THE BURMA NAVAL VOLUNTEER RESERVE (DISCIPLINE) ACT.

[BURMA ACT XV, 1940] (6th September, 1940.)

1. (1) This Act may be called the Burma Naval Volunteer Reserve (Discipline) Act.

(2) It extends to the whole of the Union of Burma and applies to members of the Burma Naval Volunteer Reserve wherever they may be.

2. The President of the Union may make rules for the government, discipline and regulation of the Burma Naval Volunteer Reserve.

3. (1) Subject to the provisions of section 4, the Naval Discipline Act shall apply to the Burma Naval Volunteer Reserve and ships raised and provided by the President of the Union as if that Act were in the form in which it is set forth in the Schedule to this Act.

(2) * * * *

4. Every member of the Burma Naval Volunteer Reserve while undergoing training or serving on board any vessel or otherwise, in pursuance of rules made under section 2, shall be subject to the Naval Discipline Act as set out in the Schedule to this Act and shall continue to be so subject until duly released from such training or service, as the case may be.

5. (1) If any member of the Burma Naval Volunteer Reserve, when required, in pursuance of rules made under section 2, to attend on board any vessel or at any place for the purpose of undergoing training, fails without reasonable excuse to attend in accordance with such requirement, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any member of the Burma Naval Volunteer Reserve, when called into service and required by such call to join any vessel or attend at any place, fails without reasonable excuse to comply with such requirement at or within such time as the President of the Union may, by order, direct, he shall be liable to be apprehended and punished in the same manner as a person in or belonging to [the Burma Navy] deserting or improperly absenting himself from duty, except that the punishment shall not exceed imprisonment which may extend to two years.

6. Where any member of the Burma Naval Volunteer Reserve is required, in pursuance of rules made under section 2, to attend on board any vessel or at any place for the purpose of undergoing training, or is called into service, a certificate purporting to be signed by an officer appointed in this behalf under the said rules and stating that the said member failed to attend in accordance with such requirement or call shall, without proof of the signature or appointment of such officer, be evidence of the matter stated therein.

7. No Court inferior to that of a Magistrate of the first class shall try an offence punishable under section 5.

8. * * * *

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
2 For rules made under the Burma Naval Volunteer Reserve Force (Discipline) Ordinance, 1939 (Ordinance VI of 1939), now repealed by s. 3 of this Act, see Burma Gazette, 1940, Part 1, p. 691.
3 Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
THE NAVAL DISCIPLINE ACT.
(29 & 30 Vict., c. 109.)
(As modified for application to the Burma Naval Volunteer Reserve.)

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

PART I.

ARTICLES OF WAR.

Public Worship.

Facilities for the performance of religious duties.

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

Penalty for misconduct in action.

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

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

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

Penalty for not pursuing the enemy, and of not assisting a friend in view.

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

Penalty for delaying or discouraging the service, or deserting his post, etc.

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

1 Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
5. Every person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

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

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

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

Neglect of Duty.

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

Mutiny.

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

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

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

1 See footnote to s. 52 (2) at p. 70.
2 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
13. Every person, not otherwise subject to this Act, who, being on board any Government ship, shall endeavour to seduce from his duty or allegiance to the Constitution any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

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

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

16. Every person subject to this Act who shall strike or attempt to strike or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer, whether or not such superior officer is in the execution of his office, shall be punished with penal servitude or such other punishment as is hereinafter mentioned.

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

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

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

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

2. If he has deserted under any other circumstances, he shall be punished with penal servitude or such other punishment as is hereinafter mentioned;

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

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
2 See footnote to s. 52 (2) at p. 70.
20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

21. Every officer in command of any Government ship who shall receive or entertain any deserter from the Burma Naval, Military or Air Forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from the Burma Naval Forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the President of the Union or to the Commanding Officer of the Burma Naval Volunteer Reserve, or, in case of a deserter from the Burma Military or Air Forces, give notice to the President of the Union or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from service, or shall suffer such other punishment as is hereinafter mentioned.

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

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

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

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

1 Delet ed by the Union of Burma (Adaptation of Laws) Order, 1948.
Burma Naval Volunteer Reserve.

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

Miscellaneous offences.

