in a sealed packet. |

This does not apply when convict volunteers are transferred to the Rangoon Central Jail *en route* for Port Blair, or from the Rangoon Central Jail to Port Blair. See paragraph 519. The documents that are to accompany a convict, who is temporarily removed from a jail to stand a trial or to give evidence, are detailed in paragraph 511.

519. The following documents in respect of each convict will be sent when volunteer convicts are transferred to the Rangoon Central Jail *en route* for Port Blair, or from the Rangoon Central Jail to Port Blair:—

Documents to accompany Volunteer convicts proceeding to Port Blair.

- | | | |
|--------------------|---|--|
| By registered post | { | (1) List of property and personal effects made over to the police escort or to the Officer-in-charge of convicts for the voyage, as the case may be. |
| | | (2) Descriptive Roll in Form No. 48. |
- (3) Warrant of the Convicting Court, where not replaced by a warrant of the Appellate Court.
 - (4) Warrant of the Appellate Court (if any), and any orders of the Government in respect to the sentence.
 - (5) Copy of the judgment.
 - (6) Copy of Descriptive Roll in Jail Form 48.
 - (7) Nominal Roll.
 - (8) Medical History Sheet, etc.
 - (9) History Ticket, with Warrant Cover (Jail Form No. 85), with statement of remission earned duly recorded thereon.

The documents of all prisoners which are mentioned in item (9) above should be collected and placed in a sealed packet.

In the case of jails transferring convict volunteers to the Rangoon Central Jail for Port Blair items (3) to (9), inclusive, should be handed over to the police escort. In the case of the Rangoon Central Jail items (3) to (9), inclusive, will be handed

over at the steamer by the Jailor to the Superintendent of Convicts appointed for the voyage by the Chief Commissioner, Andaman and Nicobar Islands.

Period of sentence served to be recorded on warrants.

520. It is incumbent on the Superintendent to see that the completion, or partial completion, of any sentence is recorded on the back of the warrant of transferred prisoners, and the Chief Jailor will be held responsible that such particulars are correct.

Escorts.

521. The duty of providing escorts for prisoners transferred from one jail to another will devolve upon the District Superintendent of Police.* But that officer should be given timely notice (in Forms Nos. 75B or 75C, as the case may be), of the date on which it is proposed to despatch the prisoners. Return escorts should be utilized as much as possible, particularly in the case of prisoners to be transferred prior to release. In this connection see also paragraph 742A.

NOTE.—In filling in the details on the reverse of Form Nos. 75, 75B or 75C, as the case may be the prisoner's number and the word, "casual" or "habitual" signifying his class, should invariably be recorded (see paragraph 400).

Provision of accommodation by rail or steamer for prisoners under transfer.

522. All arrangements to reserve accommodation by rail or steamer for convicts on transfer from one jail to another should be made by the Superintendent of the jail concerned.

When the party of prisoners and escorts does not exceed five in number they may be carried by mail, express or passenger trains in compartments along with ordinary passengers.

Parties of over five, inclusive of escorts, may travel in any train, except in Nos. 1, 2, 3, 4, 7 and 8, along with ordinary passengers. Insane, violent or dangerous prisoners, however, must always travel in reserved compartments, and in all such cases endeavour should be made to obtain special compartments fitted with iron bars and having seating accommodation for eighteen prisoners by requisitioning for same by giving at least 48 hours' notice to the Station Master. It should be noted that there are only thirteen such compartments on the Burma Railways and that ordinarily not more than one such coach may be attached to a passenger train. Should more than one coach be requisitioned to be attached to a passenger train it will be necessary to reserve and pay for the full accommodation in the coach or coaches so attached. Fares will be claimed by the Burma Railways at the same rate as is applicable to the public. In the event of special compartments not being

* On all occasions when a European soldier has to be transferred, in custody the Military Department should be called upon to provide the escort required.

available it will be more economical in the case of parties of five and under, if a second class, instead of a third class, compartment, is reserved. A minimum number of four fares is payable for the reservation of a second class compartment, whereas the minimum number of fares payable for the reservation of a third class compartment may vary from 42 to 90. The Police Department will pay the fares of the escort, and the balance of the number of fares for each party of prisoners will be paid by the Jail Department by book-debit, through the Accountant-General, Burma.

NOTE 1.—The Station Master of the starting station will note on the passage warrant (Jail Form No. 73) the number of the escort that purchased tickets, the number of prisoners that travelled and the balance number of fares due to make up for the accommodation reserved.

NOTE 2.—The following scale of escorts will usually suffice :—

—	Havildars or Head Constables.	Naik.	Sepoys or Constables.
From 1—3 prisoners	...	...	2
4—6	...	...	3
7—10	1	...	4
11—16	1	...	6
17—24	1	...	8
25—50	1	1	12

and so on in proportion. (See paragraph 333 of the Burma Police Manual, 4th Edition, 1926.)

523. Passage warrants shall be issued by Superintendents, Form No. 73 being used for the purpose. Class C prisoners shall travel third class by rail, and deck by steamer, prisoners of Classes A and B shall travel second class by rail and steamer, and shall be allowed a daily dieting rate of Rs. 2 during transit when the fare does not include messing. In this connection see also paragraph 742A.

Provision of passage warrants.

524. Whenever practicable, full advantage shall be taken of Government vessels, regarding the sailing of which information may be obtained from the Marine Transport Officer, Mandalay, or the Principal Port Officer, Rangoon, if not locally obtainable from the Deputy Commissioner or the Subdivisional Officer. In the case of Government vessels, a formal letter addressed to the Commander, and indicating the accommodation required, should accompany the prisoners.

Government transport to be fully utilized.

525. Except the expenditure incurred by the police escort, all expenses connected with these transfers, including cart and boat hire, where such is necessary, shall be borne by the despatching jail. In this connection see also paragraph 742A.

Jail to bear all expenses except on escort.

Inspection
of prisoners
before
transfer.

526. When transfers are about to be carried out the prisoners shall be paraded inside the jail, together with their clothing and bedding and such drinking and cooking vessels as may be necessary for the journey. The Superintendent or, in his absence, the Chief Jailor, shall personally satisfy himself that the clothing and bedding of each prisoner is correct in quantity (see paragraphs 1056 to 1058) and in good order, and that prisoners in fetters are securely fettered.

Every prisoner during transit, shall be allowed to wear as much of his private clothing as is considered necessary for the journey. Whenever the private clothing of a prisoner has been destroyed or sold, he shall, on transfer, be provided with clothing as supplied on release (*vide* paragraph 570).

Search of
prisoners
before
transfer.

527. The prisoners, together with their clothing and bedding, shall be carefully searched in the presence of the Chief Jailor and of the officer in command of the police escort, who shall, in taking over the prisoners, grant an acknowledgment (in a register maintained in Form No. 74) after satisfying himself that all fetters and handcuffs are secure. The Police Department shall be held responsible for the prisoners and property made over to the police escort, including such private property and clothing as have been issued to the prisoner for the journey.

Custody of
prisoners
in transit.

528. Before leaving the jail, the officer commanding the escort shall see that all convicts are handcuffed and connected together by a light chain (handcuffs and chain to be provided by the police). All desperate characters shall, in addition, be fettered, and the Superintendent or, in his absence, the Chief Jailor, shall draw the attention of the officer commanding the escort, to any prisoner who, from his antecedents, or conduct in jail, is considered likely to attempt escape.

The decision as to whether or not a convicted prisoner who is being transferred from one jail to another, should be fettered rests with the Superintendent of Jail and in the case of the following types of prisoners, who are required to be produced before Courts, with the Police Department:—

(a) Convicted criminal prisoners who have been sentenced to rigorous imprisonment and who have not been made prison warders, and

(b) Criminal prisoners, whether convicted or under trial, who are certified by the Superintendent of Jail to be of dangerous character or likely to attempt escape. See Rule 3 of the Rules under Sections 42 and 51 of the Prisoners Act (III of 1900) in Appendix V, Burma Jail Manual, Part II.

529. Prisoners of different classes shall, if it can be so arranged, be transferred at different time. When different classes are transferred at the same time, they shall, so far as may be practicable, be kept apart from each other, and no prisoner of one class shall be attached to a prisoner of another class. Whenever possible, prisoners charged, or convicted of offences punishable, with death, or transportation for life, should be sent separately and not with other prisoners.

