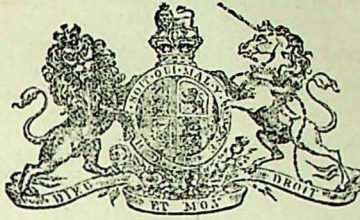


THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 11TH MARCH 1869.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of the Right Honourable the Governor of Bombay on the 8th February 1869, and the assent of His Excellency the Governor General on the 20th February 1869, and is published for general information :—

BOMBAY.

Act No. I. of 1869.

An Act to facilitate the proceedings of the Commission appointed by Government to investigate the circumstances and causes of a recent Fatal Accident at the Bhore Ghaut Incline, on the Great Indian Peninsula Railway, and to report on the measures to be adopted to secure the future safe working of the Line.

WHEREAS a Passenger Train coming down the Bhore Ghaut Incline of the Great Indian Peninsula Railway, on the morning of the 26th January 1869, ran away, and, passing through the Reversing Station, went over the edge thereof, destroying several Breaks and Carriages attached to the said Train, and causing loss of life and grievous injury to many passengers and others travelling in the same; AND

WHEREAS Government have appointed a Commission for the purpose of thoroughly investigating the circumstances of the accident, and the causes which led to it, and of reporting on the measures which should be adopted to secure the future safe working of the line; AND WHEREAS it is expedient that the said Commission should have power to take evidence upon oath touching the matters to be inquired into under the said Commission, and for that purpose to make provision for the attendance of witnesses and for their examination before such Commission: It is enacted as follows :—

- I. The words "Commission" and "Commissioners" in this Act shall mean—
- Interpretation.

The Honourable L. H. Bayley, Advocate General, the President of the Commission;

A. F. Bellasis, Esq., Revenue and Police Commissioner, N. D.;

Lieutenant Colonel J. S. Trevor, Consulting Engineer for Railways;

Captain Henry, Superintendent P. and O. Company;

A. W. Forde, Esq., C. E.; and

Captain Hancock, R. E., the Secretary of the Commission,

who were duly nominated and appointed by Government to form the said Commission, by Government Resolution, dated Bombay Castle, 29th January 1869, and shall include the members for the time being of such Commission present at any proceeding of the same, and such other members (if any) of the said Commission as have been, or may be, appointed by Government to serve on such Commission.

II. The Commissioners may, by summons under the hand

Attendance of witnesses. of Captain Hancock, R. E., the Secretary, or of the Secretary for the time being of the Commission, require the attendance before the Commissioners, at a time and place to be mentioned in such summons, of any person residing or being within the Presidency of Bombay, whose evidence is in their judgment material to any of the matters of the inquiry aforesaid, and may require him to bring and produce before them all such books, papers, letters, reports, plans, estimates, sections, drawings and writings, and copies of any of the above, as they think necessary for arriving at the truth of the said matters.

Every such person shall accordingly attend before the Commissioners, and shall produce such books, papers, letters, reports, plans, estimates, sections, drawings, and writings, and copies of any of the above, as are required of him, and are in his possession, custody, or power, or under his control, or which may in the opinion of the Commissioners be procured by him according to the tenor of the summons.

III. The Commissioners may administer an oath to every

Examination of witnesses on oath. person examined before them, touching the matters to be inquired into under the Commission; but it shall not be necessary for them to take evidence upon oath, unless they think fit so to do.

IV. If any person upon whom any

Witnesses refusing to attend, or answer, or giving false evidence. such summons is served by the delivery thereof to him, or by the leaving thereof

at his usual place of abode, fails without reasonable cause (to be allowed by the Commissioners) to appear before them at the time and place mentioned in the summons;

Or refuses to be sworn, or does not make answer to such questions as are put to him touching the matters directed to be inquired into by the said Commission;

Or refuses or fails without reasonable cause (to be allowed by the Commissioners) to produce and show to the Commissioners any such book, paper, letter, report, plan, estimate, section, drawing, writing, or copy of any of the above, being in his possession, custody, or power, or under his control, or which in the opinion of the Commissioners might have been procured by him, as to the Commissioners appear necessary for arriving at the truth of the matters to be inquired into by them, or makes any statement which is false, and which he either knows or believes to be false or does not believe to be true:

The President for the time being of the said Commission shall have the power by warrant under his hand to direct that such person be apprehended and committed to and detained in close custody in a place and for a time specified in the warrant until he shall comply to the satisfaction of the Commissioners with such requisitions as have been made on him touching his examination. The warrant shall specify the person or persons by whom such apprehension, committal, or detention shall be made.

V. Every witness required to attend

Expenses of witnesses. and give evidence under the provisions of this Act shall be entitled to a reasonable sum (to be allowed by the Commissioners) for his expenses for travelling to and from, and remaining at the place at which he is required to attend.

VI. In Sections 193 and 228 of the

Punishment for false evidence and contempts. Indian Penal Code, the words "Judicial proceeding" shall be taken to include any proceeding under this Act, and in the latter Section the words "public servant" shall be taken to include a Commissioner under this Act.

VII. No person shall be excused from

Witness not to be excused from answering. answering any question put to him by the said Commissioners or any of them upon the ground of any privilege.

VIII. The Commissioners shall hold

Place of inquiry. the said inquiry at any City, Town, or Place within the Presidency of Bombay

as the President for the time being of the Commission shall from time to time appoint, and the said President of the Commission shall have power to adjourn any meeting of the said Commission to such place and time as he may think fit.

IX. The said inquiry shall be conducted Inquiry to be public. in public.

X. Not less than three of the Commissioners for the time being shall form a quorum in the absence of the President.

3 Commissioners to form a quorum in the absence of President.

XI. The Commissioners in any proceeding under this Act shall be deemed to be persons acting judicially within the meaning of Act XVIII. of 1850 of the Governor General of India in Council intituled "An Act for the protection of Judicial Officers."

Commissioners to be entitled to protection of Act XVIII. of 1850.

XII. This Act may be cited as "The Bore Ghaut Accident Commission Inquiry Act 1869."

Short Title.

By order of the Right Honourable the Governor in Council,

N. DANIELL,

Acting Under-Secretary to Government.

Bombay, 22nd February 1869.

The following Act of the Governor General of India received the assent of His Excellency the Governor General on the 19th February 1869, and is hereby promulgated for general information:—

Act No. III. of 1869.

An Act for the maintenance of the Rural Police in the North-Western Provinces.

WHEREAS it is expedient to make further provision for the maintenance of the Rural Police in the North-Western Provinces of the Presidency of Fort William, and to define the law relating to the appointment and duties of village watchmen in those provinces; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Rural Police (North-Western Provinces) Act."
2. Act No. II. of 1865 (to provide for the maintenance of the Rural Police in the territories under the government of the Lieutenant Governor of the North-Western Provinces and elsewhere), and Act No. II. of 1866 (to amend Act No. II. of 1865), are hereby repealed.
3. This Act extends to every District in which Act No. II. of 1865 was in force immediately before the passing hereof.

II.—TAXES.

4. Three kinds of taxes shall be leviable under this Act (that is to say) 1^o, a House Tax; 2^o, an Estate Tax; and 3^o, a Tax on Muáfídárs, Sub-proprietors, and Nazránádárs.

1^o.—The House Tax.

5. The proprietor of every Muáfí, Nazráná or other estate situate in any District to which this Act applies, shall have power to assess and collect in each year, from the occupant of every house on such estate, a sum not exceeding one rupee.

The Collector of the District shall have power to determine what shall, for the purposes of this section, be held to be a house.

6. All sums assessed under section five shall be payable in advance for the revenue year next after the assessment, at the time when the first instalment of rents is ordinarily payable in that year for lands comprised in or adjacent to such estate.

7. All sums so assessed shall be recoverable as if they were rent of land:

Provided that no person shall be liable to be ejected from any house in his occupation for non-payment of any such sum.

8. Any person assessed under section five, and unable to pay the amount of the assessment, may present a petition on un-

stamped paper to the Collector of the District, and such Collector may, if he thinks fit, remit wholly or in part the said assessment.

All complaints of illegal collection under section five shall be cognizable by the Collectors of Land Revenue; and the provisions contained in Act No. X. of 1859 (to amend the law relating to the recovery of rent in the Presidency of Bengal), section twenty-three, as to institution, trial and appeal, shall apply to complaints under this section.

2^o.—The Estate Tax.

9. If, in any year, any such proprietor fails altogether to assess the sum mentioned in section five, or assesses under section five a sum which, in the opinion of the Collector of the District wherein the proprietor's estate is situate, is inadequate, it shall be lawful for such Collector to assess upon such estate a sum payable yearly by the proprietor thereof for the time being, and not exceeding in any year the amount which might have been assessed in the same year under the same section on the occupants of the houses in such estate, less ten per centum.

10. It shall be lawful for the Collector, or for any officer making a settlement of land-revenue to assess upon any Muáfí, Nazráná, or other estate situate in any District to which this Act applies, a sum to be paid yearly by the proprietor thereof for the time being not exceeding the aggregate amount of the sums payable in respect of such estate or by the occupants of the houses thereon under sections five and nine, less ten per centum.

Such assessment shall be in addition to the municipal cess or percentage (if any) levied for the maintenance of rural police on the land-revenue payable in respect of such estate.

11. The sum assessable under section ten may from time to time, with the sanction of the Local Government, be altered by the Collector or officer aforesaid.

3^o.—The Tax on Muáfídárs, Sub-proprietors, and Nazránádárs.

12. Besides the assessments made under section ten, it shall be lawful for the Collector or for any such officer as aforesaid, to levy in the case of any Muáfí or Nazráná estate upon the Muáfídárs, or (where a sub-settlement has been made) on the Sub-proprietors, or on the Nazránádárs, a municipal cess on the estimated jama at the same rate as the estate would have been charged with, had it not been held under a Muáfí or Nazráná title.

13. The Local Government may from time to time prescribe by notification in the official Gazette, by what instalments and at what times the assessments payable under sections ten and twelve shall be paid, and all sums assessed under either of those sections shall be recoverable as if they were arrears of revenue.

III.—APPLICATION OF TAXES.

14. Subject to the orders of the Local Government, all taxes levied under this Act, under this Act in any District shall, in the first instance, be applied to the maintenance of the Village Police in such District, and for the purpose of this section, 'maintenance' shall be deemed to include their wages, the price of all necessaries and accoutrements supplied to them, rewards and other incidental expenses.

