

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1934**

**The Indian Navy (Discipline)
Bill**

List of Reports of Select or Joint Committees
presented to the Legislative Assembly in 1934.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Tariff(Amendment) Bill.	5. 2.34.	
2.	The Indian States(Protection) Bill.	14. 2.34.	
3.	The Negotiable Instruments(Amendment)Bill.	26. 2.34.	
4.	The Factories Bill.	27. 2.34.	
5.	The Indian Tariff(Textile Protection) Amendment Bill.	2. 4.34.	
6.	The Sugar (Excise Duty) Bill.	10. 4.34.	
7.	The Matches (Excise Duty) Bill.	14. 4.34.	
8.	The Indian Dock Labourers Bill.	16. 7.34.	
9.	The Mechanical Lighters(Excise Duty) Bill.	23. 7.34.	
10.	The Indian Carriage by Air Bill.	25. 7.34.	
11.	The Indian Aircraft Bill.	25. 7.34.	
12.	The Hedjaz Pilgrims(Muallims) Bill(<u>Second Report of the Select Committee</u>)	2. 8.34.	
13.	The Indian Army (Amendment) Bill.	7. 8.34.	
14.	The Indian Iron and Steel Duties Bill.	13. 8.34.	
15.	The Indian Petroleum Bill.	14. 8.34.	
16.	The Indian Income-tax(Amendment) Bill by Sir Hari Singh Gour.	22. 8.34.	
17.	The Indian Navy (Discipline) Bill.	25. 8.34.	

We, the undersigned, members of the Select Committee to which the Bill to provide for the application of the Naval Discipline Act to the Indian Navy was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. In agreement with the opinion expressed by several of the authorities to whom the Bill was circulated we think that the English statute should be reproduced *in extenso* with the modifications made by the present Bill set forth in the statute itself, so that the law applicable to the Indian Navy will appear in a self-contained measure. We have accordingly redrafted the Bill so that the Naval Discipline Act appears in a Schedule to the Bill with those modifications which the Bill makes in that Act incorporated in the text of the Act itself.

3. We have made certain changes in the proposals contained in the Bill. Those changes can most conveniently be set out by reference to the sections of the statute affected.

4. In sections 25 and 26 we have omitted certain unnecessary words referring to municipal corporations.

5. In section 45 we have defined the offences therein referred to by reference to the Indian Penal Code, and we have assigned to them the penalties provided in each case by that Code.

6. We have altered the first clause of section 53 in order to apply the law contained in the Code of Criminal Procedure, sections 401 and 402, to suspension, remission and commutation of sentences.

7. In sections 63 and 64 we have provided for the taking of an affirmation instead of the oath there laid down in cases in which that oath would not be suitable.

8. To the new section 65 proposed by the Bill we have added a proviso that no racial discrimination shall take place in consequence of any modifications made by the Governor General in Council in the practice and procedure of Courts martial.

9. We have decided that section 98A relating to the liability of seamen for the maintenance of their wives and children should not be omitted. We have accordingly made in that section, which we retain in the Act, the necessary modifications to apply it to Indian conditions.

10. The Bill was published as follows :—

In English.

Gazette.	Date.
Gazette of India	25th November, 1933.
Fort St. George Gazette	12th December, 1933.
Bombay Government Gazette	17th May, 1934.
Calcutta Gazette	4th January, 1934.
United Provinces Gazette	19th May, 1934.
Punjab Government Gazette	11th May, 18th May and 25th May, 1934.
Burma Gazette	12th May, 1934.
Central Provinces Gazette	13th July, 1934.
Assam Gazette	25th April, 1934.
Bihar and Orissa Gazette	25th April, 1934.
Coorg District Gazette	1st May, 1934.
Sind Official Gazette	31st May, 1934.
North-West Frontier Gazette	27th April, 4th May and 11th May, 1934.

11. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

N. N. SIRCAR.

A. F. RAWSON LUMBY.

A. RAMASWAMI MUDALIAR.

*MOHD. SHAFEE DAOODI.

*D. K. LAHIRI CHAUDHURY.

*B. V. JADHAV.

*GAYA PRASAD SINGH.

M. C. RAJAH.

*H. S. GOUR.

*S. G. JOG.

L. HUDSON.

SHER MOHD. KHAN.

HENRY GIDNEY.

SIMLA ;

The 24th August, 1934.

