THE BURMA NAVAL DISCIPLINE ACT.

CONTENTS.

Sections.
1. Commencement.

PART 1.

ARTICLES OF WAR.

Public Worship.

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

Communications with the Enemy.

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

Neglect of duty.

10. Penalty for abandoning post, etc.

Mutiny.

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

Insubordination.

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

Desertion and absence without Leave.

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

Miscellaneous offences.

28. Penalty for swearing and other immorality.
29. Penalty on officer for cruelty or oppression.
Burmia Naval Discipline.

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

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

PART II.

GENERAL PROVISIONS.

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

PART III.

PROVISIONS AS TO PUNISHMENTS.

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

Courts-Martial.

Sections.

Constitution of Courts-Martial.


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

PART VI.

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

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

PART VII.

Saving Clause.

100. Act not to supersede authority of ordinary Courts.

SCHEDULE.—Table Showing Relative Ranks.

THE BURMA NAVAL DISCIPLINE ACT.

[Burma Act LXXXI, 1947.] (24th December, 1947.)

It is hereby enacted as follows:

1. This Act shall come into force on such date as the President of the Union may, by notification in the Gazette, appoint.

PART I.

Articles of War.

Public Worship.

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

Misconduct in the Presence of the Enemy.

3. Every flag officer, captain, commander or officer commanding subject to this Act, who upon signal of battle or on sight of a ship of an enemy which it may be his duty to engage,

(1) does not use his utmost exertions to bring his ship into action;
(2) or does not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously;
(3) or who surrenders his ship to the enemy when capable of making a successful defence, or who in time of action improperly withdraws from the fight,
shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, he shall be dismissed from naval service, with or without disgrace, or shall suffer such other punishment as is hereinafter mentioned.

156  Burma Naval Discipline.

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

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

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

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

8. Every person subject to this Act who—
   (1) traitorously holds correspondence with or gives intelligence to the enemy;
   (2) or fails to make known to the proper authorities any information he may have received from the enemy;
   (3) or who relieves the enemy with any supplies, shall suffer death, or such other punishment as is hereinafter mentioned.

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

10. Every person subject to this Act who deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, shall be dismissed from naval service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

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

1 Inserted by Act 1, 1953.
12. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is hereinafter mentioned; and all other persons who join in such mutiny, or do not use their utmost exertions to suppress the same, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

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

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

15. Every person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly or utters any words of sedition or mutiny, shall suffer transportation or such other punishment as is hereinafter mentioned.

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

17. Every person subject to this Act who strikes or attempts to strike, or draws or lifts up any weapon against, or uses or attempts to use any violence against his superior officer, whether or not such superior officer is in the execution of his office, shall be punished with transportation or such other punishment as is hereinafter mentioned.

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

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

Desertion and absence without Leave.

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

(1) if he has deserted to the enemy, he shall be punished with death or
such other punishment as is hereinafter mentioned;

(2) if he has deserted under any other circumstances, he shall be punished
with transportation or such other punishment as is hereinafter
mentioned;

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

21. Every person subject to this Act who endeavours to seduce any other
person subject to this Act to desert shall suffer imprisonment or such other punish­
ment as is hereinafter mentioned.

22. Every officer in command of any Government ship in commission who
receives or entertains any deserter from the Burma naval, military, or air forces,
after discovering him to be a deserter, and does not with all convenient speed,
in the case of a deserter from the Burma naval forces, give notice to the com­
manding officer of the ship to which such deserter belongs, or, if such ship is at a
distance, to the President of the Union or the Officer Commanding the
Burma Navy, or, in case of a deserter from the Burma military or air forces, give
notice to the President of the Union or the commanding officer of the regiment
or unit to which such deserter belongs, the officer so offending shall be dismissed
from naval service, or shall suffer such other punishment as is hereinafter
mentioned.

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

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

25. If any person subject to this Act is absent without leave for a period of
one month (whether he is guilty of desertion or of improperly leaving his ship or
place of duty or not), but is not apprehended and tried for his offence, he shall be
liable to forfeiture of wages and other benefits as the President of the Union from
time to time by regulations prescribes, and the President of the Union may by an
order containing a statement of the absence without leave direct that the clothes

1 Inserted by Act I. 1953.
26. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs or continues to employ any person subject to this Act, who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall, for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the President of the Union directs.

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

Miscellaneous offences.