The surplus (if any) may be applied by the Local Government, at its discretion, to the sanitary improvement of the District, or to any other useful purpose therein.

IV.—ACCOUNTS OF TAXES.

15. Accounts of the taxes levied under this Act and of the application thereof shall be kept by such persons and in such form, and shall be furnished at such times and to such officers as the Local Government shall, by rules to be published in the official Gazette, from time to time, prescribe.

16. Such accounts shall be open to public inspection at all reasonable times without the payment of any fee.

17. Any proprietor failing to comply with any rule made under section fifteen, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees, and every such fine shall, when recovered, be applied for the purposes of this Act in the District where it is imposed.

V.—VILLAGE WATCHMEN.

18. Every person authorized to nominate a person to the office of village watchman shall, within fifteen days after the occurrence of a vacancy in the office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the District.

The person so nominated shall, after due inquiry into his age, character and ability, be appointed or rejected by such Magistrate at his discretion, or by some officer authorized by him in that behalf.

19. In default of such nomination within the said fifteen days, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate a person to the office of village watchman shall, within fifteen days from the date of such rejection, nominate another person to

the vacant post; and in default of such nomination, or if such nomination has been made but the nominee is rejected, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

20. Any village watchman appointed under this Act shall be liable to perform within the limits of his village, and in addition to his other duties, all or any of the duties imposed on Police officers by Act No. V. of 1861 (*for the regulation of Police*); and for any neglect or disobedience in his official capacity, he shall be liable to the penalties which he would have incurred had he been a Police officer subject to the provisions of that Act, and guilty of neglect or disobedience as the case might be.

VI.—MISCELLANEOUS.

21. The Local Government may, from time to time, make rules, consistent with this Act, for the guidance of officers in all matters connected with its enforcement.

All such rules shall be published in the local official Gazette.

22. The Lieutenant Governor of the North-Western Provinces and the Lieutenant Governor of the Panjáb may respectively, by notification in the local Gazette, extend this Act to any part of the territories for the time being under their respective governments;

and the Governor General of India in Council may, by notification in the *Gazette of India*, extend this Act to any Province for the time being under the immediate administration of the Government of India:

Provided that this Act shall have no operation in any village to which Act No. XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chukhidárs in cities, towns, stations, suburbs, and bazárs in the Presidency of Fort William in Bengal*), or Act No. VI. of 1868 (*to make better provision for the appointment of Municipal Committers in the North-Western Provinces, and for other purposes*), or any other special municipal law shall have been extended, so long as such Act or law continues in force in such village.

23. From the date of any such extension of this Act, so much of any rule having the force of law, in operation in the territories to which the extension is made, as is inconsistent with any provision of this Act, shall cease to have effect therein.

WHITLEY STOKES,

Secy. to the Council of the Governor General
for making Laws and Regulations.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th February 1869, and is hereby promulgated for general information :—

Act No. IV. of 1869.

THE INDIAN DIVORCE ACT, 1869.

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An Act to amend the law relating to Divorce and Matrimonial Causes in India.

WHEREAS it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial: It is hereby enacted as follows:—

I.—*Preliminary.*

1. This Act may be called "The Indian Divorce Act," and shall come into operation on the first day of April 1869.
- Short title.
 Commencement of Act.

2. This Act shall extend to the whole of British India, and (so far only as regards British subjects within the dominions hereinafter mentioned) to the dominions of Princes and States in India in alliance with Her Majesty.

Nothing hereinafter contained shall authorize any Court to grant any relief under this Act, except in cases where the petitioner professes the Christian religion and resides in India at the time of presenting the petition;

or to make decrees of dissolution of marriage except in the following cases:—(a) where the marriage shall have been solemnized in India; or (b) where the adultery, rape, or unnatural crime complained of shall have been committed in India; or (c) where the husband has, since the solemnization of the marriage, exchanged his profession of Christianity for the profession of some other form of religion;

And to make decrees of dissolution. Or of nullity. nullity of marriage except in cases where the marriage has been solemnized in India.

3. In this Act, unless there be something repugnant in the subject or context—

(1) "High Court" means, in any Regulation Province, the Court there established under the Act of the twenty-fourth and twenty-fifth of Victoria, Chapter one hundred and four,

in the territories for the time being subject to the government of the Lieutenant Governor of the Panjáb, the Chief Court of the Panjáb,

in British Burmah, the High Court of Judicature at Fort William in Bengal,

and in any other Non-Regulation Province and in any place in the dominions of the Princes and States of India in alliance with Her Majesty, the High Court or Chief Court to whose original criminal jurisdiction the petitioner is for the time being subject, or would be subject, if he or she were an European British subject of Her Majesty:

In the case of any petition under this Act, 'High Court' is that one of the aforesaid Courts within the local limits of whose ordinary appellate jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together:

(2) "District Judge" means, in the Regulation Provinces, a Judge of a principal Civil Court of original jurisdiction,

in the Non-Regulation Provinces, other than British Burmah and Sind, a Commissioner of a Division,

in Pegu, the Recorder at Rangoon,

in Arrakan, the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab,

in the Tenasserim Provinces, the Recorder at Maulmain,

in Sind, the Judicial Commissioner in that province,

and in any place in the dominions of the Princes and States aforesaid, such officer as the Governor General of India in Council shall from time to time appoint in this behalf by notification in the *Gazette of India*, and, in the absence of such officer, the High Court in the exercise of its original jurisdiction under this Act:

(3) "District Court" means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, or of whose jurisdiction under this Act the husband and wife reside or last resided together:

(4) "Court" means the High Court or the District Court, as the case may be:

(5) "Minor children" means, in the case of sons of Native fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of Native fathers, girls who have not completed the age of thirteen years: In other cases it means unmarried children who have not completed the age of eighteen years:

(6) "Incestuous adultery" means adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity:

(7) "Bigamy with adultery" means adultery with the same woman with whom the bigamy was committed:

(8) "Marriage with another woman" means marriage of any person being married to any other person, during the life of the former wife, whether the second marriage shall have taken place within the dominions of Her Majesty or elsewhere.

(9) "Desertion" implies an abandonment against the wish of the person charging it;

(10) And "property" includes in the case of a wife any property to which she is entitled for an estate in remainder, or reversion or as a trustee, executrix or administratrix; and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

II.—Jurisdiction.

4. The jurisdiction now exercised by the High Courts in respect of divorce *a mensâ et toro*, and in all other causes, suits, and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act maintained, and not otherwise: except so far as relates to the granting of marriage-licenses, which may be granted as if this Act had not been passed.

5. Any decree or order of the late Supreme Court of Judicature at Calcutta, Madras, or Bombay sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

6. All suits and proceedings in causes and matters matrimonial, which when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

7. Subject to the provisions contained in this Act, the High Courts and District Courts shall, in all suits and proceedings hereunder, act and give relief on principles and rules which, in the opinion of the said Courts, are as nearly as may be conformable to the principles and rules on which the Court for Divorce and Matrimonial Causes in England for the time being acts and gives relief.

8. The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

The High Court may also withdraw any such suit or proceeding, and transfer it for trial or disposal to the Court of any other such District Judge.

9. When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon,

the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case, and refer it, with the Court's own opinion thereon, to the decision of the High Court.

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference, and pass a decree contingent upon the opinion of the High Court upon it.

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference.

III.—Dissolution of Marriage.

10. Any husband may present a petition to the District Court or to the High Court, praying that his marriage may be dissolved on the ground that his wife has, since the solemnization thereof, been guilty of adultery.

Any wife may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved

When wife may petition for a dissolution.

on the ground that since the solemnization thereof her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman;

or has been guilty of incestuous adultery, or of bigamy with adultery, or of marriage with another woman with adultery,

or of rape, sodomy, or bestiality, or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensa et toro*,

or of adultery coupled with desertion, without reasonable excuse, for two years or upwards.

Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

11. Upon any such petition presented by a husband, the petitioner shall make the alleged adulterer a co-respondent.

Adulterer to be a co-respondent. to the said petition, unless he is excused from so doing on one of the following grounds, to be allowed by the Court:—

(1) That the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed.

(2) That the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts to discover it.

(3) That the alleged adulterer is dead.

12. Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also inquire into any counter-charge which may be made against the petitioner.

13. In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed, or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

then and in any of the said cases the Court shall dismiss the petition.

When a petition is dismissed by a District Court under this section, the petitioner may, nevertheless, present a similar petition to the High Court.

14. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

Power to Court to pronounce decree for dissolving marriage.

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in sections sixteen and seventeen made and declared:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

No adultery shall be deemed to have been condoned within the meaning of this Act unless

Condonation. where conjugal cohabitation has been resumed or continued.

15. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty, or desertion without reasonable excuse, or, in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion.

16. Every decree for a dissolution of marriage made by a High Court not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

Decrees for dissolution to be *nisi*.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

Collusion.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of Counsel and witnesses and otherwise arising from such cause being shown to be paid by the parties or such one or more of them as it thinks fit, including a wife, if she have separate property.

Whenever a decree nisi has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

17. Every decree for a dissolution of marriage made by a District Judge shall be subject to confirmation by the High Court.

Cases for confirmation of a decree for dissolution of marriage shall be heard (where the number of the Judges of the High Court is three or upwards) by a Court composed of three such Judges, and in case of difference the opinion of the majority shall prevail, or (where the number of the Judges of the High Court is two) by a Court composed of such two Judges, and in case of difference the opinion of the Senior Judge shall prevail.

The High Court, if it think further inquiry or additional evidence to be necessary, may direct such inquiry to be made, or such evidence to be taken.

The result of such inquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit.

Provided that no decree shall be confirmed under this section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section eight, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section sixteen shall apply to every suit so removed: or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

IV.—Nullity of Marriage.

18. Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void.

19. Such decree may be made on any of the following grounds:—

(1) That the respondent was impotent at the time of the marriage, and at the time of the institution of the suit;

(2) That the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity;

iv.--20 d

(3) That either party was a lunatic or idiot at the time of the marriage;

(4) That the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud.

20. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of section seventeen, clauses one, two, three, and four, shall, *mutatis mutandis*, apply to such decrees.

21. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract.

V.—Judicial Separation.