Method of transfer of different classes of prisoners.

530. All able-bodied prisoners transferred by road shall walk. Carts shall not be provided, except for the infirm, or in special cases in which, for purpose of security or separation from other prisoners, the Superintendent considers such conveyance necessary.

Provision of conveyance by road.

531. A prisoner who falls sick in transit shall not be attached to any other prisoner while he remains sick, but shall travel separately. When a prisoner becomes so seriously ill on the road as to be unfit for travelling, he shall be taken to the nearest jail hospital or lock-up, or to any place where there is a public dispensary, and there be treated by the Medical Officer, and a report of the circumstances shall be made to the Superintendent of the despatching jail and of the jail to which the prisoner was travelling.

Procedure if prisoner falls sick.

532. When a prisoner dies in course of transfer from one district to another the Deputy Commissioner of the district or Officer-in-charge of the subdivision, in which the death takes place, will make enquiries into the circumstances attending it, and forward, to the Superintendent of the despatching jail, a certificate of the prisoner's death, under his official seal and signature.

Procedure if prisoner dies en route.

533. If an escape occurs *en route*, intimation of the same shall at once be given to the nearest authorities, who shall take steps for the recapture of the prisoner. The Superintendent of the Jail, from which the prisoner came, shall also be informed, by the Police, of the escape, and he shall, in conjunction with the authorities of his district, take steps to secure the prisoner's re-apprehension. If not immediately recaptured, the warrant and the other documents, relating to the escaped prisoner, together with his property, shall be returned to the jail from which he was despatched.

Procedure if prisoner escapes.

534. On recapture, the prisoner shall, after trial for the escape, be forwarded to the jail to which he was ordered to be sent, and a report of the recapture and date of despatch

Procedure on recapture of escaped prisoner.

to his destination shall be sent to the Inspector-General and to the Superintendent of the Jail which is to receive him.

Warder to accompany large party of prisoners, if necessary. Rations for prisoners.

Subsistence money.

535. When considered necessary, a warder shall accompany large bodies of prisoners in transit. In such cases the warders shall be furnished with a supply of dry rations sufficient for the use of the prisoners on road, sea or river, but when the gang does not exceed forty (or the journey can be completed in a few hours), it shall not be necessary to send a warder. When the party is small, or when it is more convenient to do so, subsistence money, not exceeding four annas *per diem* per prisoner, shall be handed to the officer-in-charge of the escort, in lieu of dry or other rations. Advances for subsistence allowance, or for contingent requirements, shall be accounted for, by the officer to whom the money is entrusted. In this connection *see* also paragraph 742A.

NOTE.—As regards the rate of subsistence allowance, Notes 1 and 2 to paragraph 572 apply also to prisoners in transit from one jail to another.

Responsibilities of police when warder accompanies prisoners. Duties of warder accompanying prisoners.

536. The presence of a warder, with prisoners on transfer, shall in no degree affect the responsibility of the police officer charged with the escort and safe custody of the prisoners in transit. The duties of the warder are—

- (a) to provide the daily rations and arrange for the cooking of the same ;
- (b) to preserve carefully the copy of the Descriptive Roll and the sealed packet containing the History Tickets and the list of Government and private property and clothing and other papers sent with the gang ;
- (c) to be responsible for the safe custody and safe delivery of property belonging to the prisoners sent on transfer ;
- (d) to take receipts, from the officials of the receiving jail, for the prisoners' and all prisoners' property made over by the escort. A copy of this will, in all cases, be handed to the officer-in-charge of the police escort ;
- (e) to use every endeavour in his power to secure, to the prisoners, immunity from sickness and injury, *e.g.*, by procuring shelter for them in cases of heavy rain, by keeping the gaiters (where such are used) of fettered prisoners well softened with oil, etc.

Duties of police when prisoners are not accompanied by warder.

When prisoners on transfer are not accompanied by a warder, these duties shall devolve on the officer-in-charge of the escort.

537. On behalf of the Superintendent of the receiving jail, the Chief Jailor shall duly acknowledge the safe receipt of the prisoners advised in Form Nos. 75 or 75B, and of all documents relating to them, Form No. 77 being used for the purpose.

Chief Jailor to acknowledge receipt of prisoners.

538. If it be found, on the arrival of the prisoners at their destination, that the property received does not correspond with the list, immediate notice shall be given to the Superintendent of the despatching jail.

Deficiency in property received to be reported to despatching jail.

539. A prisoner, when being taken to, or from, any prison in which he may be lawfully confined, shall be deemed to be in prison and shall be subject to the same discipline and conditions as if he were actually in prison. Prisoners *en route* to another jail, passing through a station where there is a jail and needing shelter, may, on the application of the officer-in-charge of them, be temporarily accommodated in the said jail. Prisoners, accommodated in this manner, shall not be shown on the books of the jail. The Chief Jailor will merely see that the gang is kept apart from other prisoners and that those admitted are duly made over on the journey being resumed. As prisoners *en route* are provided with subsistence, their halt shall not involve the jail in any extra expense, but, if such expense is incurred, the fact shall be clearly shown in the accounts.

Admission of prisoners *en route* to another jail.

540. With regard to prisoners ordered to appear in any Court, the provisions of the Prisoners Act, III of 1900, and rules framed under sections 42 and 51 of the Act (*vide* Appendix V) shall be strictly observed.

Prisoner required to give evidence at Court, or to stand a trial.

541. The particulars of prisoners sent out at the citation of Magistrates, or by direction of Government, to places where there are no jails shall be noted in a register maintained in Form No. 78, and, if not returned within a reasonable time, enquiries shall be addressed to the Court in question.

Record of prisoners sent to places where there are no jails.

542. A convict developing insanity after admission to jail can only be transferred to a lunatic asylum with the previous sanction of Government, except in urgent cases (*vide* paragraph 769). The procedure to be followed when such sanction is desired is laid down in paragraph 766.

Transfer of lunatics.

In the case of civil and non-criminal insanes, *see* paragraphs 775 and 776.

Persons committed to jail under section 466 (2) or 471 (1) of the Code of Criminal Procedure are dealt with under paragraph 762, in which case the orders of Government are not necessary.

Transfer of
female
prisoners.

543. When a female prisoner is transferred a female attendant shall ordinarily accompany her. The presence of a female attendant does not affect the responsibility of the police for the safe custody of prisoners in transit.

Section X.—Release of Prisoners.

Under section 26 (3) of the Prisons Act, 1894, no prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

Statutory Provisions.

544. (i) The warrants of all prisoners, whose release becomes due during the ensuing month, shall be examined on the 25th day of the month preceding in order to ascertain their correctness. In addition to the entry of the date of release in the Release Register, as prescribed in paragraph 384, the numbers and names of all prisoners classified in paragraph 545 shall be noted in *red ink* in the Release Register (Form No. 64) two months in advance of the probable day of release, including remission likely to be earned.

Impending releases and examination of warrants.

Entries in *red ink* to be made in Release Register two months prior to release, of jail numbers and names of certain classes of prisoners.

(ii) All prisoners of the classes mentioned in paragraph 545 except prisoners, whose sentences have been conditionally remitted under section 401, Criminal Procedure Code, shall be released at the gate of the jail in which they are confined on the day their sentences expire. The Superintendent of Jail in such cases will invariably send information in good time to the Superintendent of Police of the district in which the prisoners are confined of all prisoners about to be released, so that arrangements can be made for attendance at the jail of a Police Officer, or officers, detailed to receive prisoners released together with Jail Form No. 65, their passage warrants and expenses. In large jails and where references to the Police are likely to be frequent, it will be convenient to arrange with the District Superintendent of Police for the daily attendance at the Jail of constables detailed to receive the prisoners. If such a prisoner is ill on the eve of release, the fact shall be intimated to the Superintendent of Police, and the prisoner shall, on release falling due, be made over to that officer.

Prisoners to be released at a jail gate, except certain classes, on the day sentences expire. Notification to, and arrangements with the Police Department.

Prisoner ill, on eve of release.

(iii) The Superintendent of Police, on receipt of information of the prisoners to be released on the date specified, will arrange to depute an officer, or officers for the aforesaid purpose. The officer, or one of the officers so detailed, will be the officer whose duty it is under paragraph 252 of the Criminal Investigation Manual, Part I, to attend at the jail for the purpose of taking finger prints, and it will be his first duty to see that the finger prints of all habitual criminals mentioned in

Arrangements by the Police Department.