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

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

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

30. The officers of all Government ships appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other object, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or extract any money or other reward from any merchant or master for convoying any ships or vessels entrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

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

32. Every officer in command of any of Government ships who shall receive on board or permit to be received on board such ship any goods or merchandise whatsoever, other than for the sole use of the ship, except gold, silver or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be

1 Deleted by the Union of Burma (Adaptation of Laws' Order, 1948.
2 Amended ibid.
ordered to take or receive on board by order of the President of the Union or his superior officer, shall be dismissed from service, or suffer such other punishment as is hereinafter mentioned.

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

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

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

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

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

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

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of Government ships and vessels of war, before the same be adjudged lawful prize in some Admiralty Court; but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.
40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

41. If the commanding officer of any of Government ships does any of the following things, namely,

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

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

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

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

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

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

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

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of the Union of Burma, or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of the Union of Burma, or in any of

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1 See footnote to s. 52 (3) at p. 70.
Government dockyards, victualling yards, steam factory yards, or on any gun
wharf, or in any arsenal, barrack, or hospital belonging to the Government, or in
any other premises held by or on behalf of the Government for naval or
military purposes, or in any canteen or sailors' home or any place of recreation
placed at the disposal of or used by officers or men of the Burma Navy which
may be prescribed by the President of the Union, whether in or out of the Union
of Burma, the offender may be tried and punished under this Act; and for all
offences hereinafter specified under the headings "misconduct in the presence
of the enemy", "communications with the enemy", "neglect of duty", "mutiny", "insubordination", "desertion and absence without leave", or
"miscellaneous offences", if committed by any person subject to this Act at any
place on shore, whether in or out of the Union of Burma, the offender may be
tried and punished under this Act.

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

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

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

PART II.

GENERAL PROVISIONS.

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

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

*See footnote to s. 52 (2) at p. 70.
49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

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

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

PART III.

REGULATIONS AS TO PUNISHMENTS.

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

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

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

53. The following regulations are hereby made with respect to the infliction of punishments in the Burma Navy:—

(1) The powers to suspend, remit or commute sentences or punishment shall be the powers conferred by and shall be exercised in accordance with

¹ The Union of Burma (Adaptation of Laws) Order, 1918, directs that in this Act all references to penal servitude as a punishment shall be deemed to have no effect.
the provisions of sections 401 and 402 of the Code of Criminal Procedure, and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed with such modification by the Court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification;

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

(3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the President of the Union;

(4) The punishment of penal servitude\(^1\) may be inflicted for the term of life or for any other term of not less than three years;

(5) The punishment of penal servitude\(^1\) shall in all cases involve dismissal with disgrace from service;

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

(7) The punishment of imprisonment may be inflicted for any term not exceeding two years and may be accompanied with a sentence of dismissal from service;

(8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term, not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement; and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods;

(9) A sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple, and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour or either of them;

(9A) The punishment of detention may be inflicted for any term not exceeding two years:

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

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

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

\(^1\) See footnote to s. 52 (2) at p. 70.
(11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted: no officer shall be subject to detention or to corporal punishment: no petty or non-commissioned officer shall be subject to corporal punishment: except in case of mutiny.

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

53A.

53A. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence or within one year after the return of such offender to the Union of Burma, where he has been absent from the Union of Burma during such period of three years.

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

56. (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 issue, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission of or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment or detention for more than three months.

(3) The power by this section vested in an officer commanding a ship may—
(a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and

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

(c) as respects persons subject to this Act on detached service either on shore or otherwise, or such of those persons as are not for the time being 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.

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

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

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

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

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

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

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

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

PART IV.

Courts-martial.

Constitution of Courts-martial.