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

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

30. Every person subject to this Act who either designedly or negligently or by any default loses, strands, or hazards, or suffers to be lost, stranded, or hazarded, any Government ship in commission or in Government service, or loses or suffers to be lost any aircraft of the Government or in Government service, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

31. The officers of all ships of the Government in commission appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who fails in his duty in this respect, and does not defend the ships and goods under his convoy, without deviation to any other objects, or refuses to fight in their defence if they are assailed, or cowardly abandons and exposes the ships in his convoy to hazard, or demands or exacts any money or other reward from any merchant or master for conveying any ships or vessels entrusted to his care, or
misuses the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the High Court exercising Admiralty jurisdiction may adjudge; and shall also be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

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

33. Every master or other officer in command of any merchant or other vessel to obey orders of convoying officer.

34. Every person subject to this Act who wastefully expends, embezzles, or fraudulently buys, sells, or receives any ammunition, provisions, or other public stores, including any goods or merchandise whatsoever, other than for the sole use of the ship, except goods and merchandise belonging to any merchant or on board any ship which may be shipwrecked or in imminent danger, floating open sea, 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.

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

36. Every person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels, or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

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

38. Every person subject to this Act who has any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or to the officer commanding the Burma Navy, and the said superior, captain, or officer shall, as far as he is able, cause the same to be presently remedied; and no person subject
39. All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the High Court exercising Admiralty jurisdiction or such court or commissioners as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from naval service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

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

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

42. If the commanding officer of any of the Government ships in commission does any of the following things, namely,

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

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

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

44. Every person subject to this Act who is guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be dismissed from naval service, with disgrace, or suffer such other punishment as is hereinafter mentioned.
45. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death [or transportation], shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

Offences Punishable by Ordinary Law.

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

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

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

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

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

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

1 Inserted by Act I, 1953.
PART II.

GENERAL PROVISIONS.

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

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

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

52. Every officer in command of a fleet or squadron of the Government ships in commission, or of one of the Government ships in commission, or the senior officer present at a port, or an officer having by virtue of sub-section (3) of section 58 of this Act power to try offences, may, by warrant under his hand, authorize any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension if the warrant so directs, be taken on board the ship to which he belongs, or some other of the Government ships in commission; and any person so authorized may use force, if necessary, for the purpose of effecting such apprehensions towards any person subject of this Act.

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

PART III.

PROVISIONS AS TO PUNISHMENTS.

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

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<th>Punishment</th>
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<td>(1) Death</td>
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<td>(1A) Transportation</td>
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<td>(2) Dismissal with disgrace from naval service</td>
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<td>(3) Imprisonment or corporal punishment</td>
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<td>(4) Detention</td>
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<td>(5) Dismissal from naval service</td>
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<td>(6) Forfeiture of seniority as an officer for a specified time, or otherwise</td>
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<td>(7) Dismissal from the ship to which the offender belongs</td>
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<td>(8) Severe reprimand, or reprimand</td>
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<td>(9) Disrating a subordinate or petty officer</td>
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(10) Forfeiture of pay, head money, bounty, salvage, prize money, and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs;

(11) Such minor punishments as are now inflicted according to the custom of the Navy, or may, from time to time, be allowed by the President of the Union.

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

Provisions as to infliction of punishments.

55. The following provisions are hereby made with respect to the infliction of punishments in the Burma Navy:

(1) The powers to suspend, remit or commute sentences or punishment shall be the powers conferred by and shall be exercised in accordance with the provisions of sections 401 and 402 of the Code of Criminal Procedure, and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed with such modification by the court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification;

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

(3) No finding of sentence or a court-martial or a disciplinary court shall be valid except so far as it may be confirmed by the President of the Union or by any officer empowered in this behalf by commission of the President of the Union, which may contain such restrictions or conditions as the President of the Union may think fit to prescribe;

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

(3B) Where a sentence of transportation is passed, the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to be undergoing his sentence of transportation during the term of his imprisonment;

(3C) The punishment of transportation shall in all cases involve dismissal with disgrace from the naval service;

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

(5) The punishment of imprisonment may be inflicted for any term not exceeding [five]¹ years and may be accompanied with a sentence of dismissal from naval service;

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¹ Substituted by Act I, 1953.
² Inserted ibid.
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.

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.

The punishment of detention may be inflicted for any term not exceeding two years:

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

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

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

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

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

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

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 hereinafter mentioned; but corporal punishment shall be deemed equal in degree to imprisonment, and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.
58. (1) Any offence triable under this Act may be tried and punished by court-martial.

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

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

(a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and, in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and

(b) as respects persons on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and

(c) as respects persons subject to this Act, on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law, be exercised by the officer in immediate command of those persons; and

(d) as respects persons subject to this Act, quartered in naval barracks, be exercised by the officer in command of those barracks.