Police Officer to ensure to finger prints of all habitual

criminals due to be released have been taken.

Jail Form No. 65 due to be released that day have been taken, and, if they have not been taken, to take them immediately.

(iv) For the procedure to be observed for the release of prisoners, whose sentences have been conditionally remitted under section 401, Criminal Procedure Code, see paragraph 549.

Statement showing the names, and places of residence of all habitual prisoners, due for release in the succeeding month, including special classes of prisoners, to be sent to the Police.

545. On the 15th of each month in all jails a statement

- (1) Offences against the State—Sections 121—130 (inclusive), Indian Penal Code.
- (2) Holding up cattle to ransom—Section 215, Indian Penal Code.
- (3) Kidnapping—Section 356, Indian Penal Code.
- (4) Cattle theft—Sections 379 and 380, Indian Penal Code.
- (5) Coining—Sections 231—263A (inclusive), Indian Penal Code.
- (6) Robbery and Dacoity—Sections 392 to 402 (inclusive), Indian Penal Code.
- (7) Receiving stolen property—Sections 412 and 413, Indian Penal Code.
- (8) Cheating—Sections 419 and 420, Indian Penal Code.
- (9) House breaking—Sections 457—460 (inclusive), Indian Penal Code.
- (10) Note forgery—Section 489 (A to D), Indian Penal Code.
- (11) Concealing Arms—Section 20, Arms Act.
- (12) Offences in connection with terrorist crime.

in Jail Form No. 65 showing the names and places of residence of all prisoners classified as habituals (including all persons undergoing imprisonment in default of security under section 110, Criminal Procedure Code, persons convicted under section 176, Indian Penal Code, for disobeying an order issued under section 565, Criminal Procedure Code, prisoners convicted under the Criminal Tribes Act, persons imprisoned for failing to furnish security under

sections 107, 108 or 109, Criminal Procedure Code, and prisoners convicted of offences noted in the margin), who are to be released in any district during the succeeding month will be sent by the Superintendent of the Jail to the Superintendent of Police of that district.

In the following instances in which the above procedure cannot be followed the Descriptive Roll (J.F. No. 65), should be sent along with the released prisoners so that necessary action can be taken on it at the same time as released prisoners are received by the Police:—

(a) Prisoners whose sentences are altered on appeal to the term of sentence already undergone, or reduced to a short term of sentence which does not afford a month's notice.

(b) Prisoners sentenced to flogging only.

(c) prisoners whose releases are effected immediately on the grant of special remission by the Inspector-General of Prisons or on the recommendation of the Central Revisory Board.

The entries relating to criminals convicted in Railway Police cases will be made in red ink. A duplicate copy of the list will be sent to the Crime Assistant to the Deputy Inspector-General of Police for Railways and Criminal Investigation, Burma. If any names are omitted from the lists, supplementary lists will be sent, and on receipt of these statements they will be carefully checked with reference to finger prints, and, if it is found that there are names included in the list whose finger prints should be on record but are not, immediate steps must be taken to have the finger prints taken before the prisoners are released from the jails. In the remarks column of the statement, the word "Habitual" is entered against those prisoners who have been so classified. At the end of the statement is entered in red ink, information regarding the death of any such prisoners, or of any other prisoners, whose finger-prints are on record, and who died in the month previous to the one in which the statement is forwarded. The letters "F.P." are also marked against the name of every prisoner whose finger-impressions are on record.

The Crime Assistant to the Deputy Inspector-General for Railways and Criminal Investigation, Burma, to be furnished with duplicate copy of a list with entries therein, in red ink, of criminals convicted in Railway Police cases.

NOTE.—For the procedure as to the registration of the addresses of prisoners about to be released, in respect of whom an order under section 565 (1) of the Code of Criminal Procedure has been noted on their warrants, see Appendix XX.

546. Omitted.

547. (1) When any member of a criminal tribe whose name has been entered in the register under section 5 of the Criminal Tribes Act, 1924, or any person whose name it is proposed to add to the register under section 7 of that Act, is undergoing a sentence of imprisonment, or is detained in any jail, the following procedure shall be adopted, *vide* Police Department Notification No. 82, dated the 20th April 1926, as amended by Judicial Department Notification No. 346, dated the 21st November 1928, reproduced as Appendix XXV:—

Registered criminals.

(a) The notice prescribed by section 5 or section 7 of the Act shall be sent by the District Magistrate to the Superintendent of the Jail concerned.

(b) The Superintendent of the Jail shall thereupon call on the person so confined or detained to furnish such information as the District Magistrate may require. The Superintendent shall forward this information, together with such person's finger impressions, to the District Superintendent of Police, informing the District Magistrate that he has done so.

(c) Any person, who has been registered as a member of a criminal tribe, in respect of which a notification under section 10 of the Act has been issued, shall, before the date

fixed for his release, and when called upon to do so, give to the Superintendent of the Jail in which he is confined a true statement of the place in which he intends to take up his residence after his release. Such statement shall be taken down in writing, and shall be read over to such person, and shall be signed by him in the presence of the Superintendent of the Jail, who shall countersign it. The statement shall then be forwarded forthwith to the District Magistrate, and to the District Superintendent of Police, concerned.

(d) On receipt of the statement mentioned in clause (c) of this paragraph, the District Magistrate shall take the action prescribed by Rule 6 of Part I of the amended notification above mentioned, and shall inform the Superintendent of the Jail of the conditions which the person about to be released is required to fulfil. The Superintendent of the Jail shall explain these conditions to the prisoner before his release, and shall send a certificate that he has done so to the District Magistrate.

(e) When the person about to be released has been registered as a member of a criminal tribe in respect of which a notification has been issued under clause (a) of section 10, he shall, in addition to reporting himself under Rule 16 of Part I of the amended notification above mentioned, also report himself as soon as possible, after his release, to the officer-in-charge of the police-station within the limits of which is situated the place to which he proceeds for the purpose of taking up his residence.

(2) (a) If a registered criminal, whose case falls under section 16 of the Act, is undergoing a term of imprisonment or is confined in any jail, the District Magistrate shall inform the Superintendent of the Jail of the name of the settlement, in which such registered criminal has been ordered to be placed, and of the conditions which he is required to fulfil. The Superintendent of the Jail shall inform the registered criminal accordingly, and shall send a certificate to the effect that he has done so to the District Magistrate.

(b) The Superintendent of the Jail shall inform the District Superintendent of Police, and the Manager, concerned, of the release of a registered criminal, prior to his release, so that arrangements can be made to escort the released prisoner from the jail, in which he is confined, to the settlement, in which he has been ordered to be placed. The information should be given as early as possible, but not more than one month before the release of the registered criminal.

(3) (a) If a registered criminal, whose case falls under section 11, sub-section (1), clause (a) of the Act, is undergoing

a term of imprisonment, or is confined in any jail, the District Magistrate shall inform the Superintendent of the Jail of the name of the specified area, to which, the registered criminal has been ordered to restrict his movements, and of the conditions which he is required to fulfil. The Superintendent of the Jail shall inform the registered criminal accordingly, and shall send a certificate to the effect that he has done so to the District Magistrate.

(b) The Superintendent of the Jail shall inform the District Superintendent of Police of the release of a registered criminal prior to his release, so that arrangements can be made to escort the released prisoner from the jail, in which he is confined, to the specified area, to which he has been ordered to restrict, his movements. The information should be given as early as possible, but not more than one week before the release of the registered criminal.

548. Prisoners convicted in the Shan States and Karenni, including those whose sentences have been conditionally remitted under section 401, Criminal Procedure Code, will not be sent back there, either upon release at the jail gate, or for the purpose of release, as the case may be, unless they are natives of the Shan States and Karenni or, have fixed homes there. Before the release of such a prisoner falls due the Superintendent of the Jail will ascertain from the Superintendent of the State whether the prisoner has a fixed home there.

Method of
release of
Karenni
and Shan
prisoners.

549. (i) Prisoners, whose sentences have been conditionally remitted under section 401, Criminal Procedure Code, and Members of Criminal Tribes, are not released at the jail gates, but are first brought before the District Magistrate of the district in which they are at the time confined, if he so directs, and then before the Superintendent of Police who will take the action indicated in sub-paragraph (ii) or (iii).