22. No decree shall hereafter be made for a divorce *a mensâ et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce *a mensâ et toro* under the existing law, and such other legal effect as hereinafter mentioned.

Decree of Judicial separation obtainable by husband or wife.

23. Application for judicial separation on any one of the grounds aforesaid, may be made by either husband or wife by petition to the District Court or the High Court; and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

24. In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues, be deemed a spinster with respect to after-acquired property.

with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place

shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

25. In every case of a judicial separation under this Act, the wife shall, whilst so separated, be considered as an unmarried woman for the purposes

Separated wife to be deemed a spinster for purposes of contract and suing.

of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted, or incurred by her during the separation.

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use:

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of Decree of Separation.

26. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter, present a petition to the Court by which the decree was pronounced praying for a reversal of such decree on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

Decree of separation obtained during the absence of husband or wife may be reversed.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had in case it had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the sentence of separation and of the reversal thereof.

VI.—Protection Orders.

27. Any wife to whom the fourth section of the Indian Succession Act, 1865, does not apply, may, when deserted by her husband, present a petition to the District Court or the High Court, at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed, or may become possessed, after such desertion against her husband or his creditors, or any person claiming under him.

Deserted wife may apply to the Court for protection.

28. The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband, and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

Court may grant protection-order.

29. The husband or any creditor of, or person claiming under, him may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it think fit so to do, may discharge or vary the order accordingly.

Discharge or variation of orders.

30. If the husband or any creditor of, or person claiming under, the husband seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

Liability of husband seizing his wife's property after notice of order.

31. So long as any such order of protection remains in force, the wife shall be, and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts, and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

Wife's legal position during continuance of order.

VII.—Restitution of Conjugal Rights.

32. When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court or the High Court, for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Petition for restitution of conjugal rights.

33. Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

VIII.—Damages and Costs.

34. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court or the High Court, limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner.

Such petition shall be served on the alleged adulterer and the wife, unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.

35. Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings:

Power to order adulterer to pay costs.

Provided that the co-respondent shall not be ordered to pay the petitioner's costs,

(1) If the respondent was at the time of the adultery living apart from her husband and leading the life of a prostitute, or

(2) If the co-respondent had not at the time of the adultery reason to believe the respondent to be a married woman.

Whenever any application is made under Section seventeen, the Court if it thinks that the applicant had no grounds or no sufficient grounds for intervening, may order him to pay the whole or any part of the costs occasioned by the application.

IX.—Alimony.

36. In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just:

Provided that alimony pending the suit shall in no case exceed one-fifth of the husband's average net income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

37. The High Court may, if it think fit, on any decree absolute declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

and the District Judge may, if he thinks fit, on the confirmation of any decree of his declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable, and for that purpose may cause a proper instrument to be executed by all necessary parties.

In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable:

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

38. In all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any

trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

X.—Settlements.

39. Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation, shall be deemed valid, notwithstanding the existence of the disability of coverture at the time of the execution thereof.

The Court may direct that the whole or any part of the damages recovered under Section thirty-four shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

40. The High Court, after a decree absolute for dissolution of marriage, or a decree of nullity of marriage,

and the District Court after its decree for dissolution of marriage or of nullity of marriage has been confirmed,

may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI.—Custody of Children.

41. In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

42. The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provision with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children

under the protection of the said Court as might have been made by such decree, or by interim orders in case the proceedings for obtaining such decree were still pending.

43. In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute, or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree,

and in any such suit instituted in a District Court, the Court may from time to time before its decree is confirmed make such interim orders, and may make such provision on such confirmation,

as the High Court or District Court (as the case may be) deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the suit ;

and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

44. The High Court after a decree absolute for dissolution of marriage or a decree of nullity of marriage,

and the District Court after a decree for dissolution of marriage or of nullity of marriage has been confirmed,

may, upon application by petition for the purpose make from time to time all such orders and provision, with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

XII.—Procedure.

45. Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure.

46. The forms set forth in the schedule to this Act, with such variations as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

47. Every petition under this Act for a decree of dissolution of marriage, or of nullity of marriage, or of judicial separation, or of reversal of judicial separation, or for restitution of conjugal rights, or for damages, shall bear a stamp of five rupees, and shall, in the first, second and third cases mentioned in this section, state that there is not any collusion or connivance between the petitioner and the other party to the marriage.

The statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required

by law for the verification of plaints, and may at the hearing be referred to as evidence.

48. When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody.

49. Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking shall bear a stamp of eight annas, and shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

50. Every petition under this Act shall be served on the party to be affected thereby, either within or without British India, in such manner as the High Court by general or special order from time to time directs :

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

51. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined, like any other witness :

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

52. On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion, without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

53. The whole or any part of any proceeding under this Act may be heard, if the Court thinks fit, with closed doors.

54. The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon if it sees fit so to do.

55. All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed from in the like manner

as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced, and may be appealed from under the laws, rules, and orders for the time being in force:

Provided that there shall be no appeal from a decree of a District Judge for dissolution of marriage or of nullity of marriage: nor from the order of the High Court confirming or refusing to confirm such decree.

Provided also that there shall be no appeal on the subject of costs.
No appeal as to costs. on the subject of costs only.

56. Any person may appeal to Her Majesty in Council from any decree (other than a decree nisi) or order under this Act of a High Court made on appeal or otherwise, and from any decree (other than a decree nisi) or order made in the exercise of original jurisdiction by Judges of a High Court, or of any Division Court from which an appeal shall not lie to the High Court,

when the High Court declares that the case is a fit one for appeal to Her Majesty in Council.

XIII.—Re-marriage.

57. When six months after the date of an order of a High Court confirming the decree for a dissolution of marriage made by a District Judge have expired,

or when six months after the date of any decree of a High Court dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction,

or when any such appeal has been dismissed,

or when in the result of any such appeal any marriage is declared to be dissolved,

but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death:

Provided that no appeal to Her Majesty in Council has been presented against any such order or decree.

When such appeal has been dismissed, or when in the result thereof the marriage is declared to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

58. No clergyman in Holy Orders of the United Church of England and Ireland shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty, or censure for solemnizing or refusing to solemnize the marriage of any such person.

59. When any Minister of any Church or Chapel of the said United Church refuses to perform such marriage-service between any persons who but

for such refusal would be entitled to have the same service performed in such Church or Chapel, such Minister shall permit any other Minister in Holy Orders of the said Church, entitled to officiate within the diocese in which such Church or Chapel

is situate, to perform such marriage-service in such Church or Chapel.

XIV.—Miscellaneous.

60. Every decree for judicial separation or order

Decree for separation or protection order to be valid as to persons dealing with wife before reversal.

to protect property obtained by a wife under this Act shall, until reversed or discharged, be deemed valid, so far as necessary

for the protection of any person dealing with the wife.

No reversal, discharge, or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order, and of the reversal, discharge, or variation thereof.

All persons who in reliance on any such decree

Indemnity of persons making payment to wife without notice of reversal of decree or protection order.

or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same

shall, notwithstanding such decree or order may then have been reversed, discharged, or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the decree or order been discontinued, be protected and indemnified as if, at the time of such payment, transfer, or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued,

unless, at the time of the payment, transfer, or other act, such persons had notice of the reversal, discharge, or variation of the decree or order, or of the cessation or discontinuance of the separation.

61. After this Act comes into operation, no

Bar of suit for criminal conversation.

person competent to present a petition under Sections two and ten shall maintain a suit for criminal conversation with his wife.

62. The High Court shall make such rules

Power to make rules. under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same.

Provided that such rules, alterations, and additions are consistent with the provisions of this Act and the Code of Civil Procedure.

All such rules, alterations, and additions shall be published in the local official Gazette.

SCHEDULE OF FORMS.

No. 1.—PETITION by husband for a dissolution of marriage with damages against co-respondent, by reason of adultery.

(See Sections 10 and 34).

In the (High) Court of
To the Honourable Mr. Justice [or To the
Judge of]
The day of 186 .
The petition of A. B. of

SHOWETH,

1. That your petitioner was on the day of , one thousand eight hundred and , lawfully married to C. B., then C. D., spinster at . (a)

(a) If the marriage was solemnized out of India the adultery must be shown to have been committed in India.

2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at , in , and lastly at in , and that your petitioner and his said wife have had issue of their said marriage, *five* children, of whom *two* sons only survive, aged respectively *twelve* and *fourteen* years.

3. That during the *three* years immediately preceding the day of , one thousand eight hundred and , X. Y. was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said C. B. in your petitioner's said house committed adultery with the said X. Y.

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Honourable) Court will decree a dissolution of the said marriage, and that the said X. Y. do pay the sum of Rs. 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Honourable) Court seems fit.

(Signed) A. B. (a)

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2.—*Respondent's statement in answer to No. 1.*
In the Court of the day of

Between A. B., petitioner,
C. B., respondent, and
X. Y., co-respondent.

C. B., the respondent, by D. E. her attorney [or vakil] in answer to the petition of A. B. says that she denies that she has on diverse or any occasions committed adultery with X. Y., as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Honourable) Court will reject the said petition.

C. B.

No. 3.—*Co-respondent's statement in answer to No. 1.*

In the (High) Court of
The day of

Between A. B., petitioner,
C. B., respondent, and
X. Y., co-respondent.

X. Y., the co-respondent, in answer to the petition filed in this cause saith that he denies that he committed adultery with the said C. B. as alleged in the said petition.

Wherefore the said X. Y. prays that this (Honourable) Court will reject the prayer of the said petitioner, and order him to pay the costs of and incident to the said petition.

X. Y.

No. 4.—*PETITION for Decree of Nullity of Marriage.*
(See Section 18).

In the (High) Court of
To the Honourable Mr. Justice [or To the Judge of]

The day of 186 .

The petition of A. B., falsely called A. D.,

(a) The petition must be signed by the petitioner.

SHOWETH,

1. That on the day of , one thousand eight hundred and , your petitioner, then a spinster, eighteen years of age, was married in fact, though not in law, to C. D., then a bachelor of about thirty years of age at [some place in India].

2. That from the said day of one thousand eight hundred and , until the month of , one thousand eight hundred and , your petitioner lived and cohabited with the said C. D., at divers places, and particularly at aforesaid.

3. That the said C. D. has never consummated the said pretended marriage by carnal copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said C. D. was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said C. D. with respect to the subject of this suit.