58. The following regulations are hereby made with respect to Courts-martial:

(1) A Court-martial shall consist of not less than five not more than nine officers;

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

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

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

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

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

(7) No Court-martial for the trial of a person below the rank of captain in the Burma Navy shall be duly constituted unless the president is a commander or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the president two other members of the Court are of the rank of commander or of higher rank;

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

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

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

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

(12) If any officer holding a commission from the President of the Union to order Courts-martial and having the command of any fleet or squadron of Government ships in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the second-mentioned case the senior officer of Government ships on the division of the station from which he is absent, to order Courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to the Union of Burma, or until he comes into the presence of a superior officer, empowered to order Courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires;
(13) The officer ordering a Court-martial shall not sit thereon;
(14) The president of every Court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president;
(15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any Court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the Court-martial is to be held (but the regularity or validity of any Court-martial, or of the proceedings thereof, shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances) ; and when any commander, lieutenant-commander or lieutenant sits on any Court-martial the members of it shall not exceed five in number;
(16) Subject to the foregoing regulations, whenever a Court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the Court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captains being superintendents of Government dockyards shall not be summoned to sit on Courts-martial unless specially directed to do so by orders from the President of the Union.

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

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

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

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

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

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

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

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

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

\[\text{"I do swear, that I will not upon any account, at any time whatsoever,}
\text{disclose or discover the vote or opinion of any particular member of}
\text{the Court-martial, unless thereunto required in due course of law."}\]

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

65. The President of the Union may make such general orders regulating
procedure and practice of Courts-martial as may from time to time be
necessary.

66. Every person, civil, naval and military, or belonging to the air force, who
may be required to give evidence before a Court-martial shall be summoned by
writing under the hand of a Secretary to the Government of the Union of Burma
or by the deputy judge advocate, or the person appointed to officiate as deputy
judge advocate at the trial, and all persons so summoned and attending as witnesses
before any Court-martial shall, during their necessary attendance in or on such
Court, and in going to and returning from the same, be privileged from arrest,
and shall, if unduly arrested, be discharged by the Court out of which the writ or
process issued by which such witness was arrested, or, if the Court-martial shall think fit, in case any such person, who is subject to
this Act, being called upon to give evidence at any Court-martial, shall refuse or
neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate
in his evidence or behave with contempt to the Court, such Court-martial may
punish every such offender by imprisonment, or, if the offender is a person liable
to be sentenced to detention under this Act, by detention not longer than three

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
2 Omitted ibid.
months in case of such refusal, neglect, or prevarication, nor longer than one month
in case of such contempt; and every person not subject to this Act who may be so
summoned to attend shall be allowed and paid his reasonable expenses for such
attendance, under the authority of the President of the Union, or of the president
of the Court-martial on a foreign station.

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

68. Where it shall appear upon the trial by Court-martial of any person charged
with an offence that such person is insane, the Court shall find specially the
fact of his insanity and shall order such person to be kept in strict custody in such
place and in such manner as the Court shall deem fit until the directions of the
President of the Union thereupon are known, and it shall be lawful for the
President of the Union to give orders for the safe custody of such person
[for such time] in such place and in such manner as he shall think fit.

69. Every judge advocate, or deputy judge advocate, or person officiating
as deputy judge advocate, shall transmit with as much expedition as may be the
original proceedings, or a complete and authenticated copy thereof, and the
original sentence of every Court-martial attended by him, to the commanding
officer of the Burma Naval Volunteer Reserve or senior officer; who shall
transmit them to the President of the Union for the time being, and any person
tried by a Court-martial shall be entitled, on demand, to a copy of such
proceedings and sentence (upon payment for the same at the rate of three annas
per folio of seventy-two words), but no such demand shall be allowed after
the space of three years from the date of the final decision of such Court.

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

PART V.
Penal Servitude and Prisons.

Penal Servitude

70. * * * *

71. * * * *

72. * * * *

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

\footnote{1}{Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.}
\footnote{2}{Deleted this.}
\footnote{3}{See footnote to s. 52 (2) at p. 70.}
the terms of detention, imprisonment, or penal servitude may exceed the term for which any of those punishments could be otherwise awarded:

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

Prisons.

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

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

(3) Where in pursuance of this Act a person is sentenced to imprisonment or detention the order of the President of the Union or of the commanding officer of the Burma Naval Volunteer Reserve or of the officer ordering the Court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, there to undergo his sentence according to law, and until he reaches such place of imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to imprisonment in any civil prison or place of confinement.