Procedure
for release
of prisoners
of special
classes.

(ii) If the place of residence of such a prisoner be situated in the same district as that in which he is confined at the time of the expiry of the sentence, he will, subject to the orders of the District Magistrate, be released at district headquarters.

(iii) If the place of residence of such a prisoner be situated in a district other than that in which he is confined when his sentence expires, he is forwarded by the Superintendent of Police of the district in which he is confined, together with a memorandum on Police Form 63, to the Superintendent of Police of the district in which his place of residence is situated, who, on arrival of the prisoner, will have him brought before the District Magistrate, if he so directs, and subject to the orders

of the District Magistrate, will arrange for his release at district headquarters in the manner stated in sub-paragraph (ii) above.

NOTE.—For preliminary action to be taken by Superintendent of Jails in the case of prisoners convicted in the Shan States and Karenni, *see* paragraph 548 of the Burma Jail Manual.

(iv) It is the duty of the Superintendent of Jail to cause such a prisoner (whether his place of residence be in the same district as the jail or in another district) to be brought before the District Magistrate, or the Superintendent of Police of the district where the prisoner is confined, together with a memorandum on Jail Form 86, on such date before the expiry of sentence as may allow time for the journey of the prisoner to the headquarters of his home district, so that his final release may take place on the date on which his sentence of imprisonment expires. All authorities concerned will note carefully the date of expiry of the sentence in order that the release may be carried out punctually on that date.

(v) If such a prisoner has no fixed place of residence and is confined in the district in which he was originally convicted, he will be released in the manner indicated in (i) and (ii) above. If he was originally sentenced in another district, he will be brought before the District Magistrate of the district in which he has served the final part of his sentence, and will either be released then and there in the manner indicated in (i) and (ii) above or will be sent to the district in which he was sentenced according to the procedure laid down in (iii) above, as may, from the circumstances of the case and the prisoner's desire, seem to the District Magistrate to be reasonable.

(vi) In all cases such a prisoner, if destitute, will be furnished by the Superintendent of Police with travelling expenses for the journey from the district headquarters where he is finally released to his home village.

Procedure
for release
of ordinary
prisoners

550. When the sentence of a prisoner (other than those specially referred to above) expires, the Jailor shall bring him before the Superintendent, together with his warrant, and he shall be released in the presence of the Superintendent and at the jail gate: but *see* rules in paragraphs 549, 551 to 558, regarding females, sepoys, European soldiers, prisoners who, in addition to having received a substantive sentence, are required to give security to keep the peace and all prisoners who are members of a Hill Tribe. At the time of release, and particularly in the case of first offenders, the Superintendent shall warn time-expired men of the penalties provided by law (section 75, Indian Penal Code) for enhancing punishments in the case of re-conviction. All orders for the final discharge of

prisoners are to be signed by the Superintendent. In cases of release on appeal, payment of fine furnishing security, giving bail, etc., in which the power of legal detention ceases as soon as the order of the Court is delivered at the jail the Chief Jailor shall release the prisoner on his own responsibility, provided always that an immediate reference to the Superintendent is, on account of the distance of the jail, or other causes, impracticable. The warrant of a prisoner who has been released by the Chief Jailor, shall be signed by the Superintendent as if the prisoner had been released in his presence.

551. Any female prisoner, who is resident of a district other than that in which she is confined, shall be transferred in time to the jail of her own district to admit of her release on due date (see paragraph 609). When the home of a female prisoner, about to be released, is any distance from the jail, a notice will be sent, one month before her release, to the Magistrate of the district in which her home lies, asking him to intimate to the woman's relatives the date of such release, and to urge them to come and receive her. If she be under 25 years of age, or likely to be led astray, she shall be sent to her home in charge of a respectable woman entertained to escort her. If this escort is not considered necessary, the prisoner shall be given a railway pass (if she can travel by rail) and full and liberal means of subsistence to enable her to reach her home in comfort.

Female prisoners confined in jails outside district of residence.

NOTE.—Female prisoners, when dealt with under this paragraph, should be kept strictly apart from male prisoners.

551A. The release of all leper prisoners, and of prisoners who have been treated for leprosy in a jail and in whom the disease is considered to have been arrested, should be notified on Jail (Leper) Form No. 220 to the Public Health Authorities concerned. This precaution is necessary so that the Authorities may take steps to prevent such prisoners from spreading the disease, should they still be infective. See paragraph 776A.

Release of leper prisoners.

552. The undermentioned class of prisoners shall, unless orders to the contrary are received from Government, be transferred to their native provinces before release:—

Members of criminal tribes not being natives of Burma.

Members of criminal tribes belonging to provinces in India.

Such prisoners shall be transferred to the Rangoon Jail as soon as their sentences are confirmed, or their appeals have been disposed of. The Superintendent of the Rangoon Jail will submit to the Inspector-General Descriptive Rolls of such

prisoners three months before their sentences expire, in order that arrangements for their transfer to the jails nearest to their homes may be made. In cases where such prisoners have not three months left to serve, a report to the Inspector-General shall be made as soon as they are received. If such prisoners cannot by reason of physical unfitness be transferred to India within the period of their sentences, they shall be dealt with in the same manner as prisoners referred to in paragraph 553 below.

Release of
prisoners on
board a
vessel at
Rangoon.

553. The following classes of prisoners shall, in the absence of orders to the contrary, be released at Rangoon on board a vessel sailing for Calcutta or Madras with a view to their return to their native place:—

(a) Natives of India not domiciled in Burma and who at the time of their conviction were members of—

- (1) the Burma Royal Naval Volunteer Reserve subject to the Burma Royal Naval Volunteer Reserve (Discipline) Act, 1940 (Act No. XV of 1940);
- (2) the Burma Volunteer Air Force subject to the Burma Volunteer Air Force (Discipline) Act, 1941 (Act No. III of 1941);
- (3) the Burma Frontier Force subject to the Burma Frontier Force Act (Burma Act I of 1937) or
- (4) the Burma Military Police.

(b) Natives of India not domiciled in Burma and who at the time of their conviction were followers of the Burma Military Police or of the Burma Frontier Force.

(c) Natives of India not domiciled in Burma and who at the time of their conviction either by court-martial or by a Civil Court, were subject to the provisions of the Indian Army Act, 1911 or the Burma Army Act.

Such prisoners shall be transferred to the Rangoon Jail as soon as their sentences are confirmed or their appeals have been disposed of.

The Superintendent of the Rangoon Jail will arrange with the Commissioner of Police, Rangoon, for such prisoners to be placed on board the last steamer sailing for Calcutta or Madras as the case may be, before their sentences expire. Prisoners will be handed over on the day on which such steamer leaves, or on the previous evening, if the steamer leaves at day-light. The prisoners will be placed on board the steamer by the Police escort, with passage warrants and subsistence allowance for their journey; and the escort will be instructed not to leave

the steamer until it is about to start. The Superintendent of the Rangoon Jail will send to the Commissioner of Police, Calcutta or Madras, as the case may be, a descriptive roll, in the appended form, of each prisoner so sent, in time to reach that officer before the date of the arrival of the steamer on which the prisoner is sent:—

Naval or Air Force Unit, Battalion or regiment	Name.	Late Rank.	Offence.	Sentence.	Date of sen- tence.	Native place.				Personal Marks.	Remarks.
						Village.	Thana.	District.	Place of enlist- ment.		

The Superintendent will endorse on the warrants of such prisoners the words "Handed over to the Police for release on . . ." In cases where it may be considered necessary, on the representation of the prisoner or otherwise, the Inspector-General may, with the concurrence of the Inspector-General of Police or the Local Naval, Air Force or Military authorities concerned, as the case may be, arrange that any such prisoner shall either be sent to a jail in India for release in the manner laid down in paragraph 552 or be released at the jail gate.

554. Any native of Burma, who before conviction either by court-martial or by civil court was subject to the provisions of the Indian Army Act, 1911, shall be released from the jail in which he was confined at the time of release, and provided with a passage warrant to the station nearest to his home and subsistence allowance for the journey.

Prisoners
subject to
provisions
of the
Indian Army
Act, 1911.