Your petitioner, therefore, prays that this (Honourable) Court will declare that the said marriage is null and void.

Form of Verification: See No. 1.

No. 5.—*PETITION by wife for judicial separation on the ground of her husband's adultery.*

(See Section 22).

In the (High) Court of
To the Honourable Mr. Justice [or To the Judge of]
The day of 186 .

The petition of C. B., of
the wife of A. B.

SHOWETH,

1. That on the day of , one thousand eight hundred and sixty , your petitioner, then C. D., was lawfully married to A. B. at the Church of , in the

2. That after her said marriage, your petitioner cohabited with the said A. B. at and at , and that your petitioner and her said husband have issue living of their said marriage, *three* children, to wit, &c., &c. (a)

3. That on divers occasions in or about the months of *August, September* and *October*, one thousand eight hundred and *sixty-eight*, the said A. B., at aforesaid, committed adultery with E. F., who was then living in the service of the said A. B. and your petitioner at their said residence aforesaid.

4. That on divers occasions in the months of *October, November*, and *December*, one thousand eight hundred and *sixty-eight*, the said A. B., at aforesaid, committed adultery with G. H., who was then living in the service of the said A. B. and your petitioner at their said residence place aforesaid.

5. That no collusion or connivance exists between your petitioner and the said A. B. with respect to the subject of the present suit.

Your petitioner therefore prays that this (Honourable) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed) C. B. (b)

Form of Verification: See No. 1.

(a) State the respective ages of the children.

(b) The petition must be signed by the petitioner.

No. 6.—Statement in answer to No. 5.

In the (High) Court of

B. against B.

The day of 186 .

The respondent, A. B., by W. Y., his attorney [or vakil] saith—

1. That he denies that he committed adultery with E. F., as in the 3rd paragraph of the petition alleged.
2. That the petitioner condoned the said adultery with E. F., if any.
3. That he denies that he committed adultery with G. H., as in the 4th paragraph of the petition alleged.
4. That the petitioner condoned the said adultery with G. H., if any.

Wherefore this respondent prays that this (Honourable) Court will reject the prayer of the said petition.

No. 7.—Statement in reply to No. 6.

In the (High) Court of

B. against B.

The day of 186 .

The petitioner C. B. by her attorney [or vakil] says—

1. That she denies that she condoned the said adultery of the respondent with E. F. as in the 2nd paragraph of the statement in answer alleged.
2. That even if she had condoned the said adultery the same has been revived by the subsequent adultery of the respondent with G. H., as set forth in the 4th paragraph of the petition.

No. 8.—PETITION for a Judicial Separation by reason of Cruelty.

(See Section 22).

In the (High) Court of

To the Honourable Mr. Justice [or To the Judge of]

The petition of A. B. (wife of C. B.) of

SHOWETH,

1. That on the day of , one thousand eight hundred and , your petitioner, then A. D., spinster, was lawfully married to C. B. at
2. That from her said marriage your petitioner lived and cohabited with her said husband at until the day of , one thousand eight hundred and , when your petitioner separated from her said husband as hereinafter more particularly mentioned, and that your petitioner and her said husband have had no issue of their said marriage.
3. That from and shortly after your petitioner's said marriage, the said C. B. habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.
4. That on an evening in or about the month of one thousand eight hundred and the said C. B. in the highway and opposite to the house in which your petitioner and the said C. B. were then residing at aforesaid, endeavoured to knock your petitioner down, and was only prevented from so doing by the interference of F. D., your petitioner's brother.
5. That subsequently on the same evening, the said C. B. in his said house at aforesaid, struck your petitioner with his clenched fist a violent blow on her face.

6. That on one Friday night in the month of one thousand eight hundred and , the said C. B., in , without provocation, threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the day of one thousand eight hundred and , your petitioner, by reason of the great and continued cruelty practised towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at : that from and after the said day of , one thousand eight hundred and , your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this (Honourable) Court will decree a judicial separation between your petitioner and the said C. B., and also order that the said C. B. do pay the costs of and incident to these proceedings.

(Signed) A. B.

Form of Verification: See No. 1.

No. 9.—Statement in answer to No. 8.

In the (High) Court of

The day of

Between A. B., petitioner, and C. B., respondent.

C. B., the respondent, in answer to the petition filed in this cause by W. J. his attorney [or vakil], saith that he denies that he has been guilty of cruelty towards the said A. B., as alleged in the said petition.

No. 10.—PETITION for reversal of Decree of Separation.

(See Section 24).

In the (High) Court of

To the Honourable Mr. Justice [or To the Judge of]

The day of 186 .
The petition of A. B. of

SHOWETH,

1. That your petitioner was on the day of lawfully married to
2. That on the day of , this (Honourable) Court at the petition of , pronounced a decree affecting the petitioner to the effect following, to wit,—

[Here set out the Decree].

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[State facts tending to show that the petitioner did not know of the proceedings; and, further, that had he known, he might have offered a sufficient defence.]

or

That there was reasonable ground for your petitioner leaving his said wife, for that his said wife

[Here state any legal grounds justifying the petitioner's separation from his wife.]

Your petitioner, therefore, prays that this (Honourable) Court will reverse the said decree.

Form of Verification: See No. 1.

No. 11.—FORM of Petition for Protection-order.
(See Section 27).

In the (High) Court of
To the Honourable Mr. Justice [or To the
Judge of].

The day of 186 .
The petition of C. B., of
the wife of A. B.,

SHOWETH,

That on the day of she
was lawfully married to A. B., at

That she lived and cohabited with the said A. B. for
years at , and also at , and hath
had children, issue of her said marriage, of whom
are now living with the applicant, and wholly
dependent upon her earnings.

That on or about , the said A. B., without any
reasonable cause, deserted the applicant, and hath ever
since remained separate and apart from her.

That since the desertion of her said husband, the ap-
plicant hath maintained herself by her own industry [or
on her own property, as the case may be], and hath
thereby and otherwise acquired certain property,
consisting of [here state generally the nature of the
property].

Wherefore she prays an order
for the protection of her earnings
and property acquired since the
said day of ,
from the said A. B., and from
all creditors and persons claim-
ing under him.

No. 12.—PETITION for Alimony pending the suit.
(See Section 36).

In the (High) Court of
B. against B.
To the Honourable Mr. Justice [or To the
Judge of].

The day of 186 .
The petition of C. B., the lawful wife of A. B.,

SHOWETH,

1. That the said A. B. has for some years carried
on the business of , at , and from
such business derives the net annual income of from
Rs. 4,000 to Rs. 5,000.

2. That the said A. B. is possessed of plate, furni-
ture, linen, and other effects, at his said house,
aforesaid, all of which he acquired in right of your pe-
titioner as his wife, or purchased with money he acquired
through her, of the value of Rs. 10,000.

3. That the said A. B. is entitled, under the will of
his father, subject to the life interest of his mother
therein, to property of the value of Rs. 5,000 or some
other considerable amount (a).

Your petitioner, therefore, prays
that this (Honourable) Court will
decree such sum or sums of
money by way of alimony,
pending the suit, as to this
(Honourable) Court may seem
meet.

(Signed) C. B.

Form of Verification: See No. 1.

(a) The petitioner should state her husband's income as accu-
rately as possible.

No. 13.—Statement in answer to No. 12.

In the (High) Court of
B. against B.

A. B., of , the above-
named respondent, in answer to
the petition for alimony pend-
ing the suit of C. B., says—

1. In answer to the first paragraph of the said peti-
tion, I say that I have for the last three years carried
on the business of , at , and that
from such business I have derived a net annual income
of Rs. 900, but less than Rs. 1,000.

2. In answer to the 2nd paragraph of the said peti-
tion, I say that I am possessed of plate, furniture, linen,
and other chattels and effects at my said house
aforesaid, of the value of Rs. 7,000, but as I verily
believe of no larger value. And I say that a portion of
the said plate, furniture, and other chattels and effects
of the value of Rs. 1,500, belonged to my said wife
before our marriage, but the remaining portions thereof
I have since purchased with my own moneys. And I say
that, save as hereinbefore set forth, I am not possessed
of the plate and other effects as alleged in the said para-
graph in the said petition, and that I did not acquire
the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my
father, subject to the life interest of my mother therein,
to property of the value of Rs. 5,000, that is to say, I
shall be entitled under my said father's will, upon the
death of my mother, to a legacy of Rs. 7,000, out of
which I shall have to pay to my father's executors the
sum of Rs. 2,000, the amount of a debt owing by me to
his estate, and upon which debt I am now paying
interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say
that I have no income whatever except that derived from
my aforesaid business, that such income, since my
said wife left me, which she did on the day of
last, has been considerably diminished, and
that such diminution is likely to continue. And I say
that out of my said income, I have to pay the annual
sum of Rs. 100 for such interest as aforesaid to my late
father's executors, and also to support myself and my
two eldest children.

5. And, in further answer to the said petition, I say
that when my wife left my dwelling-house on the
day of last, she took with her, and has
ever since withheld and still withholds from me, plate,
watches, and other effects in the 2nd paragraph of
this my answer mentioned, of the value of, as I verily
believe, Rs. 800 at the least; and I also say that
within five days of her departure from my house as
aforesaid, my said wife received bills due to me from
certain lodgers of mine, amounting in the aggregate to
Rs. , and that she has ever since withheld
and still withholds from me the same sum.

(Signed) A. B.

No. 14.—FORM of undertaking by minor's next friend
to be answerable for Respondent's costs.

(See Section 49).

In the (High) Court of
I, the undersigned A. B., of , being the next
friend of C. D., who is a minor, and who is desirous of
filing a petition in this Court, under the Indian Divorce
Act, against D. D. of , hereby undertake to be res-
ponsible for the costs of the said D. D. in such suit,
and that if the said C. D. fail to pay to the said D. D.,
when and in such manner as the Court shall order all
such costs of such suit as the Court shall direct him
[or her] to pay to the said D. D., I will forthwith pay
the same to the proper officer of this Court.

Dated this day of 186 .

(Signed) A. B.

I N D E X.

(Nothing hereinafter contained shall be deemed to have the force of law).