*Subject to a note.

NOTE.

In signing this Report we wish to make it clear that we take at its face value the statement made on behalf of Government that the sole principle underlying this Bill is a mere change of designation and status and would not commit the House to any additional expenditure upon the strengthening or equipment of the Indian Navy. We consider that our signatures to this Report should not be understood as our acquiescence in the unfortunate predicament of the Indian Legislature in having to find money for the defence of India

upon which they can exercise no control.

H. S. GOUR.

D. K. LAHIRI CHAUDHURY.

MD. SHAFEE DAOODI.

GAYA PRASAD SINGH.

B. V. JADHAV.

S. G. JOG.

I would further submit that in the New Constitution a provision should be made for making the navy budget votable.

S. G. JOG.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics in the Bill itself indicate the amendments suggested by the Committee. In the Schedule to the Bill words printed in italics indicate the modifications made in the English Statute.]

A

BILL

TO

Provide for the application of the Naval Discipline Act to the Indian Navy.

WHEREAS by section 66 of the Government of India Act it is among other things enacted that provision may be made by the Indian Legislature for the application to the naval forces raised by the Governor General in Council of the Naval Discipline Act subject to such modifications and adaptations as may be made by the said Legislature to adapt the Act to the circumstances of India ;

AND WHEREAS it is expedient to make such provision :

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Navy (Discipline) Act, 1934.
Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

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

Definition.

* * * * *

* “ the Indian Navy ” means the naval forces and ships raised and provided by the Governor General in Council *.

* * * * *

3. (1) *The Naval Discipline Act shall apply to the Indian Navy as if that Act were in the form in which it is set forth in the First Schedule to this Act.*
Application of the Naval Discipline Act to the Indian Navy.

(2) *In the application to the Indian Navy of the Naval Discipline Act as so set forth—*

(a) *“ the Indian Navy ” has the same meaning as in this Act, and*

(b) *references to His Majesty’s Navy and His Majesty’s ships shall be deemed to include the forces and ships constituting the Indian Navy.*

4. The enactments mentioned in the *Second Schedule* are hereby repealed to the extent specified in the fourth column thereof.
Repeals.

THE FIRST SCHEDULE.

(See section 3.)

THE NAVAL DISCIPLINE ACT.

(29 and 30 Vict. C. 109.)

(As modified for application to the Indian Navy.)

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

WHEREAS it is expedient to amend the law relating to the government of the Navy, whereon, under the good Providence of God, the wealth, safety, and strength of the Kingdom chiefly depend :

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.**ARTICLES OF WAR.***Public Worship.*

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

Misconduct in the Presence of the Enemy.

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

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

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

3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, or assist a friend in view to the relief and assist a known friend in view to the

utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death; if he has acted from cowardice, suffer death or such other punishment as is hereinafter mentioned; if he has acted from negligence or through other default, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

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

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

Communications with the Enemy.

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

7. Every person subject to this Act who shall—

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

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

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

Neglect of duty.

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

Mutiny.

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

Penalty for mutiny accompanied by acts of violence.

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

Penalty for mutiny not accompanied by acts of violence.

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

Penalty for inciting to mutiny.

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

Penalty for civilians endeavouring to seduce from allegiance.

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

Penalty for making mutinous assemblies or uttering seditious words.

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

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

16. Every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any

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

violence against, his superior officer whether or not such superior officer is in the execution of his office, shall be punished with penal servitude or such other punishment as is hereinafter mentioned.

Insubordination.

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

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

Desertion and Absence without Leave.

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

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

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

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

21. Every officer in command of any ship of His Majesty who shall receive or entertain any deserter from His Majesty's naval, military, or air forces, after discovering him

to be a deserter, and shall not with all convenient speed, in the case of a deserter from His Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the *Governor General in Council* or to the *Officer Commanding the Indian Navy*, or, in case of a deserter from His Majesty's military or air forces, give notice to the *Governor General in Council*, or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

22. If any person subject to this Act (with-
Punishment for break- out being guilty of deser-
 ing out of ship. tion) improperly leaves
 his ship or place of duty,
 he shall be liable to imprisonment or to such other punishment as is hereinafter mentioned, and to such other punishment by forfeiture of wages or of other benefits as the *Governor General in Council* from time to time by regulations prescribes.