555. On the admission of any convicted Chapparband (a tribe of professional coiners, who are natives of the Bijapur District in the Bombay Presidency), a descriptive roll of the prisoner shall be forwarded to the Inspector-General without delay so that arrangements may be made for transfer to a jail in the Bombay Presidency.

Chappar-
bands.

556. Whenever the Superintendent receives notice, or has reason to believe, that any person in his custody for any offence is a soldier liable to serve the Crown on the expiration of his imprisonment, he shall forthwith, or as soon as may be, give to the Assistant Adjutant-General of the Burma Division notice of the day and hour on which the imprisonment of such person will expire. The Superintendent shall notify to the military

Prisoners
who are
liable to
serve the
Crown as
soldier on
expiration of
sentence.

authorities at least three days previously, the day and hour on which any military prisoner is to be released, in order that they may send military escort to receive him on release.

(a) On receipt in prison of a military prisoner, not enlisted in Burma or India, who has been convicted by a Civil Court, it should be ascertained, without any delay, whether his discharge from the Army has been ordered. In every case in which a prisoner, who has not been enlisted in Burma or India, is to be so discharged, the Superintendent of the Jail shall enquire—when the prisoners' sentence is four months or under, immediately on his admission to prison, and in other cases not less than four months before the expiry of the sentence—whether or not the prisoner is willing to be removed from Burma, and shall record his wishes, in writing. A copy of this, with a copy of the prisoner's nominal roll, shall be forwarded to Government through the Inspector-General who will, if the prisoner is not already in the Rangoon Jail, order his transfer to Rangoon.

NOTE.—Soldiers committed to prison and who are to be discharged from the Army, bring with them to prison only the uniform actually necessary for the journey; also their serviceable articles of regimental necessities and ankle boots (highland shoes). The clothing only of such prisoners shall, on their admission, be made over to the military escort; or if the prisoners are conducted by a civil escort, the clothing shall be returned, by the Superintendent of the receiving jail, direct to the military authorities concerned, for disposal.

(b) In case of prisoners, who do not object to removal, Government will make an order remitting the residue of the sentence, if any, with effect from the date on which the prisoner may be embarked. A copy of this order will be communicated to the Commissioner of Police, who will arrange for the prisoner's passage to England and his removal of the vessel in which he is to sail. In the case of prisoners who object to deportation, the orders of the Secretary of State under the Colonial Prisoners Removal Act, 1884 (47 and 48, Vict., Chap. 31), require to be obtained. On receipt of these orders, Government will, if removal be sanctioned, issue a notification of concurrence in the order of removal and the necessary warrant, and will at the same time remit the balance, if any, of the prisoner's sentence with effect from the date of disembarkation. In this case also the Commissioner of Police will be advised of the orders passed and will arrange for the prisoners' passage and his removal to the vessel. Payment for the prisoner's passage, whether he is removed voluntarily or under a warrant, must be made to the owner or agent of the vessel in which he is to travel and not to the Captain, and the Commissioner of Police will inform Government of the name and date of sailing of the vessel, in order that the Consul-General

at Port Said may be warned. Under the authority conferred in letter No. 69 (Jails), dated the 29th January 1894, from the Deputy Secretary to the Government of India, Home Department, to the Chief Commissioner of Burma, such prisoners will be sent direct to the United Kingdom or other British Possession, and not through Bombay.

(c) Each prisoner referred to in paragraph 556 (b) shall be provided, on leaving the jail, with the following outfit:—

- One lounge cloth suit.
- One hot weather suit.
- One pair flannel drawers.
- One cotton vest.
- One woollen vest.
- One pair of shoes, not of English manufacture.
- One Cap.
- Two pairs socks, cotton.
- One cotton necktie.
- Three cotton shirts.
- One comb.
- One khaki linen bag for clothes.

NOTE.—The whole of the kit should not be provided, but only such as is necessary taking into account the kit already in the prisoner's possession. When *ex-military* convicts have clothing or money of their own their personal effects should be taken into account, before making grants for outfit and gratuity. If they have any money but refuse to pay for the outfit, they should be allowed to proceed with whatever clothing they have.

(d) The entire expenditure in connection with the removal of such prisoners shall be treated as a charge recoverable from the Military Department.

(e) Considerable time will be expended in carrying out the procedure described above, and it is essential that no delay should occur in reporting such cases for orders.

(f) While the orders, regarding the removal from Burma of military prisoners convicted by Civil Courts, do not apply to a Reservist, unless the offence for which he is undergoing imprisonment was committed when the Reserve was called, there is no objection to the procedure laid down being followed in the case of a Reservist who voluntarily accepts deportation. Every Military prisoner, therefore, who was not enlisted in Burma or India, and who belongs to the Reserve, should, on his admission to prison, be questioned, as ruled in paragraph 556 (a), as to whether or not he is willing to be removed from Burma. If willing, a report to that effect should be submitted to the Inspector-General, who will refer the case to Government for orders.

Release of
prisoners
ordered to
furnish
security.

557. Prisoners who, in addition to having received a substantive sentence, are ordered to furnish security to keep the peace, or in default to undergo further imprisonment, shall be transferred to the jail of their district, two months before the substantive sentence expires, to enable them, if possible, to arrange for furnishing the required security.

Hill Tribe
prisoners.

558. All prisoners, who are members of a Hill Tribe, should be sent to the headquarters of the district to which they belong before the expiry of their sentences, so that they may be released near their homes or, at any rate, at the district headquarters.

NOTE.—This rule will not apply in the case of prisoners committed to the Myingyan Jail by the Additional Sessions Judge, Kanpetlet. Such prisoners should be sent direct to Kanpetlet and released there by the Assistant Superintendent, Kanpetlet, on behalf of the District Magistrate, Falam.

Ordinary
class prison-
ers to be
released at
jail gate.

559. All prisoners, to whom none of the above special orders apply, shall be released from the jail in which they are confined at the time of release ; but, if Government gives special orders, directing that prisoners confined in any jail shall be transferred to the jail of the district in which their homes are situated and released there, the Superintendent shall comply therewith.

Notice to
Police of
transfer of
prisoners to
other
districts for
release.

560. Care must be taken in regard to the arrangements for the transfer of all prisoners due for release in districts other than those in which they are confined, in the issue of release notices to the police under paragraph 545, and that full allowance is made for the remission that is likely to be earned by them.

Precautions
to be taken
before a
prisoner is
released.

561. Every prisoner shall, before being released, be carefully compared with his personal description in the admission register, and the Superintendent or Chief Jailor, as the case may be, shall satisfy himself that the proper prisoner has been brought forward and that his sentence has been duly executed, except in respect of remission earned under the rules.

Prisoners not
to be
released
after lock-
up.

Delivery of
jail kit by
prisoners.

562. No prisoner shall, on any account, be released after lock-up. Prisoners shall be released after they have partaken of their morning meal, and as soon after sunrise as possible (see paragraph 48), excepting those whose discharge is ordered by Courts during the course of the day. All prisoners shall, before they are released, be required to bring to the office and deliver up their jail kit. All the articles of the kit shall be clean and ready for storing in the clothing godown. Any prisoner who

gives up his kit in a dirty state shall be made to wash and clean it before he is released. A convict, about to be released, shall present himself before the Superintendent in his private clothes, or if he has no clothing of his own, in the clothings specially provided under paragraph 570 and carry in his hand, for inspection, the kit given him on his admission to jail or at the last issue of clothing.

563. If the date of release falls on a Sunday, or other prison holiday, *vide* paragraph 362, the prisoner shall be released on the preceding day: but a civil prisoner, entitled to his discharge on failure of payment of diet money by the decree holder, must be released on any of the above-mentioned holidays, if the list of the month falls on that day.

Release of prisoners on prison holidays.

564. No prisoner shall be released on the authority of a telegram, save in the case of telegrams despatched by a Secretary to Government.

Telegraphic orders except from a Secretary to Government, not to be acted upon.

565. If a Court issues a warrant for the discharge of a prisoner or person under detention on his executing a bond without a surety or sureties, the prisoner or person shall be released on his executing such a bond for the amount fixed by the Court or Magistrate or, in case no amount has been fixed, for a nominal amount of Rs. 10 in the presence of the Superintendent.

Release of prisoners on their executing bonds, as directed by Court.