Abandonment, implied in 'desertion,' sec. 3, cl. 9.
 Absence, reversal of decree of separation obtained in, s. 26.
 Accessory to adultery, secs. 12, 13, 14.
 Act VIII. of 1859, see *Code of Civil Procedure*.
 " X. of 1865 (s. 4), sec. 27.
 Adjournment of hearing, sec. 54.
 Adulterer when to be a co-respondent, sec. 11.
 See *Damages, Death*.
 Adultery, committed in India, sec. 2.
 " incestuous, sec. 3, cl. 6.
 " bigamy with, defined, *ib.*, cl. 7.
 " dissolution of marriage on ground of, sec. 10.
 " coupled with cruelty, dissolution on ground of, *ib.*
 " coupled with desertion, dissolution on ground of, *ib.*
 " of petitioner, sec. 14.
 " neglect or misconduct conducing to, *ib.*
 " judicial separation on ground of, sec. 22.
 " English clergymen not compelled to re-marry persons divorced for, sec. 58.
 " revival of condoned, Schedule No. 7.
 See *Accessory, Condonation*.
 Affidavit, case may be verified by, sec. 51.
 Affinity, prohibited degrees of, sec. 19.
 Agreement between separated husband and wife, sec. 24.
 Akyab, jurisdiction of Recorder at, sec. 3, cl. 2.
 Alimony, non-payment of, sec. 25.
 " *pendente lite*, petition for, sec. 36.
 " " service of copy of petition for, *ib.*
 " " continuance of, *ib.*
 " power to order permanent, sec. 37.
 Allied States, 'High Court' for, sec. 3, cl. 1.
 " 'District Judge' in, *ib.*, cl. 2.
 Answer to petition for restitution of conjugal rights, sec. 33.
 Antenuptial settlement, see *Settlement*.
 Apostacy and second marriage of husband, dissolution on ground of, secs. 2, 10.
 Apostate respondent, sec. 2.
 Appeals from orders and decrees, sec. 55.
 " not from District Judge's decree for dissolution or of nullity, *ib.*
 " not from order of High Court as to confirmation of District Judge's decree, *ib.*
 " not on subject of costs only, *ib.*
 " to Queen in Council, sec. 56.
 Appointment of new trustee to receive alimony, sec. 38.
 See *Power*.
 Arrakan, Recorder at Rangoon's jurisdiction in, sec. 3, cl. 2.
 Bestiality, committed in India, sec. 2.
 " dissolution on ground of, sec. 10.
 Bigamy with adultery, sec. 3, cl. 7.
 " " dissolution on ground of, sec. 10.
 Burmah, 'High Court' for, sec. 3, cl. 1.
 " 'District Judge' in, *ib.*, cl. 2.
 Certificate of result of inquiry and additional evidence in cases of confirmation of decree for dissolution, sec. 17.
 Chapel, see *Clergyman*.
 Chief Court of Panjab, sec. 3, cl. 1.
 Children, of annulled marriage, sec. 21.
 " settlement of wife's property for benefit of, sec. 39.
 " parents not to be benefited at expense of, sec. 40.
 See *Minor Children*.
 Christian, petitioner must be a, sec. 2.
 Church of England, see *Clergyman*.
 Clergyman of English Church need not solemnize marriage of person divorced for adultery, sec. 58.

Clergyman to permit solemnization of such marriage in his Church or Chapel, sec. 59.
 Closing doors, sec. 53.
 Code of Civil Procedure to regulate proceedings under Act, sec. 45.
 Cohabitation, continuance of, sec. 14.
 " resumption of, secs. 14, 24.
 " withdrawal from, sec. 32.
 Collusion, Court to satisfy itself as to absence of, sec. 12.
 " dismissal of petition in case of, sec. 13.
 " power to show cause why decree for dissolution should not be made absolute on ground of, sec. 16.
 " power to apply for removal of suit to High Court on ground of, sec. 17.
 " power to order District Judge to take steps as to, *ib.*
 " certain petitions to state absence of, sec. 47.
 Commencement of Act, sec. 1.
 " of desertion, sec. 28.
 Commissioner of a Division to be a 'District Judge,' sec. 3, cl. 2.
 Condonation of adultery, secs. 12, 13.
 " implies resumption or continuance of cohabitation, sec. 14.
 See *Revival*.
 Confirmation of decree for dissolution by District Judge, sec. 17.
 " Court to hear cases for, *ib.*
 " when pronounced, *ib.*
 " of District Judge's decree of nullity, sec. 20.
 Conjugal rights, restitution of, sec. 32.
 " answer to petition for, sec. 33.
 Connivance at adultery or at form of marriage of apostate, secs. 12, 13, 14.
 " certain petitions to state absence of, sec. 47.
 Consanguinity either natural or legal, sec. 3, cl. 6.
 " prohibited degrees of, sec. 18.
 Contingent decree, sec. 9.
 Continuance of cohabitation, sec. 14.
 " alimony *pendente lite*, sec. 36.
 Contracts of wife, during continuance of protection order, sec. 31.
 Co-respondent, adulterer to be made a, sec. 11.
 " damages against, sec. 34.
 " may be ordered to pay costs, sec. 35.
 Costs of showing cause in High Court why decree for dissolution should not be made absolute on ground of collusion, sec. 16.
 " incurred by separated wife, non-liability of husband for, sec. 25.
 " power to order co-respondent to pay, sec. 35.
 " power to order litigious intervenor to pay, *ib.*
 " minor's next friend to be answerable for, sec. 49.
 " no appeal on subject of, sec. 55.
 Countersuit against petitioner, sec. 12.
 'Court' defined, sec. 3, cl. 4.
 See *Collusion, District Court, High Court*.
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 Criminal conversation, suit for, abolished in certain cases, sec. 61.
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 " judicial separation on ground of, sec. 22.
 " husband and wife may give evidence as to, sec. 52.
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 Damages from adulterer, when claimable, sec. 34.
 " to be ascertained by Court, *ib.*
 " payment or application of, *ib.*
 " settlement of, sec. 40.
 Death of alleged adulterer, sec. 11.

- Decrees of Supreme Court, sec. 5.
 " for dissolution, sec. 14.
 " " by High Court to be *nisi*, sec. 16.
 " " by District Court to be confirmed, sec. 17.
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 " of judicial separation, sec. 22.
 " reversal of, sec. 26.
 " of restitution of conjugal rights, sec. 32.
 See *Appeals*.
- Delay of petitioner, sec. 14.
 " " in moving to have decree *nisi* made absolute, sec. 16.
- Deponent, see *Affidavit, Cross-examination, Re-examination*.
- Desertion, kind of abandonment implied in, sec. 3, cl. 9.
 " dissolution on ground of adultery coupled with, sec. 10.
 " by petitioner, sec. 14.
 " separation on ground of, sec. 22.
 " husband and wife may give evidence as to, sec. 52.
 See *Reasonable excuse*.
- Discharge of protection-order, sec. 29.
 " of order for permanent alimony, sec. 37.
- Dismissal of petition for dissolution, sec. 13.
 " by District Court does not bar petition to High Court, *ib.*
 " of suit when petitioner fails to move to have decree *nisi* made absolute, sec. 16.
- Dissolution of marriage, secs. 2, 10—17.
 " " grounds of, sec. 10.
 " " adulterer to be a co-respondent to petition for, sec. 11.
 " " absence of collusion in petitioner for, sec. 12.
 " " dismissal of petition for, sec. 13.
 " " decree for, secs. 14, 16, 17.
 " " relief in case of opposition to suit for, sec. 15.
 " " removal of suits for, sec. 17.
 " " damages claimable in petition for, sec. 34.
 " " settlement on, sec. 39.
 " " inquiry into settlements after, sec. 40.
 " " orders for custody of children in suits for, sec. 43.
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 " " evidence in suits by wife for, sec. 52.
 " " re-marriage after, secs. 57, 58, 59.
 " " form of petition for, Schedule No. 1.
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 " to exercise matrimonial jurisdiction, sec. 4.
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 " removal of suits from, sec. 8, cl. 1.
 " transfer of suits to, *ib.*, cl. 2.
 " reference of questions by, sec. 9.
 " petitions to, secs. 10, 18, 23, 26, 27, 32, 34, 36, 42, 44.
 " confirmation of its decrees for dissolution, sec. 17.
 " confirmation of its decrees of nullity, sec. 20.
 " may reverse decrees of separation, sec. 26.
 " may order settlements, sec. 30.
 " to ascertain damages, sec. 34.
 " may order alimony, secs. 36, 37.
 " may inquire into settlements, sec. 40.
- 'District Court', may make orders as to custody of children, secs. 41, 42, 43, 44.
 " to approve of minor's next friend, sec. 49.
 " may close doors, sec. 53.
 " may adjourn, sec. 54.
 " enforcement of decrees and orders of, sec. 55.
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- 'District Judge' defined, sec. 3, cl. 2.
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 " *à mensu et toro*, jurisdiction in respect of, sec. 4.
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- Enforcement of decrees and orders of Supreme Court, sec. 5.
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 European British subject, sec. 3, cl. 1.
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 " protection-order to be conclusive, sec. 28.
 " may be required on adjournment, sec. 45.
 " statements in petitions may be referred to as, sec. 47.
 " mode of taking, sec. 51.
 See *Affidavit, Cross-examination, Cruelty, Re-examination, Witnesses*.
- Execution stayed in case of reference, sec. 9.
 Filing next friend's undertaking, sec. 49.
- Forms of petitions and statements, sec. 46, and Schedule.
- Further inquiry, secs. 16, 17.
 " evidence, secs. 17, 54.
- Gazette, see *Notification, Rules*.
- Governor General in Council may appoint 'District Judges' for allied States, sec. 3, cl. 2.
- 'High Court' defined, sec. 3, cl. 1.
 " exercise of matrimonial jurisdiction of, sec. 4.
 " enforcement of former decrees of, sec. 5.
 " pending suits in, sec. 6.
 " to act on principles of English Divorce Court, sec. 7.
 " extraordinary jurisdiction of, sec. 8.
 " may transfer suits, *ib.*
 " references to, sec. 9.
 " petitions to, secs. 10, 18, 23, 26, 27, 32, 34, 36, 42, 44.
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 " may remove suits and try them, *ib.*
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 " may reverse decrees of separation, sec. 26.
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 " may order alimony, secs. 36, 37.
 " may order settlements, sec. 39.
 " may inquire into existence of settlements, sec. 40.
 " may make orders as to custody of children, secs. 41, 42, 43, 44.
 " to approve of minor's next friend, sec. 49.
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" may petition for a judicial separation, sec. 22.