74A. Where a person has been sentenced to penal servitude or imprisonment or detention the President of the Union or officer who by virtue of subsection (3) of section seventy-four of this Act has power to issue an order of committal (hereinafter in this section referred to as “the committing authority”) may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

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

1 See footnote to s. 52 (2) at p. 70.
2 Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
(b) the case may at any time, and shall at intervals of not more than three months, be reconsidered by the President of the Union or committing authority, or an officer holding such command as the President of the Union may by regulation prescribe, and if on any such reconsideration it appears to the President of the Union or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the President of the Union or committing authority or officer shall remit the whole or any part of it;

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

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

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

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

75. Whenever it is deemed expedient it shall be lawful for the President of the Union, the commanding officer of the Burma Naval Volunteer Reserve, or senior naval officer present, by any order in writing, from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody.

See footnote to s. 52 (2) at p. 70.
for the purpose of the offender being removed to such prison or naval detention quarters; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with a copy of such order of removal, attested by a Secretary to the Government of the Union of Burma for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding twelve annas a mile, and when any offender is not confined in a naval prison or naval detention quarters the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the President of the Union shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence, and such sum shall be paid to the said gaoler or other person under the authority of the President of the Union 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.

77. * * * *

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

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

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

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

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

1. See footnote to s. 52 (2) at p. 70
82

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

85. * * * *

86. In the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction,—

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

"Officer" shall mean an officer belonging to the Burma Navy and shall also include an officer in the Burma Naval Volunteer Reserve during and in respect of the time when he is subject to the provisions of this Act, but shall not extend to petty and non-commissioned officers;

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

87. Every person in or belonging to the Burma Navy and every member of the Burma Naval Volunteer Reserve to the extent specified in section 4 of the Burma Naval Volunteer Reserve (Discipline) Act shall be subject to this Act; and all other persons hereby or by any other Act made liable thereto shall be triable and punishable under the provisions of this Act.

88. The Burma land and air forces, when embarked on board any Government ship in commission, shall be subject to the provisions of this Act to such extent and under such regulations as the President of the Union may prescribe.

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

90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Admiralty to serve the Government—

(a) in a particular ship, or

(b) in a particular ship or in such ships as the Admiralty may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person as if, while subject to this Act, he belonged to the Burma Navy and were borne on the books of one of Government ships in commission.

(2) The President of the Union may, by Order, direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Admiralty, persons of any such class as may be specified in the Order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified.

1 Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
2 Substituted ibid.
90A. (1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of the Burma military forces, acting with, or is attached to, any body of the Burma naval forces under such conditions as may be prescribed by regulations made by the Admiralty and Army authorities, then, for the purposes of command and discipline and for the purposes 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 Admiralty and Air authorities, such officer or non-commissioned officer is not borne on the books of any Government ships in commission, then, for the purposes of command and discipline and for the provisions of this Act relating to superior officers, he shall, in relation to such body of the Burma naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

(2A) Where any naval officer or seaman is a member of a body of the Burma naval forces acting with any body of the Burma military forces under such conditions as may be prescribed by regulations made by the Admiralty and Army authorities, then, for the purposes of command and discipline and for the purposes of 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.

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

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

90B-90C. * * * *

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

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew, of any such ship together, before one and the same Court, and to call upon all or any of them when upon their trial to give evidence.

* Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.
on oath or affirmation before the Court touching any of the matters then under inquiry, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

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

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

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

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

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

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

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

(2) Where—

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

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

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

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

Where any arrears have accumulated in respect of sums adjudged to be paid by any such decree or order as aforesaid whilst the person against whom the decree or order was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the Court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so.
(3) Where a proceeding under any law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving, or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may, after not less than three weeks' notice to the President of the Union, be served by being sent to a Secretary to the Government of the Union of Burma for transmission to such commanding officer, but such service shall not be valid unless there is left therewith in the hands of such commanding officer or President of the Union such sum of money, if any (to be adjudged as costs incurred in obtaining the decree or order, if made against the person on whom the process is issued), as may be fixed by the President of the Union as being necessary to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

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

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

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

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

PART VII.

SAVING CLAUSE.

99. * * * * *

100. * * * *

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

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