A person ordered by a Court or Magistrate to be released on bail, that is to say on his executing a bond with one or more sureties, shall be released on receipt of a warrant of release from the Court or Magistrate stating that such bond has been duly executed by the surety or sureties.

On release of the prisoner, the original warrant of imprisonment shall be returned to the Court of issue, with an endorsement thereon, certifying that it has been executed.

566. Before a release warrant is acted on it shall be carefully scrutinized and compared with the original order of detention, so that the identity of the prisoner referred to may be established beyond doubt. This procedure should however, not delay execution unless the discrepancies are of such a nature as to raise a reasonable doubt, when a reference should be promptly made to the District Magistrate, or the Subdivisional Magistrate, a copy of the warrant and release order being forwarded for his inspection.

Procedure prior to release on the authority of a Court warrant.

Disposal of warrants for release, received after transfer of prisoners to another jail.

567. On receipt of a warrant for the release of a prisoner who has been transferred to another jail, it shall at once be forwarded, under registered cover, to the jail in which the prisoner is confined.

Released prisoners to be furnished with a certificate.

568. Every prisoner sentenced to imprisonment shall, on release, be furnished with a certificate (Form No. 66) signed by the Superintendent to the effect that he has completed his term of imprisonment. In case any remission of sentence has been granted, the amount should be stated.

Return of prisoner's property.

569. On releasing a prisoner the Superintendent or the Jailor, as the case may be, shall deliver to him any property of which he may have been in possession, or the value of such property if it has been sold. An acknowledgment of the receipt of the property will be taken from the prisoner (in the admission register) if he can write. In any case the prisoner shall be called upon, in the presence of a witness, either to acknowledge that he has received his property in full, or to claim anything not delivered to him. If any part of a prisoner's property is not found and delivered to him, a note of the fact shall be made opposite the item in the admission register, and the Superintendent shall decide what compensation is to be given to the prisoner and what officer is to be held responsible.

Supply of clothing to released prisoners except to *pongyi* prisoners of the "A" and "B" Class.

570. The following rules relate to the issue of clothing to prisoners on release, except *pongyi* prisoners of the A and B class:—

Prisoners will ordinarily be released in the clothing in which they came to jail, but if this has been destroyed or sold or appears insufficient for decency, such items of clothing as are necessary only for the journey home, may be supplied to prisoners of "C" Class from the stock of Civil prisoners' unclaimed clothing, if available (*vide* paragraph 371). Should none be available, such prisoners of the "C" Class may be given one cotton *longyi* and one cotton jacket of the cheapest kind and, in cold weather, an old jail blanket. Jackets of cheapest kind shall be kept in store for the purpose. In the case of prisoners, who have been credited with the sale proceeds of their own clothing, the cost of the new clothing given them on release shall, to such an extent as funds are available, be met from the sums so credited, but they shall not be supplied with clothing, from the stock of civil prisoners' unclaimed clothing, unless this free supply is considered absolutely necessary to supplement the items of clothing obtained by

purchase from the sale proceeds of their own clothing on admission. Destitute prisoners of classes "A" and "B" shall be provided with a sufficient quantity of suitable plain clothing according to the mode of dress to which they are accustomed. Sickly or infirm prisoners and women may be given, free of charge, such clothing as is considered necessary by the Medical Officer. Care should be taken to see that no prisoner takes any jail property with him other than that authorized for issue as above.

571. *Pongyi* prisoners of the "A" and "B" Class, who have been sentenced to rigorous imprisonment for less than five years, will ordinarily be released in the clothing which they had on their admission to jail. If the articles of religious clothing brought by them on admission to jail are found deficient, they may be allowed to retain, to the extent required to make up the deficiency, any, or all, of the following that has been issued to them under the provisions of paragraph 1064, provided that the deficiency, either wholly or in part, cannot be made good from the stock, if any of unclaimed clothing of *pongyi* civil prisoners of the "A" and "B" Class:—

Clothing of
"A" and
"B" class
pongyi pri-
soners, on
release.

1 *Akathi.* 1 *Thinbaing.* 1 *Ka-pan-kyo.*

Pongyi prisoners of the "A" and "B" Class, who have been sentenced to rigorous imprisonment for five years or more, shall, on release, be allowed to retain only one each of the three articles of clothing mentioned above and which were issued to them under the provisions of paragraph 1064, provided, in this case also, that the articles of clothing in question cannot be supplied from the stock, if any, of unclaimed clothing of *pongyi* civil prisoners of the "A" and "B" Class.

In cold weather all *pongyi* prisoners of the "A" and "B" Class may, in addition, be given a jail blanket, which need not necessarily be new, and sickly and infirm prisoners, such clothing as is considered necessary by the Medical Officer.

572. (1) The following rules govern the grant of travelling expenses to (a) prisoners released in Burma, *cf.* paragraphs 544, 548 and 549, (b) Civil prisoners, *cf.* paragraph 742A, (c) prisoners transferred to jails outside Burma for purposes of release, *cf.* paragraph 552, and (d) prisoners placed on board a steamer bound for Calcutta or Madras for purposes of release, *cf.* paragraph 553.

Grant of
subsistence
money and
passage
warrants.

(2) (a) *Prisoners released at the jail gate* shall be paid travelling expenses for the journey to their homes.

(b) *Prisoners, whose sentences have been conditionally remitted under Section 401, Criminal Procedure Code,* shall

be paid travelling expenses to the Headquarters of the District in which they reside and in which they are to be released through the Police.

(c) *Prisoners who are members of criminal tribes not being natives of Burma* shall be provided with passage warrants and subsistence allowance to the jails nearest their homes. These shall be made over to the officer-in-charge of the escort.

(d) *Prisoners who are natives of India and who, at the time of their conviction were, members of the Burma Military Police, followers of the Burma Military Police recruited in India, or subject to the provisions of the India Army Act, 1911, vide paragraph 553,* shall be provided with passage warrants to their homes in India. Subsistence allowance shall also be paid for the journey to their homes.

For the grant of passage warrants and subsistence allowance see Rule 4 of these Rules.

(3) (a) Every able-bodied prisoner released from jail who, owing to the absence of public conveyance, as defined in Rule 6 (12) of the Burma Travelling Allowance Rules, has to perform the journey on foot, shall be given subsistence allowance calculated at the rates laid down in Rules 4 and 5 below.

Able-bodied prisoners of all classes travelling on foot.

(b) Every prisoner who has to perform a journey on foot, in localities where public conveyance as defined in Rule 6 (12) of the Burma Travelling Allowance Rules, is not available, and who is certified by the Medical Officer to be unfit to perform the journey on foot owing to illness or physical infirmity, shall be given the actual cost of the journey performed by a cart, boat or sampan where these are the ordinary mode of conveyance, or of such conveyance as may be procurable in the locality in which he is released, subject to the proviso that the cost of the hire of such conveyance shall be only for that portion of the journey for which public conveyance, as defined in Rule 6 (12) of the Burma Travelling Allowance Rules, is not available. Subsistence allowance in this case shall be calculated at the rate of travel or the time taken for the journey, and be based on the rates laid down in Rule 4 below.

Prisoners of all classes physically unfit to travel on foot.

(c) In addition to the travelling expenses admissible, every destitute prisoner shall be given one day's subsistence allowance calculated at the rates laid down in Rule 4 of these Rules.

Destitute prisoners of all classes.

- (4) Every prisoner released from jail shall be provided with travelling expenses in the manner indicated below for each class of prisoner:—
- Prisoners of all classes. Travelling expenses.

(a) *Subsistence Allowance.*

A Class.	B Class.	C Class.	Where the journey is to be performed by rail or Irrawaddy Flotilla Company's steamer or on foot, provided that the prisoner has, exclusive of any money he has earned in jail, not more than Rs. 8 in the case of A and B Class prisoners and not more than Rs. 2 in the case of C Class prisoners, held in deposit on his behalf by the jail authorities.
Re. 1 per diem.		Re. 0-4 per diem.	
A Class.	B Class.	C Class.	Where the journey is to be performed by sea if passage warrant does not include diet, provided that the prisoner has, exclusive of any money he has earned in jail, not more than Rs. 16 in the case of A and B Class prisoners and Rs. 4 in the case of C Class prisoners, held in deposit, on his behalf by the Jail authorities.
Rs. 2 per diem.		Re. 0-8 per diem.	