" of separated wife, non-liability of, sec. 25.

" may petition for reversal of decree of separation, sec. 26.

" seizing wife's property after notice of protection-order, sec. 30.

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" may claim damages against adulterer, sec. 34.

" settlement of wife's property for benefit of, sec. 39.

" may offer himself as a witness, sec. 51.

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Idiots, suits on behalf of, sec. 48.

Impotence, a ground for a decree of nullity, sec. 19.

'Incestuous adultery' defined, sec. 3, cl. 7.

" " dissolution on ground of, sec. 10.

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" " rights of wife as to after-acquired property in case of, sec. 24.

" " wife's rights and liabilities as to contracts and torts, sec. 25.

" " effect of decree for, as to persons dealing with wife, sec. 60.

Jurisdiction in matters matrimonial to be exercised according to Act, sec. 4.

Liability of husband or his creditor taking wife's property after notice of protection order, sec. 30.

" of minor's next friend, sec. 49.

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" suits on behalf of, sec. 48.

Maintenance of wife, power to order monthly or weekly payments for, sec. 57.

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" dissolution on ground of apostate's, sec. 10.

Marriage, dissolution on ground of, when coupled with adultery, sec. 10.

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Minor, suits by, sec. 49.

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" order for application of settled property not to be made at expense of, sec. 40.

" custody, maintenance, and education of (in suits for separation), sec. 41.

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" " grounds for decree of, sec. 19.

" " confirmation of decree of nullity made by District Judge, sec. 20.

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" as to time of making decrees for dissolution absolute, sec. 16.

" as to showing cause why decree should not be made absolute, sec. 16.

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" as to manner of applying for removal of suit on ground of collusion, *ib.*

" protecting deserted wife's earnings and other property, sec. 28.

" to be conclusive as to time of desertion, *ib.*

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WHITLEY STOKES,

Secy. to the Council of the Governor General
for making Laws and Regulations.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th February 1869, and is hereby promulgated for general information:—

Act No. V. of 1869.

THE INDIAN ARTICLES OF WAR.

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An Act to consolidate and amend the Articles of War for the government of Her Majesty's Native Indian Forces.

Preamble.

WHEREAS it is expedient to consolidate and amend the Articles of War for, the government of the Native Officers, Soldiers, and other persons in Her Majesty's Indian Army: It is hereby enacted as follows:—

PART I.—PRELIMINARY.

(a)—*Short Title.*

This Act may be called "The Indian Articles of War."

(b)—*Commencement of Act.*

This Act shall come into operation on the first day of June 1869.

(c)—*Repeal of Enactments.*

From such day the first section of Act No. XXV. of 1857 (*to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny and to provide for the adjudication and recovery of forfeitures of property in certain cases*), Act No. XXIX. of 1861 (*to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army*), Act No. V. of 1863 (*to amend Act XXIX. of 1861*), and Act No. XXVI. of 1865 (*to amend Act XXIX. of 1861*), shall be repealed:

Provided that all crimes and offences committed against any Articles of War repealed by this Act may be enquired into and punished in like manner as if they had been committed against the Articles of War contained in this Act, and that any warrant for holding Courts Martial, issued under any Act hereby repealed, shall remain in full force, notwithstanding such repeal:

Provided also that no proceedings in any trial begun under any Articles so repealed shall be discontinued owing to such repeal, but every such trial shall proceed and be completed in the same manner as if this Act had not been passed.

References to any Act hereby repealed or any Act passed subsequently thereto shall be read as if made to this Act.

(d)—*Application of Articles.*

The Articles contained in Part II. of this Act shall apply to all—

Commissioned Officers,
 Sub-Assistant Surgeons,
 Hospital Assistants,
 Native Doctors,
 Warrant Officers,
 Non-Commissioned Officers,
 Hospital Attendants of any class,
 Trumpeters, Buglers, Drummers,
 Musicians,
 Soldiers,
 Unattested Recruits,

Lascars, Mahouts, Drivers,
 Farriers, Syces, Grass-cutters,
 Artificers, Labourers,
 Sutlers, Followers, whether public or private,
 and all other persons attached to or serving with any portion of the said Army:

Proviso.

Provided that nothing in the said Part (other than Article 123) shall render any British-born subject of Her Majesty, or any legitimate Christian lineal descendant of such subject, whether in the paternal or maternal line, triable or punishable under the said Part, but all such persons belonging to Her Majesty's Indian Army shall be triable and punishable as if they belonged to Her Majesty's British Forces.

And that nothing in the said Part shall render any American or any Christian European not being British-born, or any Christian legitimate lineal descendant of such American or European, whether in the paternal or maternal line, triable by a Court Martial composed of Native Commissioned Officers; but all such persons belonging to Her Majesty's Indian Army shall be triable by Courts Martial composed of European Officers only. Save as aforesaid, such persons shall be subject to this Act as if they were Natives of British India.

(e)—*Interpretation Clause.*

In this Act, unless there be something repugnant in the subject or context—

"Army" means Her Majesty's Indian Army, and "service" means service in such Army:

"Commissioned Officer" includes all Officers holding Commissions in the Native ranks of the Army, whether they be of purely Native or of a mixed European and Native extraction:

"European Officers" includes all European Officers holding Commissions in such Army or in Her Majesty's British Army:

"Commanding Officer" or "Officer Commanding" means the European Officer in actual command for the time being of any Force, Division, District, Regiment, Corps, Detachment, or Depot, as the case may be:

"Judge Advocate" includes any European Officer duly authorised to officiate as Judge Advocate:

"Court Martial" means a Court Martial held under this Act, and in Articles 67, 68, 69, and 123 shall include a Court Martial held under the Act for punishing mutiny and desertion, and for the better payment of the Army and their quarters for the time being in force:

"Soldier" and "Soldiers" include Non-Commissioned Officers and all armed persons doing duty in the ranks of the Army:

"Attested" means attested under the Articles contained in Part II. of this Act:

"Deserter" means a person subject to such Articles, who has deserted from the Army:

"Government" means in the case of the Madras Army, the Governor of Fort St. Saint George in Council, in the case of the Bombay Army, the Governor of Bombay in Council, and in the case of any other part of Her Majesty's Indian Army, the Governor General of India in Council;

And the expressions "assault," "criminal force," "dishonestly," "extortion," "fraudulently," "grievous hurt," "hurt," "theft," "voluntarily causes

hurt," "voluntarily causes grievous hurt," "reason to believe," "wrongful gain" and "wrongful loss" shall be severally taken to have the meanings assigned to them respectively in the Indian Penal Code, and quoted in Part I. of the Appendix to this Act.

(f)—*Saving of certain Regulations.*

Nothing in this Act affects any regulations by which the respective offices and powers of Cantonment Magistrates, Commissariat Officers, Officers in charge of the Police in Cantonments, and Superintendents of Military Bazaars are defined and controlled, or by which Pancháyats are constituted and guided.

PART II.—THE ARTICLES OF WAR.

TITLE I.—ENLISTMENT, DISMISSAL, AND DISCHARGE.

CHAPTER I.—*Enlistment.*

Articles to be read to Recruits.

Article 1.—Every person prior to being enrolled in any regiment or corps shall have the 7th, 8th, 9th, 10th, 11th, 24th, 38th, and 53rd of these Articles read and explained to him.

Affirmation.

When reported fit for duty, such declaration or charge shall be made to him, by the Officer Commanding, in front of the Regiment or Corps, or of such portion thereof as shall be present; and the person shall then make the following affirmation:—

"I, _____, inhabitant of _____, son of _____, solemnly affirm in the presence of Almighty God that I will be faithful to Her Majesty the Queen, Her heirs and successors, and will go wherever I am ordered, by land or sea, and will obey all commands of the Officers set over me, even to the peril of my life."

Attestation.

Article 2.—All persons of the following classes, hereafter enlisted or enrolled under these Articles, shall be attested according to the regulations of the Government to which they are respectively subject:—Sub-Assistant Surgeons, Hospital Assistants, Native Doctors, Warrant Officers of any Department, Trumpeters, Buglers, Drummers, Musicians, Soldiers, Lascars, Mahouts, Drivers, Farriers, Syces and Grass-cutters.

Articles 3, 4, 5, 7 to 71 (both inclusive), 90 to 94 (both inclusive), 130 to 139 (both inclusive), 154, 167, and 176 shall be read to every person enlisted or enrolled under these Articles at the time of his attestation,

CHAPTER II.—*Dismissal and Discharge.*

Dismissal of Commissioned Officers.

Article 3.—A Commissioned Officer shall be liable to dismissal from the service by the sentence of a General Court Martial, or by order of the Governor General of India in Council, or of the Commander-in-Chief of the Presidency to which he belongs, or if the Officer belongs to either of the Presidencies of Fort St. George or Bombay, of the Governor in Council, of such Presidency.

Every Commissioned Officer dismissed under these Articles shall forfeit all claim to pension.

Dismissal of other persons.

Article 4.—Any person subject to these Articles other than a Commissioned Officer shall be liable to dismissal from the service—

by the sentence of any Court Martial empowered to try him,

or by order of the Governor General of India in Council, or of the Commander-in-Chief, of the Presidency to which he belongs,

or if he belongs to either of the Presidencies of Fort St. George and Bombay, by order of the Governor in Council,

or if he belongs to a Force not attached to any such Presidency, by order of the Officer commanding such Force.

Every such person so dismissed shall forfeit all claim to pension.

Attested person dismissed and re-enlisting.

Article 5.—Every attested person of or below the rank of Non-Commissioned Officer who has been dismissed or discharged from the service, and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge, may be dismissed the service by the Officer commanding the regiment or corps with which he is serving.

Certificate to person dismissed.

Article 6.—Every attested person who is dismissed or discharged from the service shall be furnished by his Commanding Officer with a certificate, in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth—

- (a) the authority dismissing or discharging him,
- (b) the cause of his dismissal or discharge, and
- (c) the full period of his service in the Army.

TITLE II.—MILITARY OFFENCES.

CHAPTER I.—*Crimes punishable with Death or Transportation.*

Mutiny and Sedition.