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

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

25. If any person not subject to this Act assists
Penalty for assisting, or procures any person
 etc., desertion. subject to this Act to
 desert or improperly
 absent himself from his duty, or conceals, employs

or continues to employ any person subject to this Act, who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and * * * * every such penalty shall be applied as the Governor General in Council directs.

26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and * * * * every such penalty shall be applied as the Governor General in Council directs.

Miscellaneous Offences.

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

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

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

30. The officers of all ships of His Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions

in that behalf ; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expos the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death or such other punishment as is herein-after mentioned.

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

32. Every officer in command of any of His Majesty's ship; who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the *Governor General in Council* or his superior officer, shall be dismissed from His Majesty's service, or suffer such other punishment as is herein-after mentioned.

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

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat, or other craft or

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

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

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

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

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

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of His Majesty's ships and vessels of war, before the

same be adjudged lawful prize in some Admiralty Court ; but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the capture.

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

41. If the commanding officer of any of His Majesty's ships does any of the following things, namely,
Penalty for stripping or ill-using persons taken on board a prize.

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

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

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

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

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

OFFENCES PUNISHABLE BY ORDINARY LAW.

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

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

46. For all offences specified or referred to in
 this Act, if committed by
 Offences when punish- any person subject there-
 able. to in any harbour, haven,
 or creek, or on any lake or river, whether in or out of *British India*, or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of *British India*, or in any of His Majesty's dock-yards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to His Majesty or in any other premises held by or on behalf of the Crown for naval or military purposes, or in any canteen or sailors' home or any place of recreation placed at the disposal of or used by officers or men of His Majesty's Navy which may be prescribed by the *Governor General in Council*, whether in or out of *British India*, the offender may be tried and punished under this Act; and for all offences hereinbefore specified under the headings "misconduct in the presence of the enemy," "communications with the enemy," "neglect of duty," "mutiny," "insubordination," "desertion and absence without leave," or "miscellaneous offences," if committed by any person subject to this Act at any place on shore, whether in or out of *British India*, the offender may be tried and punished under this Act.

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

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

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

PART II.

GENERAL PROVISIONS.

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

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

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

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

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

PART III.

REGULATIONS AS TO PUNISHMENTS.

52. The following punishments may be inflicted
Punishments. in His Majesty's Navy :

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

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

53. The following regulations are hereby made
Regulations as to infliction of punishments. with respect to the infliction of punishments in His Majesty's Navy :—

- (1) *The powers to suspend, remit or commute sentences or punishment shall be the powers conferred by and shall be exercised in accordance with the provisions of sections 401 and 402 of the Code of Criminal Procedure, 1898, and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by the court-martial ; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification :*
- (2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence :
- (3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the *Governor General in Council* :
- (4) The punishment of penal servitude may be inflicted for the term of life or for any other term of not less than three years.

- (5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from His Majesty's service :
- (6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money, and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to, the offender, and an incapacity to serve His Majesty again in any military, naval, air force, or civil service, and may also in all cases be accompanied by a sentence of imprisonment :
- (7) The punishment of imprisonment may be inflicted for any term not exceeding two years and may be accompanied with a sentence of dismissal from His Majesty's service :
- (8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement ; and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods :
- (9) A sentence of imprisonment *may be rigorous or simple, or partly rigorous and partly simple,* and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour or either of them :
- (9A) The punishment of detention may be inflicted for any term not exceeding two years :
- Provided that, until naval detention quarters shall have been set apart and declared to be such by the Governor General in Council by notification in the Gazette of India, no sentence of detention shall be awarded :*
- (10) The punishment of imprisonment, or detention whether on board ship or on shore, shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment or detention : Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention :

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

All other punishments authorised by this Act may be inflicted in the manner heretofore in use in the navy.

53A. (1) Where a person other than a European or American is sentenced to penal servitude, the authority sentencing him shall record such sentence and the term thereof and at the same time shall record an order substituting for such sentence a sentence of transportation which may be for life, or of rigorous imprisonment not exceeding fourteen years.

Substitution of "imprisonment" for "penal servitude" in certain cases.

(2) For the purposes of this Act, unless there is anything repugnant in the subject or context, "penal servitude" includes transportation or rigorous imprisonment substituted for penal servitude in accordance with this section.

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

Limitation of time for trials.

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

Scale of punishment.

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

Authorities having power to try offences.