(b) *Passage Warrants.*

A Class.	B Class.	C Class.
2nd Class		3rd Class.

(c) *Actual Expenses.*

Where the journey to be performed necessitates travel solely by a motor bus, or sampan, or boat where these are the ordinary mode of conveyance, or where travelling by any or all of the above methods is necessary either to begin, or to complete, a journey by rail or river, actual expenses for the journey by a motor bus, sampan or boat shall be given.

Sampan, motor-bus or boat hire.

- (5) For the purpose of these rules, where the journey has to be made on foot, the following distances shall constitute a day's journey:—

Males of 15 years of age and under	...	...	10 miles.
Males above 15 years of age and under 19	...	...	14 "
Males of 19 years of age and above	...	...	18 "
Adult females	...	...	12 "

NOTE 1.—The Inspector-General is empowered to enhance the rate of subsistence allowance from annas four per head per diem to an amount not exceeding annas five whenever he is satisfied that the rate of annas four is insufficient.

NOTE 2.—The rates against travelling by sea are provisionally included and are subject to periodic sanction.

NOTE 3.—Where a statement made by a prisoner in regard to his destination is with reference to a place, the cost of the passage warrant to which would involve equal or less expenditure than the passage warrant to the place of residence mentioned in the Police Descriptive Roll and Committal Warrant, a passage warrant should be issued to the destination named by the prisoner, and subsistence allowance calculated accordingly, provided that the destination named by the prisoner is within the Province of Burma, including the Shan States.

576. The following rules for the release of prisoners on account of sickness apply only to convicted prisoners:—

Release on medical grounds of prisoners with less than six months to serve.

(i) With the consent of the Magistrate of the district in which the prisoner's offence was committed, the Superintendent may release a prisoner suffering from disease, provided that—

- (a) the disease is likely to prove fatal if the prisoner remains in prison ;
- (b) there is a reasonable chance of recovery if the prisoner be released ;
- (c) the disease has not been produced or aggravated, by any wilful act on the part of the prisoner ;
- (d) the Medical Officer recommends the release and certificates to conditions (a), (b) and (c) ; and
- (e) the prisoner has not more than six months to remain in prison before the expiry of his sentence.

(ii) The prisoner shall be informed, before release, that his liberation is conditional on the sanction of Government, and that, if such sanction be withheld, he will have to return to prison to serve out the remainder of his sentence. The prisoner's friends shall be sent for by the Magistrate and a security bond taken from them, before he is released, that they will give him up if required to do so. But, when, owing to the distance and inaccessibility of a prisoner's home, the Magistrate is satisfied that the security bond referred to cannot be executed by the prisoner's friends in reasonable time, he is empowered to accept the personal recognizance of the prisoner to be released.*

(iii) The case shall be immediately reported to the Inspector-General on Form No. 87, in duplicate, for submission to Government.

NOTE.—For rules regarding release of civil and under-trial prisoners on account of sickness, see paragraphs 741 and 718.

577. In cases of complete and incurable blindness not caused by the voluntary act of the prisoner, of decrepitude or other incurable infirmity, a report, in the prescribed form, shall be submitted by the Superintendent to the Inspector-General, who will at his discretion, report the case for the orders of Government. Before such report is made, the Magistrate of the district, in which the prisoner was convicted, shall be asked for his opinion.

Release of blind or decrepit prisoners.

NOTE.—No prisoner, who has no friends or relatives willing and able to take charge of him shall be released under this rule.

* N.B.—This provision is made to meet the special requirements of hill-tribesmen such as Chins, Kachins and Karens, who have shown on imprisonment a predisposition to maladies, with a more or less fatal tendency.

Release on medical grounds objected to by Magistrate.

578. If the Magistrate of the district dissents from the Superintendent's recommendations, the case shall be submitted to the Commissioner of the division in which the prisoner's offence was committed, and he may either order release, subject to clauses (ii) and (iii) of paragraph 576, or submit the case for the orders of Government.

Release on medical grounds of prisoners with more than six months to serve.

579. In the case of prisoners with longer unexpired terms of sentence to serve than six months, recommendations for release should be made on Form No. 87, in duplicate, provided the Deputy Commissioner of the district, in which the prisoner was convicted, has no objections to offer. The recommendation in such cases shall be submitted to the Inspector-General, who will take the orders of Government on the matter.

Release on medical grounds of prisoners detained in default of furnishing security.

580. When a prisoner, in detention solely on a sentence of imprisonment in default of security to keep the peace, or for good behaviour, is so seriously ill as to render release desirable, the District Magistrate should be invited to exercise the discretion allowed by section 124, Code of Criminal Procedure.

Release of Asiatic military prisoners.

581. Where the release or partial remission of an Asiatic military prisoner, who is undergoing sentence of court-martial is desired, nominal rolls of the men recommended should be sent to the General Officer Commanding, Burma Division, for orders.

Release of prisoners likely to die to be reckoned as dead.

582. Whenever the release is sanctioned of a prisoner who is likely to die, the discharge should be returned in the monthly statements as a death.

NOTE.—Prisoners released on account of sickness, whether death be imminent or otherwise, should be shown in column 9D (a) of Statement No. 1. At the foot of this statement it should be noted how many of those in the column referred to were about to die, and this number, added to those in column 14, should appear in column 8 of Statement No. XIV, and in Statements XV and XVI.

Release of prisoners on security being furnished.

583. In cases where the release of prisoners on security is ordered by the Governor in exercise of the authority conferred by Section 401 of the Code of Criminal Procedure every facility should be afforded by the Superintendent to enable them to furnish the necessary sureties. Cases where the required security cannot be furnished should be rare, as verification is made as to whether friends or relatives in a position to furnish security are forthcoming, before the unexpired portion of sentence is remitted.

584. Burmese prisoners, retransferred from Port Blair, with a view to release on expiration of their sentences, will be placed, on arrival, in the Rangoon Jail, where all necessary arrangements, for their despatch to the jail nearest their homes, shall be made. Particular care should be taken that all such prisoners, up to the date of final release, are kept strictly apart from all other prisoners.

Release of
Burmese
prisoners
retransferred
from Port
Blair.

Section XI.—Prisoners undergoing Simple Imprisonment.**Statutory provisions.**

Under section 53 of the Indian Penal Code, the imprisonment of a criminal prisoner may be either rigorous, that is, with hard labour, or simple. Section 36 of the Prisons Act, 1894, requires that the Superintendent shall provide for the employment (so long as they so desire) of prisoners sentenced to simple imprisonment, but no such prisoner shall be punished for neglect of work except by such alteration in the scale of his diet as may be prescribed by rule.

Confinement.

585. Prisoners of the casual class, sentenced to simple imprisonment, shall be kept separate from prisoners sentenced to rigorous imprisonment unless they elect to work, in which case they may work with labouring convicts of the casual class during the prescribed hours. Habitual prisoners sentenced to simple imprisonment (see paragraph 587) shall also be kept separate, but, if there is no separate accommodation for them, they may be located with labouring prisoners of the habitual class.

Separate accommodation for first class misdemeanant.

586. If any prisoner, sentenced to simple imprisonment for an offence involving no moral turpitude, is considered, by the Deputy Commissioner, to be a first class misdemeanant for whom exceptional treatment, in regard to separate accommodation, is desirable, he shall refer the matter to the Inspector General. If the Inspector-General agrees in the Deputy Commissioner's recommendation, he shall make such arrangement as he thinks proper for providing separate accommodation for the prisoner. If he does not agree with the Deputy Commissioner, he shall refer the matter to Government, for orders.

Employment.

587. Prisoners sentenced to simple imprisonment shall, during the daytime, remain in the part of the jail assigned to them, and shall not enter the labour yards, or communicate with labouring prisoners, unless they elect to work, in which case, as provided for in paragraph 585, they must remain with the rigorous imprisonment gang, to which they are allotted.

Discipline.**Clothing**

588. They shall be subjected to a minimum of severity consistent with the maintenance of order and discipline in the jail. They shall be allowed to wear their own clothing, except when they elect to labour, when they shall wear prison clothing. They shall be exempt from having their

hair or beard cut or shaved, unless this is necessary on account of vermin or disease, in which case an order of the Superintendent or Medical Officer, to cut or shave the prisoner's hair, and the reasons, shall be recorded on his history ticket. In case the private clothing is insufficient for decency, or warmth, the Superintendent shall order the supply of whatever jail clothing is necessary to make up the deficiency. Military prisoners sentenced to simple imprisonment shall not be allowed to wear their military uniform. If they have no other clothing except their uniforms, they shall be provided with appropriate prison clothing.