Article 7.—Any person subject to these Articles:—

Who begins, excites, causes or joins in any mutiny or sedition in any regiment, corps, detachment, or guard,

or who, being present at any mutiny or sedition, does not use his utmost endeavours to suppress the same,

or who, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State,

does not, without delay, give information thereof to his Commanding or other superior Officer;—or

Violence to superior.

Article 8.—Who uses or attempts to use criminal force to or commits an assault on his superior Officer, whether on or off duty, under any circumstances in which the superior Officer is distinguishable as such in any manner;—or

Disobedience.

Article 9.—Who disobeys the lawful command of his superior Officer;—or

Desertion.

Article 10.—Who deserts the service;—or

Re-enlistment without having been discharged.

Article 11.—Who without having first obtained a regular discharge from the regiment or corps to which he belongs, enlists or enrolls himself in any other regiment or corps;—or

Sentry sleeping on or quitting post in time of war.

Article 12.—Who, being a sentry in time of war or alarm, or over any State-prisoner, treasure, magazine, or dockyard, sleeps upon his post, or quits it without being regularly relieved, or without leave;—or

Sentry plundering.

Article 13.—Who, being a sentry, or on guard, plunders or willfully destroys or injures any property placed under his charge, or under charge of his guard;—or

Abandoning garrison.

Article 14.—Who shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend;—or

Betraying watch-word.

Article 15.—Who treacherously makes known the watch-word to any person not entitled to receive it according to the rules and discipline of war;—or

Corresponding with enemy.

Article 16.—Who directly or indirectly holds correspondence with, or communicates intelligence to the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his Commanding or other superior Officer;—or

Assisting enemy.

Article 17.—Who directly or indirectly assists or relieves with money, victuals, or ammunition, or knowingly harbours or protects any enemy, or person in arms against the State;—or

Releasing prisoners.

Article 18.—Who, without proper authority, releases any State prisoner, enemy, or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy, or person to escape;—or

Misbehaviour in presence of enemy.

Article 19.—Who, in presence of an enemy, or of any persons in arms against whom it is his duty to act, shamefully casts away his arms or ammunition, intentionally use words or any other means to induce any officer or Soldier to abstain from acting against the enemy or to discourage such officer or Soldier from acting against the enemy, or otherwise misbehaves;—or

Seeking plunder during action.

Article 20.—Who in time of action, without authority, leaves his Commanding Officer, or his post, or colours, or party to go in search of plunder;—or

iv.—20 h

Quitting guard in time of war.

Article 21.—Who in time of war quits his guard, picquet, party, or patrol, without being regularly relieved or without leave;—or

Assaulting persons bringing provisions.

Article 22.—Who in time of war, or during any military operation, uses criminal force to or commits an assault on any person bringing provisions or other necessaries to the camp or quarters of any of Her Majesty's forces,

or forces a safeguard, or without authority breaks into any house or other place for plunder, or plunders, injures, or destroys any field, garden, or other property of any kind;—or

Causing false alarm in time of war.

Article 23.—Who in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison, or quarters or spreads reports by words or by letters calculated to create alarm or despondency;

Punishment for the foregoing offences.

Article 24.—Shall, on conviction, suffer death, or transportation for life or for a term of not less than seven years,

or imprisonment (with or without hard labour and with or without solitary confinement) for a term which may extend to fourteen years.

or such other punishment as a General Court Martial is, by these Articles, empowered to award.

Whenever any person is convicted under this section of an offence punishable with death, all his property, moveable and immoveable, shall be forfeited to Government.

*CHAPTER II.—Crimes punishable otherwise than by Deaths or Transportation.**Unbecoming behaviour.*

Article 25.—Any Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer,

who behaves in a manner unbecoming his position and character;—and

Intoxication on duty.

Article 26.—Any person subject to these Articles, who is in a state of intoxication when on or for any duty, or on parade, or on the line of march;—or

Striking sentry.

Article 27.—Who strikes, or forces or attempts to force any sentry;—or

Harbouring deserter.

Article 28.—Who knowingly harbours any deserter, or who, knowing or having reason to believe that any other person has deserted, or that any deserter has been harboured by any other person, does not immediately give notice to his own or some other superior Officer, or use his utmost endeavours to cause such deserter to be apprehended;—or

Enlisting deserter.

Article 29.—Who knowing or having reason to believe that a person is a deserter enlists him;—or

Absence without leave.

Article 30.—Who absents himself without leave, or, without sufficient cause, overstays leave granted to him;—or

Failure to rejoin.

Article 31.—Who, being on leave of absence and having received information from proper authority that his regiment or corps has been ordered on service, fails without sufficient cause, to rejoin without delay;—or

Failure to attend parade.

Article 32.—Who, without sufficient cause, fails to appear at the time fixed at the parade or place appointed for exercise or duty;—or

Quitting parade or division.

Article 33.—Who, when on parade, or on the line of march, without sufficient cause, or without leave from his superior Officer, quits the parade or line of March;—or

Quitting guard in time of peace.

Article 34.—Who, in time of peace, quits his guard, picquet, or patrol, without being regularly relieved, or without leave;—or

Refusing to receive or releasing prisoners.

Article 35.—Who, being in command of a guard, picquet, or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner or negligently suffers any prisoner to escape;—or

Leaving arrest.

Article 36.—Who, being under arrest, or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority;—or

Insubordination.

Article 37.—Who is grossly insubordinate or insolent to his superior Officer in the execution of his office;—or

Refusal to superintend military work.

Article 38.—Who refuses to superintend or assist in the making of any field-work, or other military work of any description, ordered to be made either in quarters or in the field;—or

Impeding Provost Marshal.

Article 39.—Who impedes a Provost Marshal or an Assistant Provost Marshal, or any person lawfully exercising authority, or refuses when called upon to assist such person when requiring aid in the execution of his duty;—or

Striking subordinates.

Article 40.—Who strikes or otherwise ill-treats any soldier or other person attested under these Articles, being his subordinate in rank or position;—or

Extortion.

Article 41.—Who commits extortion, or without proper authority exacts from any person carriage, portorage, or provisions;—or

House-breaking or plundering in time of peace.

Article 42.—Who, in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys, or damages any field, garden, or other property;—or

Neglecting to compensate person injured by subordinate.

Article 43.—Who, being in command at any post, or on the march, and receiving a complaint that any one under his command has beaten, or otherwise maltreated or oppressed any person, or

has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority;—or

Defiling places of worship.

Article 44.—Who by defiling any place of worship or otherwise, intentionally insults the religion or wounds the religious feelings of any person;—or

Taking bribes.

Article 45.—Who directly or indirectly requires, accepts, or obtains, or agrees to accept, or attempts to obtain for himself or for any other person any gratification as a motive or reward for procuring the enlistment or enrolment of any person, or leave of absence, promotion, or any other advantage or indulgence for any person in the service;—or

Causing false alarm in time of peace.

Article 46.—Who in time of peace, by any means whatever, intentionally occasions a false alarm in camp, garrison, or cantonment;—or

Making away with regimental necessaries.

Article 47.—Who designedly or through neglect kills, injures, or loses his horse, or who dishonestly or fraudulently removes, conceals, or delivers to any person, or who designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements, or regimental necessaries, or any such articles entrusted to him, or belonging to any other person,

or who sells, pawns, destroys, or defaces any medal or decoration granted to him by order of Her Majesty, or of the East India Company, or of the Governor General of India in Council for service in the field, or for general good conduct;—or

Attempting suicide.

Article 48.—Who attempts to commit suicide, and does any act towards the commission of such offence;—and

Appearing armed in camp.

Article 49.—Any person subject to these Articles below the rank of Warrant Officer—

Who, when off duty, appears without proper authority in or about camp or cantonments, or in or about, or when going to, or returning from, any town or bazaar, carrying a sword, bludgeon, or other offensive weapon;—or

Sentry sleeping on post in time of peace.

Article 50.—Who, being a sentry, in time of peace, sleeps upon his post, or leaves it before being regularly relieved, or without leave;—or

Absence from camp.

Article 51.—Who, without proper authority, is found two miles or upwards from camp;—or

Absence from cantonment after tattoo.

Article 52.—Who, without proper authority, is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;

Punishment for offences mentioned in Articles 25—52.

Article 53.—Shall, on conviction by any Court Martial competent to try him, be sentenced to such punishment, other than death or transportation, as such Court is by these Articles empowered to award.

CHAPTER III.—*Crimes to be punished with dismissal from the service.*

Embezzlement.

Article 54.—Any person subject to these Articles—

Who dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to his charge on the public account, or for any military purpose,

or who dishonestly uses or disposes of such property in violation of any direction of a proper authority,

or who dishonestly receives or retains any such property, knowing or having reason to believe the same to have been dishonestly misappropriated or converted;—or

Destruction of Government property.

Article 55.—Who wilfully destroys or injures any property of Government entrusted to him on the public account, or for any military purpose;—or

Giving false evidence.

Article 56.—Who, having been duly sworn or affirmed before any Court Martial, or other Military Court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true;—

Punishment for offences mentioned in Articles 54, 55, 56.

Article 57.—Shall, if convicted by a General Court Martial, be sentenced to be dismissed the service, and to forfeit any arrears of pay and allowances due to him at the time of dismissal; and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to three years: and shall, if convicted by a District or Garrison Court Martial, be liable to any or all of the penalties which such Court may inflict for disgraceful conduct.

CHAPTER IV.—*Disgraceful Conduct.*

Malingering.

Article 58.—Any person subject to these Articles—

Who malingers or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity;—or

Wilfully causing hurt.

Article 59.—Who, with intent to render himself or any other person, unfit for service, voluntarily causes hurt or voluntarily cause grievous hurt to himself or any other person;—or

Theft.

Article 60.—Who commits theft in respect of any property of Government, or of any Officer or soldier, or of any other person in the service, or of any military mess or band, or of any person serving with or attached to the Army, or who dishonestly receives or retains any such property, knowing or having reason to believe it to be stolen;—or

Embezzlement of Government property not entrusted on public account.

Article 61.—Who dishonestly misappropriates or converts to his own use any property of Government entrusted to him for any purpose not provided for in Articles 54 and 55,

or who dishonestly receives or retains any such property knowing or having reason to believe it to have been dishonestly misappropriated or converted;—or

Obtaining pension by false statement.

Article 62.—Who obtains or attempts to obtain for himself, or for any other person, any pension, allowance, or other advantage or privilege by a statement which is false and which he knows or has reason to believe to be false or does not know to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;—or

Furnishing false returns.