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

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

60. (1) Where any officer borne on the books of any of the Government ships in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section 16, 19, 20, 23, 24, 28 or 44 of this Act, the officer having power to order a court-martial may, if he considers that the offence is of such a character as not to necessitate trial by court-martial, in lieu of ordering a court-martial order a disciplinary court constituted as hereinafter mentioned.

(2) A disciplinary court shall be composed of not less than three nor more than five officers, of whom one shall be [a lieutenant-commander]¹ or of higher rank.

¹ Inserted by Act 1, 1933.
² Substituted ibid.
(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(4) The President of the Union may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections 65 to 67 and sections 69 to 72 of this Act relating to courts-martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-Martial.

61. The following provisions are hereby made with respect to courts-martial:

(1) A court-martial shall consist of not less than five nor more than nine officers;

(2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of the Burma Navy on full pay;

(3) A court-martial shall not be held unless at least two of the Government ships in commission not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of the Burma Navy on full pay, are together at the time when such court-martial is held;

(4) No officer shall sit on a court-martial who is under twenty-one years of age;

(5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank;

(6) No court-martial for the trial of a captain in the Burma Navy shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the court are commanders or officers of higher rank;

(7) No court-martial for the trial of a commander in the Burma Navy shall be duly constituted unless the president and one other member of the court are of the rank of commander or of higher rank;

(7A) No court-martial for the trial of a person below the rank of a commander in the Burma Navy shall be duly constituted unless the president is a lieutenant-commander or of higher rank;

(8) The prosecutor shall not sit on any court-martial for the trial of a person whom he prosecutes;

(9) The President of the Union shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of the Burma Navy authorizing him to order courts-martial to be held for the trial of such offences;

(10) An officer holding a commission from the President of the Union to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself on full pay and in command of his commission.
one or more of the Government ships in commission, or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose;

(11) If any officer holding a commission from the President of the Union to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the President of the Union, have the same power to order courts-martial as the first-mentioned officer was invested with;

(12) If any officer holding a commission from the President of the Union to order courts-martial and having the command of any fleet or squadron of the Government ships in commission in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the second-mentioned case the senior officer of the Government ships in commission on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to the Union of Burma or until he comes into the presence of a superior officer, empowered to order courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires;

(13) The officer ordering a court-martial shall not sit thereon;

(14) The president of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president;

(15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be held (but the regularity or validity of any court-martial, or of the proceedings thereof, shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander, lieutenant-commander or lieutenant sits on any court-martial the members of it shall not exceed five in number;

(16) Subject to the foregoing regulations, whenever a court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where
Burma Naval Discipline.

the court-martial shall be held to sit thereon, until the number of
nine, or such number, not less than five, as is attainable, is
complete.


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

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

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

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

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

"I do swear, that I will duly administer justice according to law, without
partiality, favour, or affection; and I do further swear, that I will
not on any account, at any time whatsoever, disclose or discover
the vote or opinion of any particular member of this court-martial,
unless thereunto required in due course of law":
Provided that an affirmation to the same effect in such terms as the
President of the Union may prescribe in this behalf may be substituted
for such oath.

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

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

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

68. The President of the Union may make such general orders regulating
procedure and practice of courts-martial as he may from time to time deem
necessary.

69. Every person, civil, naval, and military, or belonging to the air force,
who may be required to give evidence before a court-martial shall be summoned
by writing under the hand of a Secretary to the Government of the Union of
Burma, or by the deputy judge advocate, or the person appointed to officiate as
deputy judge advocate at the trial; and all persons so summoned and attending as
witnesses before any court-martial shall, during their necessary attendance in or on
such court, and in going to and returning from the same, be privileged from arrest,
and shall, if unduly arrested, be discharged by the Court out of which the writ
or process issued by which such witness was arrested, or, if the court-martial
thinks fit, in case any such person, who is subject to this Act, being
called upon to give evidence at any court-martial, refuses or neglects to
attend to give his evidence upon oath or affirmation, or prevaricates in his
evidence, or behaves with contempt to the court, such court-martial may punish
every such offender by imprisonment, or, if the offender is a person liable to be
sentenced to detention under this Act, by detention not longer than three months
in case of such refusal, neglect, or prevarication, or longer than one month in
the case of such contempt; and every person not subject to this Act who may be
so summoned to attend shall be allowed and paid his reasonable expenses for such
attendance, under the authority of the President of the Union or of the president
of the court-martial on a foreign station.

70. Every person who, upon any examination upon oath or upon
affirmation before any court-martial held in pursuance of this Act, makes any
statement which is false and which he either knows or believes to be false or
does not believe to be true, shall be deemed to have committed the offence of
giving false evidence; and every such offence, wheresoever committed, shall be
triable and punishable in the Union of Burma.
71. Where it appears upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the President of the Union thereupon are known, and it shall be lawful for the President of the Union to give orders for the safe custody of such person for such time, in such place, and in such manner as he thinks fit.