589. Blankets and bedding, cups and plates, shall be supplied to simple imprisonment prisoners just as to labouring convicts, and, when not in use, the blankets and bedding shall be kept neatly folded, and the cups and plates clean, and arranged in an orderly manner. Supply of blankets, bedding, cups and plates.

590. Simple imprisonment prisoners who normally belong to a class of society, the members of which would personally perform duties entailing tidiness and cleanliness in their own homes, shall keep their clothing, wards and yards clean and in good order. They shall not be compelled to do any other work, or to perform any menial duties for others, or to do any work of a degrading character. Sanitation.

591. They will be allowed to converse together in their own ward or place in a quiet and orderly manner, but no loud conversation will be allowed at parades, exercise time, or at night. Conversation among prisoners.

592. Separate scales of diet are provided for prisoners who do not labour (see paragraphs 1077 and 1084). Prisoners, who are sentenced to simple imprisonment for offences involving no moral turpitude and who are classed as misdemeanants of the first division, shall receive diet according to Scale I. Diet.

593. Any simple imprisonment prisoner, who volunteers to work, shall be allowed to choose such work as is available in the jail, and shall be put to such work, provided he is physically fit to perform it. A medical certificate of fitness for the performance of the work undertaken by the prisoner shall be recorded on his history ticket by the Medical Officer. If the prisoner does a reasonable amount of work, he shall Prisoners electing to work.

Grant of
remission.

be supplied with jail diet according to the labouring scale in paragraphs 1077 or 1084. Should he fail to do so, the Superintendent may punish him by the alteration of his diet from the labouring to the non-labouring scale, but in no other way. In case the prisoner wishes to cease working and to return to his original position, he shall be allowed to do so. With regard to the award of remission to prisoners of this class who work, see paragraph 835.

Exercise.

594. Non-labouring prisoners shall be compelled to take walking exercise for not more than an hour in the morning and an hour in the evening, if the Superintendent and Medical Officer consider it advisable.

Application
of Rules in
this Manual.

595. Save where exception is allowed by the rules in this chapter and in the chapters relating to interviews and diet, all the rules in this Manual, applicable to convicted criminal prisoners, shall be applicable to prisoners sentenced to simple imprisonment: provided that no such prisoner shall be punished for neglect of work, or short work, or refusing to work, otherwise than as directed in paragraph 593, and that the following punishments shall not be inflicted on such prisoners, namely, the minor punishments Nos. 2 to 5 in paragraph 817 and the major punishment No. 2 in paragraph 818, unless the prisoners have been admitted to the remission system.

NOTE.—For rules regarding interviews and letters, see Chapter IX.

Section XII.—Female Prisoners and Infants.

Under the provisions of section 27 (1) of the Prisons Act, 1894, female prisoners shall be so separated from male prisoners so as to prevent their seeing, conversing or holding any intercourse with the male prisoners. Under clause (3) of the same section unconvicted female prisoners shall be kept apart from convicted female criminal prisoners. Under section 46, no female prisoners shall be liable as a punishment to any form of handcuffs, or fetters, or to whipping.

Statutory provisions.

596. Female prisoners shall be rigidly secluded from male prisoners, and under-trial women shall be kept apart from female convicts. The female ward shall be so situated as not to be overlooked by any part of the male jail; and there shall be a separate hospital for sick female prisoners within, or directly adjoining, the female enclosure. They shall not be required to attend at the jail office. All enquiries and verification of their warrants shall be conducted, by the jailor, in the female enclosure.

Rigid seclusion from male prisoners.

Under trials.

Hospital arrangements.

597. In every female prison there shall be a block of two to six cells for use as punishment cells, as well as to afford separate accommodation for any female under-trial, or other prisoner, who may wish to live apart from the female convicts.

Provision of cells.

598. Up to the limit of accommodation, all female convicts, of whatever terms, except those sentenced to transportation or long-term habitual criminals, shall be retained in the jail of the district to which they belong, unless departmental instructions have been issued to the effect that such prisoners are to be transferred elsewhere. To reduce the chances of solitary confinement, two long-term female prisoners may be detained in each of the smaller jails only occasionally occupied by this class, but, where confinement is likely to become solitary, female prisoners should be transferred to the nearest jail having accommodation for such and where imprisonment is not likely to be solitary.

Classification and segregation.

NOTE.—If, however, transfer is, for one reason or another, considered inadvisable, the services of an elderly female may be hired as a companion to the female prisoner, whether she is a convict or an under-trial.

599. Except by order of the Superintendent, no female prisoner shall be allowed to leave the enclosure for females, nor shall any male prisoner be permitted to enter such enclosure.

Restrictions as to exit from, or ingress to, the female enclosure.

Male official
not to enter
unaccompa-
nied.

600. No male official of the prison shall be permitted, on any pretext, to enter the female prison alone.

Charge of
female ward.

601. If there is no paid matron, the enclosure for females shall be placed in charge of a female convict officer, the key being entrusted, by day, to an old and steady warder ; by night, the key shall be retained by the Chief Jailer. Warders, acting as escort to visitors, shall remain outside the enclosure while it is being inspected.

Escorts for
visitors.

Prisoner's
children.

602. Any female prisoner may be allowed to retain a child until it is four, or, with the approval of the Superintendent, even up to six years of age, if she so desires. The child shall be allowed such diet as the Medical Officer may order for it and shall be provided with suitable clothing.

Prisoner's
children of
over six years
of age.

603. When a child in jail attains the age of six or when a female prisoner dies in jail leaving a child, notice shall at once be sent to the Deputy Commissioner of the district in which the mother's home is situated, with a view to the child being taken charge of by its friends.

Disposal of
children.

604. If no relatives or friends are willing to take care of the child, the Deputy Commissioner will make the best arrangement he can, either by placing the child in some institution, or by entrusting it to some respectable person to bring up.

Menial
duties.

605. All menial duties, connected with the female enclosure and wards, shall be carried out by the female prisoners themselves, and all refuse matter, etc., shall be placed at stated hours, outside the enclosure, to be carried away by male convicts.

Supply of
food.

606. All food, for female prisoners, cooked in the jail, shall be prepared in the general cook house by male convicts, and be deposited by them at the door of the female enclosure. In the performance of such duties, opportunity of inter-communication shall be strictly guarded against.

Hair cutting.

607. The hair of a female prisoner shall not be cut without her consent, or unless the Medical Officer deems it requisite on the ground of health and cleanliness, and then the hair of such prisoner shall not be cut closer than necessary for the purposes of health and cleanliness.

608. The general rules regarding labour shall be applicable to female prisoners, the labour exacted being allotted in accordance with their strength and ability. The rules regarding the remission system similarly apply, as also those regarding the classification of convicts and grading of convict officers. Labour.

609. A female prisoner, undergoing imprisonment in a jail outside the district in which she was sentenced, shall, in the absence of good reason to the contrary, be transferred for release to the jail of the district wherein her relations or friends reside; and, before the date on which such female prisoner is entitled to release, such notice shall, if possible be sent by the Superintendent of the jail, from which she will be released, to her relations or friends, as will enable them to attend at the jail and receive her. If no relative or friend appears on the day of her release, she may be sent to her home in charge of a respectable woman, hired for the occasion, should the Superintendent consider this course desirable by reason of her youth or otherwise. Release.

610. Female prisoners are subject to the rules regarding offences and punishments, but it must be borne in mind that no female prisoner is liable to whipping. Handcuffs may, however, be imposed as a measure of restraint (*vide* paragraph 828). Restriction
as to
punishment.

611. Female prisoners shall be provided with a reasonable supply of oil for dressing their hair. They shall be supplied with a comb each and be allowed the use of a looking glass, one glass in each cell and one or two in each ward. Facilities for
care of hair.
Provision of
looking-
glasses.

612. Well conducted female prisoners shall be allowed to see their friends once in each month. Interviews.

NOTE.—For instructions regarding female juvenile prisoners, *see* paragraph 613.