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

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

- (a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and
- (b) as respects persons on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and
- (c) as respects persons subject to this Act on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law by an order under section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command of those persons; and
- (d) as respects persons subject to this Act quartered in naval barracks, be exercised by the officer in command of those barracks.

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

57. The Governor General in Council may impose the punishment of forfeiture of time or seniority of not more than twelve months on any subordinate officer.

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

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

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

(4) The Governor General in Council may from time to time frame general orders for regulating the assembling, constitution and procedure and

practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections sixty-two to sixty-four and sections sixty-six to sixty-nine of this Act relating to courts-martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-Martial.

58. The following regulations are hereby made
Constitution of courts-martial. with respect to courts-martial :—

- (1) A court-martial shall consist of not less than five nor more than nine officers :
- (2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of His Majesty's navy on full pay :
- (3) A court-martial shall not be held unless at least two of His Majesty's ships, not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of His Majesty's navy on full pay, are together at the time when such court-martial is held :
- (4) No officer shall sit on a court-martial who is under twenty-one years of age :
- (5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank :
- (6) No court-martial for the trial of a captain in His Majesty's navy shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the court are commanders or officers of higher rank :
- (7) No court-martial for the trial of a person below the rank of captain in His Majesty's navy shall be duly constituted, unless the president is a captain or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the president two other members of the court are of the rank of commander or of higher rank :
- (8) The prosecutor shall not sit on any court-martial for the trial of a person whom he prosecutes :
- (9) The *Governor General in Council* shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of His Majesty's navy on full pay authorising him to order courts-martial to be held for the trial of such offences.

- (10) An officer holding a commission from the *Governor General in Council* to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself on full pay and in command of one or more of His Majesty's ships or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose :
- (11) If any officer holding a commission from the *Governor General in Council* to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the *Governor General in Council*, have the same power to order courts-martial as the first-mentioned officer was invested with :
- (12) If any officer holding a commission from the *Governor General in Council* to order courts-martial, and having the command of any fleet or squadron of His Majesty's ships in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of His Majesty's ships on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to *India*, or until he comes into the presence of a superior officer, empowered to order courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires :
- (13) The officer ordering a court-martial shall not sit thereon :
- (14) The President of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president :

- (15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof, shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander, lieutenant-commander or lieutenant sits on any court-martial the members of it shall not exceed five in number :
- (16) Subject to the foregoing regulations, whenever a court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captain being superintendents of His Majesty's dockyards, shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the *Governor General in Council*.

Proceedings of Courts-Martial.

59. A court-martial under this Act shall be held on board one of His Majesty's ships or vessels of war, unless the *Governor General in Council* or the officer who ordered the court-martial in any particular case for reasons to be recorded on the proceedings otherwise direct, in which case the court-martial shall be held at a port at such convenient place on shore as the *Governor General in Council* or the officer who ordered the court-martial shall direct.

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

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the *Governor General in Council*, or by the *Officer*

Commanding the Indian Navy, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the person charged, who shall be asked if he objects to being tried by any member of the court; if the person charged shall object to any member, the objection shall be decided by the court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations hereinbefore contained.

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

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

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

So help me God.’ :

Provided that an affirmation to the same effect in such terms as the Governor General in Council may prescribe in this behalf may be substituted for such oath.

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

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

So help me God.’ :

Provided that an affirmation to the same effect in such terms as the Governor General in Council may prescribe in this behalf may be substituted for such oath.

65. *The Governor General in Council may apply to the India: Navy such general orders altering and regulating the procedure and practice of courts-martial as may from time to time be framed by the Admiralty and approved by His Majesty in Council subject to such modifications as the Governor General in Council may deem necessary to adapt them to the circumstances of the Indian Navy:*

Provided that no modification shall be made which involves any racial discrimination.

66. Every person, civil, naval, and military, or belonging to the air force
Summoning witnesses. who may be required to give evidence before a court-martial shall be summoned by writing under the hand of a *Secretary to the Government of India*, or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial; and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or if such court be not sitting, then by any judge of the superior courts of Westminster or Dublin, or the court of session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such court-martial; and all witnesses so duly summoned as aforesaid who make default in attending on such courts, or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence, shall, upon certificate thereof under the hand of the president of such court-martial, be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Sessions, or Sheriff depute or stewarts depute, or their respective substitutes, within their several shires and stewartries in Scotland, or courts of law in the East or West Indies, or in any of His Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively, upon complaint made, in like manner as if such witness after having been duly summoned and subpoenaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn, or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence, or, if the court-martial shall think fit, in case any such person, who is subject to this Act, being called upon to give evidence at any court-martial, shall refuse or

neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, or, if the offender is a person liable to be sentenced to detention under this Act, by detention not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the *Governor General in Council*, or of the president of the court-martial on a foreign station.