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

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

73A. Subject to such restrictions or conditions as may be contained in any commission issued under section 55 (3), the confirming officer may, when confirming the sentence of a court-martial or a disciplinary court, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial or the disciplinary court.

73B. (1) Any finding or sentence of a court-martial or a disciplinary court which requires confirmation may be once revised by order of the confirming officer: and on such revision, the court, if so directed by him, may take additional evidence.

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

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

73C. (1) Where a finding of guilty by a court-martial or a disciplinary court, which has been confirmed, is found for any reason to be invalid or cannot be supported by the evidence, the President of the Union or the officer empowered by him in this behalf may substitute a new finding, if the new finding could have been validly made by the court on the charge and if it appears that the court must have been satisfied of the facts establishing the offence specified or involved in the new finding, and may pass a sentence for the said offence.

(2) Where a sentence passed by a court-martial or a disciplinary court, which has been confirmed, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the President of the Union or the officer empowered by him in this behalf may pass a valid sentence.

1 In section 72, the words "or senior officer, who shall transmit them to the President of the Union for the time being" were deleted by Act I, 1953.

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

PART V.

PRISONS.

Transportation or imprisonment of offender already under sentence for previous offence.

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

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

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

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

(3) Where in pursuance of this Act a person is sentenced to [transportation or imprisonment] or detention the order of the President of the Union or of the Officer Commanding the Burma Navy, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced

1 Substituted by Act 1, 1953.
by the commanding officer of a ship, the order of such commanding officer shall be a sufficient warrant for the sending of such person to the place of transportation or imprisonment or detention, there to undergo his sentence according to law, and until he reaches such place of transportation or imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to transportation or imprisonment in any civil prison or place of confinement.

76. Where a person has been sentenced to transportation or imprisonment or detention the President of the Union or officer who by virtue of sub-section (3) of section 75 of this Act has power to issue an order of committal (hereinafter in this section referred to as “the committing authority”) may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

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

(b) the case may at any time, and shall at intervals of not more than three months, be reconsidered by the President of the Union, or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, and if on any such reconsideration it appears to the President of the Union or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the President of the Union or committing authority or officer shall remit the whole or any part of it;

(c) subject to regulations made by the President of the Union the President of the Union or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;

(d) where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to transportation or imprisonment or detention for any other offence then, if he at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment for a period exceeding the aggregate of five consecutive years or to undergo detention for a period exceeding the aggregate of two consecutive years, and where the sentence of such other offence is a sentence of transportation, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided.

[Where a person has been sentenced to transportation or imprisonment or detention and an order of committal has been issued, the President of the Union or the committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, may order the sentence to be suspended, and in such case the person whose sentence is suspended shall be discharged and

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1 Substituted by Act 1, 1953.
2 Inserted ibid.
the currency of the sentence shall be suspended until he is again committed under
the same sentence, and the foregoing paragraphs (b), (c) and (d) of this section
shall apply in like manner as in the case where a sentence has been suspended
before an order of committal has been issued.

Where a sentence is suspended under this section, whether before or after
committal, the President of the Union or, subject to any regulation or direction
which may be issued by the President of the Union, the committing authority or
officer by whom the sentence is suspended may, notwithstanding anything in
section 55 of this Act, direct that any penalty which is involved by [the punishment
of transportation or imprisonment or detention] either shall be or shall not be
remitted or suspended.

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

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

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

1 Substituted by Act 1, 1923.
80. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence for whatever purpose he is so detained; and the Governor, Gaoler, Keeper, or Superintendent who shall deliver over any such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

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

82. (1) The President of the Union may set apart any buildings or vessels or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessel, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters, respectively, within the meaning of this Act.

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

(a) for the government, management and regulation of such naval prisons or detention quarters;
(b) for the appointment and removal and powers of inspectors, visitors, superintendents and officers thereof;
(c) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence; and
(d) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners;

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

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

83. If any person conveys or causes to be conveyed into any such naval prison or any such naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention or by any means whatever aids any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, such person shall be punished with imprisonment, which may be either rigorous or simple, for a term not exceeding fourteen years; and if any person brings or attempts to bring into such prison or naval detention quarters, in contravention of the rules, any spirituous or fermented liquor, he shall, for every such offence, be liable to a penalty not exceeding two hundred rupees and not less than one hundred rupees; and if any person brings into such prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge

Penalties on aiding escape or attempt to escape of prisoners and on breach of prison regulations.
or command thereof, any money, clothing, provisions, tobacco, letters, papers, or
other articles not allowed by rules of the prison or naval detention quarters, to be
in the possession of a prisoner or person undergoing detention, or thrown into the
said prison or naval detention quarters any such articles, or by desire of any
prisoner or person undergoing detention, without the sanction of the said officer,
carries out of the prison or naval detention quarters any of the articles aforesaid,
he shall for every such offence be liable to a penalty not exceeding fifty rupees;
and if any person interrupts any officer of such prison or naval detention quarters
in the execution of his duty, or aids or excites any person to assault, resist, or
interrupt any such officer, he shall for every such offence be liable to a penalty not
exceeding fifty rupees; or if the offender is a prisoner or person undergoing
detention, he shall be punished with imprisonment, which may be either rigorous
or simple, for any time not exceeding six calendar months, in addition to so much
of the time for which he was originally sentenced as may be then unexpired, and
every such penalty shall be applied as the President of the Union shall direct, any
law, statute, charter, or custom to the contrary notwithstanding.

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

PART VI.

85. Every person in or belonging to the Burma Navy, and borne on the
books of any one of the Government ships in commission and every member
of the Burma Naval Volunteer Reserve during and in respect of the time when
he is serving in the Burma Navy, whether for training or exercise or having been
called up for any duty or service in the Burma Navy, shall be subject to this Act;
and all other persons hereby or by any other Act made liable thereto shall be
triable and punishable under the provisions of this Act.

86. The Burma land and air forces, when embarked on board any of the
Government ships in commission, shall be subject to the provisions of this Act to
such extent and under such regulations as the President of the Union, by any
order or orders, shall at any time or times direct.

87. All other persons ordered to be received or being passengers on board
any of the Government ships in commission shall be deemed to be persons
subject to this Act, under such regulations as the President of the Union may
time from time direct.

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

(1) Every person borne on the books of any such vessel shall be subject
to this Act;

(2) Any offence committed by any such person shall be tried and
punished as the like offence might be tried and punished if
committed by any person in or belonging to the Burma Navy and
borne on the books of any of the Government ships in commission;

(3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial;

(4) On application made to the President of the Union or to the Officer Commanding the Burma Navy or senior officer of any of the Government ships in commission or vessels of war abroad authorised to assemble and hold courts-martial, the President of the Union, Officer Commanding the Burma Navy or senior officer (as the case may be) shall assemble and hold a court-martial for the trial of the offender;

(5) The officer commanding every such vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of the Government ships in commission has for the time being in respect of the officers and crew thereof or other persons on board the same: Provided that in the absence of the officer commanding such vessel, the officer commanding the ship or vessel or station in which such person may for the time being be held in custody shall have such power as aforesaid;

(6) The Officer Commanding the Burma Navy and senior naval officer in the naval service shall have the same powers over the officers and crew of every such vessel as they have for the time being over the officers and crew of any of the Government ships in commission.

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

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

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

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

(4A) Whenever persons subject to this Act are serving whether within or without the Union of Burma under an officer not subject to this Act, the President of the Union may prescribe the officer by whom the powers, which, under this Act, may be exercised by officers commanding ships and shore establishments, shall, as regards such persons, be exercised.

(4B) The President of the Union may confer such powers either absolutely or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

(5) The relative rank of naval and military and air force officers, petty officers and non-commissioned officers shall, for the purposes of this section, be such as is indicated in the Schedule to this Act.

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

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

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

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

94. When any ship of the Burma Navy is wrecked, lost, or otherwise destroyed, or taken by the enemy, if it appears by the sentence of a court martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy, did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well and

Inserted by Act I, 1953.
been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of the Burma Navy, or dying.

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

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

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

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

(2) Where—

(a) it appears to the satisfaction of the President of the Union or any person deputed by him for the purpose that a person subject to this Act has deserted or left in destitute circumstances without reasonable cause, his wife or any of his legitimate children under fourteen years of age; or

(b) any decree or order is made under any law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of the cost of any relief given to his wife or child by way of loan, and a copy of such decree or order is sent to the President of the Union or any person deputed by him for the purpose;

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

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

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

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

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

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

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

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

99. (1) The President of the Union may make rules to carry out the purposes of this Act not otherwise specifically provided for.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be liable to punishments mentioned in this Act.

99A. The President of the Union may dismiss from naval service any person subject to this Act.

PART VII.

SAVING CLAUSE.

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

SCHEDULE.

Table showing Relative Ranks.

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

* Junior to Army ranks.

1 Inserted by Act I, 1953