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

Penalty on persons giving false evidence.

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the *Governor General in Council* thereupon are known, and it shall be lawful for the *Governor General in Council* to give orders for the safe custody of such person during His Majesty's pleasure in such place and in such manner as they shall think fit.

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

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the *Officer Commanding the Indian Navy* or senior officer, who shall transmit them to the *Governor General in Council* for the time being, and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence * * * (upon payment for the same at the rate of *three annas* per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court.

Report of proceedings of courts-martial to be transmitted.

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

Evidence of rank, etc., of officers.

PART V.

PENAL SERVITUDE AND PRISONS.

Penal Servitude.

70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in *British India* of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly; and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in *British India* can be confined either permanently or temporarily, and the order of the *Governor General in Council* or of the *Officer Commanding the Indian Navy*, or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for detaining him in naval custody, or in any civil prison or place of confinement

* * * * *

72. In case any such offender shall be conveyed to any prison, not being a naval prison appointed by virtue of this Act, an allowance such as the *Governor General in Council* shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender while he is detained therein, and such allowance shall be paid by order of the *Governor General in Council* upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before a *Magistrate*, of the number of days during which the offender has been so detained and subsisted in such gaol or prison.

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of detention, imprisonment, or penal servitude, passed upon him under this Act for a former offence, the court may award sentence of detention, imprisonment, or penal servitude for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude to which he has been previously sentenced, although the aggregate of the terms of detention, imprisonment, or penal servitude may exceed the term for which any of those punishments could be otherwise awarded:

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

Prisons.

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

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

(3) Where in pursuance of this Act a person is sentenced to imprisonment or detention the order of the *Governor General in Council* or of the *Officer Commanding the Indian Navy*, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, there to undergo his sentence according to law, and until he reaches such place of imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to imprisonment in any civil prison or place of confinement.

74A. Where a person has been sentenced to penal servitude or imprisonment or detention the *Governor General in Council* or officer who by virtue of sub-section (3) of section seventy-four of this Act has power to issue an order of committal (hereinafter in this section referred to as "the committing authority")

Power to suspend sentences.

may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

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

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

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

75. Whenever it is deemed expedient it shall be lawful for the *Governor General in Council*, the *Officer Commanding the Indian Navy*, or senior naval officer present by any order in writing from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison or naval detention quarters; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with a copy of such order of removal, attested by a *Secretary to the Government of India* for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

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

* * * * *

78. Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the *Governor General in Council*, or where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the *Governor General in Council*, to give an order in writing directing that the offender be

discharged; and it shall also be lawful for the *Governor General in Council*, and any officer commanding any of His Majesty's ships, by order in writing, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness, or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

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

80. If any person imprisoned or undergoing detention by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the *Governor General in Council* shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in *British India* as he may judge proper for the unexpired term of his imprisonment or detention; and if any such person shall in the same manner be certified to be again of sound mind, the *Governor General in Council* may issue a warrant for his being removed to such prison or place of confinement or in the case of a person sentenced to detention, such naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly. This section shall not apply to persons imprisoned in England.

81. (1) The *Governor General in Council* may set apart any buildings or vessels, or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters respectively within the meaning of this Act.

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

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

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

PART VI.

SUPPLEMENTAL PROVISIONS.

84. This Act may be cited for all purposes as
 Short title. the Naval Discipline Act.

85. Except as otherwise provided, this Act shall
 be in force within the
 Extent and repeal. United Kingdom; and as
 regards the United King-
 dom the enactments described in the schedule to
 this Act shall be repealed from and after one
 calendar month from the passing hereof; and as
 regards elsewhere this Act shall be in force, and
 the said enactments shall be repealed, from and
 after six calendar months from the passing here-
 of.

86. In the construction of this Act, unless there
 be something in the
 Definition of terms. context or subject matter
 repugnant to or inconsistent with such construc-
 tion,

“Admiralty,” or “the Lords of the Admiralty,”
 shall mean the Lord High Admiral for the time be-
 ing of the United Kingdom of Great Britain and
 Ireland, and when there shall be no such Lord
 High Admiral in office, any two or more of the
 Commissioners for executing the office of Lord
 High Admiral of the United Kingdom; •

“Officer” shall mean an officer belonging to
 one of His Majesty’s ships, and shall include a
 subordinate and a warrant officer, other than
 a warrant officer, Class II, of the Royal Marines,
 and shall include also a person holding any such
 position in the Indian Naval Volunteer Reserve
 during and in respect of the time when he is serving
 in the Indian Navy, but shall not extend to petty
 and non-commissioned officers;

When the words “superior officer” are used
 in this Act they shall be held to include all officers,
 warrant officers, petty and non-commissioned
 officers.

87. Every person in or belonging to His Majes-
 ty’s Navy, and borne on
 Person subject to this the books of any one of
 Act. His Majesty’s ships in
 commission and every member of the Indian Naval
 Volunteer Reserve during and in respect of the
 time when he is serving in the Indian Navy,
 whether for training or exercise or having been
 called up for any duty or service for which as a
 member of such Reserve he is liable, shall be subject
 to this Act; and all other persons hereby or by any
 other Act made liable thereto shall be triable and
 punishable under the provisions of this Act.

88. His Majesty’s land and air forces, when
 embarked on board any
 Land and air forces, of His Majesty’s ships,
 embarked as passengers. shall be subject to the pro-
 visions of this Act to such extent and under
 such regulations as His Majesty, His heirs and
 successors, by any Order or Orders in Council
 shall at any time or times direct.

89. All other persons ordered to be received or
 being passengers on board
 Other persons em- any of His Majesty’s ships
 barked as passengers. shall be deemed to be
 persons subject to this Act, under such regulations

as the *Governor General in Council* may from time to time direct.

90. With respect to vessels in His Majesty's service in time of war, whether belonging to His Majesty or not, which are not wholly manned by naval ratings, but being either armed or under the command of an officer in His Majesty's naval service, the following provisions shall take effect if in any case the *Governor General in Council* thinks fit so to direct, and where such direction is given the same shall be specified in the ship's articles :

- (1) Every person borne on the books of any such vessel shall be subject to this Act :
- (2) Any offence committed by any such person shall be tried and punished as the like offence might be tried and punished if committed by any person in or belonging to His Majesty's Navy and borne on the books of any of His Majesty's ships in commission :
- (3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial :
- (4) On application made to the *Governor General in Council*, or to the *Officer Commanding the Indian Navy*, or senior officer of any of His Majesty's ships or vessels of war abroad authorised to assemble and hold courts-martial, the *Governor General in Council*, *Officer Commanding the Indian Navy*, or senior officer (as the case may be) shall assemble and hold a court-martial for the trial of the offender :
- (5) The officer commanding every such vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of His Majesty's ships has for the time being in respect of the officers and crew thereof or other persons on board the same : Provided that in the absence of the officer commanding such vessel, the officer commanding the ship or vessel or station in which such person may for the time being be held in custody shall have such power as aforesaid :
- (6) The *Officer Commanding the Indian Navy* and senior naval officer in His Majesty's service shall have the same powers over the officers and crew of every such vessel as they have for the time being over the officers and crew of any of His Majesty's ships.

90A. (1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's military forces acting with, or is attached to, any body of His Majesty's naval forces under such conditions as may be prescribed by regulations made by the Admiralty and

Provisions respecting discipline in ships in His Majesty's service in war.

Relations between military, naval, and air forces acting together.

Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

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

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

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

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

90B. (1) Any person in or belonging to His Majesty's Navy and any officer or man of the Royal Marines who, by order of the Admiralty or of the Commander-in-Chief or the Senior Naval Officer present on a foreign station, is serving in a ship of or belonging to the naval forces of a self-governing Dominion or of India (provided such ship is not at the time placed

Provisions respecting naval officers and seamen in ships of self-governing Dominions.

at the disposal of the Admiralty), or in a naval establishment of a self-governing Dominion or of India or who is on board such ship or in such establishment as aforesaid awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such self-governing Dominion or of India.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

90C. (1) *Any person in or belonging to the Indian Navy, who, by order of the Governor General in Council, is serving in a ship belonging to His Majesty's Navy or to the naval forces of a*

Persons serving in a ship of the Royal or Dominion Navy to be subject to the laws and customs thereof.

self-governing Dominion or in a naval establishment of His Majesty's Navy or a self-governing Dominion, or who is on board any such ship or in any such establishment awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the Royal Navy or the ships and naval forces of the self-governing Dominion, as the case may be.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

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

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew of any such ship, together, before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the matters then under inquiry, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

93. When deemed necessary by the Governor General in Council or any officer authorised to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in

respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

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

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

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

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

98. If any petty officer or seaman, non-commissioned officer of marines or marine, is arrested in contravention of the provisions of the

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

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

* * *

(2) Where—

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

or of the cost of any relief given to his wife or child by way of loan, and a copy of such *decree or order* is sent to the *Governor General in Council* or any person deputed by *him* for the purpose;

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

Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by a *decree or order* as aforesaid shall be ordered unless the *Governor General in Council*, or the person deputed by *him* is satisfied that the person against whom the *decree or order* was made has had a reasonable opportunity of appearing himself, or has appeared

by a duly authorised legal representative, to defend the case before the court by which the *decree or order* was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

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

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

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

Where, by a *decree or order* sent to the *Governor General in Council* or officer in accordance with subsection (2) of this section, the person against whom the *decree or order* is made is adjudged to pay as costs incurred in obtaining the *decree or order* any sum so left with the process as aforesaid, the *Governor General in Council* may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the *Governor General in Council* shall be a public debt from the person against

whom the *decree or order* was made, and, without prejudice to any other method of recovery, may be recovered by reduction from his pay, in addition to those mentioned in sub-section (2) of this section.

(4) This section shall not apply to persons subject to this Act where such persons are officers.

(5) In this section the expression "pay" includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions, and clothing.

PART VII.

SAVING CLAUSE.

* * * * *

100. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of His Majesty the King in right of His Crown, or in right of His Office of Admiralty or any right or power of the Admiralty.

Nothing to take away prerogative of the Crown, or rights or powers of Admiralty.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in His Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognisable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act.

Act not to supersede authority of ordinary courts.

PART VIII.

PRINTING CLAUSE.

102. (1) Every enactment and word which is directed by any Act amending this Act to be substituted for or added to any portion of this Act shall form part of this Act in the place assigned it by the amending Act, and this Act and all Acts which refer thereto shall, after the commencement of the amending Act, be construed as if that enactment or word had been originally enacted in this Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if this Act had been enacted with the omission of any enactment or word which is directed by the amending Act to be repealed or omitted from this Act, and the expression "this Act" shall be construed accordingly.

Printing and construction of Naval Discipline Act.

(2) A copy of this Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of this Act directed by any such amending Act as aforesaid to be repealed or omitted from this Act, shall be

prepared and certified by the Clerk of the Parliament and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of this Act which are printed after the commencement of such amending Act.

(3) A reference in any enactment, Order in Council, or other document, to the Naval Discipline Act shall, unless the context otherwise requires, be construed as a reference to this Act as amended by any enactment for the time being in force.

THE SCHEDULE.

Enactments repealed.

11 Geo. 4 & 1 Will. 4 c. 20, in part.	An Act to amend and consolidate the laws relating to the pay of the Royal navy.	} in part; namely,—
	Section eighty.	
10 & 11 Vict. c. 62, in part.	An Act for the estab- lishment of naval pri- sons, and for the pre- vention of desertion from Her Majesty's navy.	} in part; namely:—
	Section eleven.	
27 & 28 Vict. c. 119.	The Naval Discipline Act, 1864.	
28 & 29 Vict. c. 115.	The Naval Discipline Act Amendment Act, 1865.	

THE SECOND SCHEDULE.

(See section 4.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1887	XIV	The Indian Marine Act, 1887.	The whole.
1888	XVII	The Indian Marine Act (1887) Amendment Act, 1888.	The whole.
1899	I	The Indian Marine Act (1887) Amendment Act, 1899.	The whole.
1921	X	The Indian Marine (Amendment) Act, 1921.	The whole.
1933	I	The Indian Marine (Amendment) Act, 1933.	The whole.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY DE-
PARTMENT.

Report of the Select Committee on the Bill
to provide for the application of the
Naval Discipline Act to the Indian
Navy; with the Bill as amended,