Article 63.—Who knowingly furnishes false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores, or other property in his charge, whether belonging to such men, or to Government, or to any person in or attached to the Army, or who through design or culpable neglect omits or refuses to make or send any such return or report;—or

Other fraudulent offences.

Article 64.—Who does any other thing with intent to defraud, or to cause wrongful gain to one person, or wrongful loss to another person;—or

Cruelty or Indecency.

Article 65.—Who commits any other offence of a cruel, indecent, or unnatural kind, or attempts to commit any such offence and does any act towards its commission.

Penalties for offences specified in Articles 58—65.

Article 66.—May be tried for disgraceful conduct, and shall, on conviction by a General, District, or Garrison Court Martial, be liable to any or all of the penalties awardable by such Court for disgraceful conduct.

CHAPTER V.—*Offences against Courts Martial.*

Refusal to attend or be sworn.

Article 67.—Any person subject to these Articles who, when duly summoned to attend as a witness before a Court Martial, intentionally omits to attend, or prevaricates or refuses to be sworn or make affirmation, or to answer any question, or to produce or deliver up any book or document which he may have been duly warned and called upon to produce or deliver up;—or

Contempts.

Article 68.—Who intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign, or gesture, or is insubordinate or violent in the presence of a Court Martial while sitting;—

Punishment for offences specified in Articles 67 and 68.

Article 69.—Shall, on conviction by the same or by any other Court Martial, which is compe-

tent to try the offender, be liable to such punishments as the convicting Court is, by these Articles, empowered to award.

CHAPTER VI.—*Unspecified Offences.*

Article 70.—All offences not punishable with death, all neglects to obey any garrison or other orders, and all acts and omissions, of which any person subject to these Articles is accused, shall, though not specified in these Articles, if they be prejudicial to good order and military discipline, be taken cognizance of and punished according to the nature and degree of the offence, act, or omission by any Court Martial empowered to try the person guilty of such offence, act, or omission.

Abetment.

Article 71.—Every person subject to these Articles who abets, within the meaning of the Indian Penal Code, sections 107 and 108, any of the offences specified in Articles 7, 8, 10, 13, 14, 18, and 19, may be punished with the punishment hereinbefore provided for such offence.

Every such person who abets within the meaning of the Indian Penal Code, sections 107 and 108, any other offence punishable under this Act, shall be punished

with imprisonment of any description provided by this Act for the offence so abetted for a term which may extend to one-half of the longest term of such imprisonment,

or with one-half of any other penalty awardable by the Court by which he is convicted,

or, if the offence is punishable with death or transportation for life, with transportation for a term not less than seven years or with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to ten years.

The said sections of the Indian Penal Code are set forth in Part II. of the Appendix to this Act.

TITLE III.—JURISDICTION.

CHAPTER I.—*Courts Martial.*

Kinds of Courts Martial.

Article 72.—For the purposes of these Articles, there shall be eight kinds of Courts Martial (that is to say)—

- (1)—General Courts Martial,
- (2)—Detachment General Courts Martial,
- (3)—District Courts Martial,
- (4)—Garrison Courts Martial,
- (5)—Regimental Courts Martial,
- (6)—Regimental Detachment Courts Martial,
- (7)—Detachment Courts Martial, and
- (8)—Summary Courts Martial.

(1)—*General Court Martial.*

Appointment of General Court Martial.

Article 73.—A General Court Martial may be appointed—

(a)—By the Commander-in-Chief of a Presidency.

(b)—By any Officer authorized to appoint General Courts Martial by warrant of the Commander-in-Chief of a Presidency:

(c)—By any Officer in actual command of Native troops who is authorised to appoint General Courts Martial by order of the Governor General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council:—

(d)—By any Officer commanding Native troops not attached to the forces of a Presidency who is authorized to appoint General Courts Martial by warrant which the Governor General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Court.

Article 74.—Except as hereinafter provided every General Court Martial shall, if held in British India shall consist of not less than nine Commissioned Officers, but may, if held out of British India, consist of seven Commissioned Officers, if a greater number cannot be conveniently assembled.

Composition of such Court appointed under orders in Council.

Article 75.—A General Court Martial appointed under the authority of an order in Council shall consist of not less than five Commissioned Officers, and shall, if so provided in the order, be composed either of European or of Native Commissioned Officers at the discretion of the Officer appointing it.

Powers of such Court.

Article 76.—A General Court Martial shall have power to try all persons subject to these Articles accused of mutiny or of any other offence punishable under this Act, and to pass sentences of Death,

Transportation for life or for any period not less than seven years,

Imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years,

Dismissal from the service,

Suspension from rank, pay, and allowances for any stated period,

Degradation,

Loss of standing,

Reduction to the ranks,

Corporal punishment not exceeding fifty lashes,

Forfeiture of additional pay, good conduct pay, and claim to pension,

Forfeiture of arrears of pay and allowances, Stoppages.

Whenever any person is convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that all the rents and profits of his moveable and immoveable estate during the period of his transportation or imprisonment shall be forfeited to Government, subject to such provision for his family and dependents as the Government may think fit to allow during such period.

(2)—*Detachment General Court Martial.*

Appointment of such Court Martial.

Article 77.—When any portion of Her Majesty's troops is serving in any place not in British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty, wherein Her Majesty's forces are permanently

stationed, a Detachment General Court Martial may be appointed:—

(a)—By the Commander-in-Chief of a Presidency:

(b)—By any Officer authorized to appoint Detachment General Courts Martial by warrant of the Commander-in-Chief of a Presidency;

(c)—By the Officer in actual command of such troops, upon complaint being made of an offence against the person or property of any resident of such place, committed by any person under such Officer's command and subject to these Articles.

Its Composition and Powers.

Article 78.—Such Court Martial shall consist of not less than three Commissioned Officers, and shall have the same powers as a General Court Martial.

(3)—*District Court Martial, and*

(4)—*Garrison Court Martial.*

Appointment of such Courts.

Article 79.—A District or Garrison Court Martial may be appointed—

(a)—By the Commander-in-Chief of any Presidency:

(b)—By any Officer authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant of the Commander-in-Chief of any Presidency:

(c)—By any Officer in actual command of Native troops authorized to appoint District or Garrison Courts Martial (as the case may be) by order of the Governor General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council:

(d)—By any Officer commanding Native troops not attached to the forces of a Presidency authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant which the Governor General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Courts.

Article 80.—(a) Except as hereinafter provided, a District or Garrison Court Martial shall consist of seven Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than five such Officers.

(b) A District Court Martial appointed under the authority of an order in Council, may consist of any number of Commissioned Officers not less than three; and may, if so provided in the order, be composed either of European or of Native Commissioned Officers at the discretion of the Officer appointing it.

Officers composing such Courts.

Article 81.—A District or Garrison Court Martial may, when necessary, be composed wholly of Officers of the regiment or corps to which the accused belongs: Provided that on the trial of a Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, not more than two Officers of the same regiment, corps, detachment, depôt or department as the accused shall sit upon any such Court.

iv.—20 i

Powers of such Courts.

Article 82.—A District or Garrison Court Martial shall have power to try all persons subject to these Articles, other than Commissioned Officers, for any offence other than mutiny made punishable by these Articles, and to pass sentences of—

Imprisonment (with or without hard labour, and with or without solitary confinement) for a term not exceeding one year,
Dismissal from the service,
Suspension from rank, pay, and allowances,
Degradation,
Loss of standing,
Reduction to the ranks,
Corporal punishment not exceeding fifty lashes,
Forfeiture of additional pay, good-conduct pay, and claim to pension,
Forfeiture of arrears of pay and allowances,
Stoppages.

(5)—*Regimental Court Martial.*

Appointment of such Court.

Article 83.—A Regimental Court Martial may be appointed by the Officer commanding any regiment or corps.

Composition of such Court.

Article 84.—A Regimental Court Martial shall consist of not less than five Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three such Officers.

Powers of such Court.

Article 85.—A Regimental Court Martial shall have power to try—

(a)—All persons subject to these Articles, other than Commissioned Officers, Sub-Assistant Surgeons, Hospital Assistants, Native Doctors and Warrant Officers, for any offence other than mutiny, desertion, or disgraceful conduct, punishable under these Articles, when committed on the line of march, or on board any vessel.

(b)—Any offence punishable under this Act, and not within the ordinary jurisdiction of a Regimental Court Martial, other than mutiny, desertion, and disgraceful conduct, when the Officer commanding the Division or District directs it to be tried by a Regimental Court Martial; and

(c)—Any offence punishable under these Articles, other than offences not within the ordinary jurisdiction of a Regimental Court Martial—

and to pass sentences of—

Dismissal,
Loss of standing,
Reduction to the ranks,
Imprisonment (with or without hard labour and with or without solitary confinement) for a term not exceeding six months,
Corporal punishment not exceeding fifty lashes,
Forfeiture of arrears of pay and allowances,
Stoppages.

(6)—*Regimental Detachment Court Martial, and*

(7)—*Detachment Court Martial.*

Appointment of Regimental Detachment Court Martial.

Article 86.—A Regimental Detachment Court Martial may be appointed by the Officer commanding a detachment of his own regiment or corps.

Appointment of Detachment Court Martial.

Article 87.—A Detachment Court Martial may be appointed—

(a)—By the Officer commanding any Station, Force, or Detachment of men of different regiments or corps;

(b)—By the Officer in command of any detachment when any offence not within the ordinary jurisdiction of a Regimental Court Martial (other than mutiny, desertion, or disgraceful conduct), is committed on the line of march, or on board any vessel.

Composition of such Courts.

Article 88.—A Regimental Detachment Court Martial and a Detachment Court Martial shall consist of not less than five Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three Commissioned Officers.

Powers of such Courts.

Article 89.—A Regimental Detachment Court Martial and a Detachment Court Martial shall have the same powers as a Regimental Court Martial.

(8)—Summary Courts Martial.

Article 90. (a).—Subject to the provisions and restrictions contained in Articles 91, 92, 93, 94, 125 and 126, a Summary Court Martial may be held by the European Commissioned Officer who is in actual command, for the time being, of any regiment or corps,

or of any detachment consisting of or equivalent in strength to three troops or companies,

or of any European corps or detachment to which Native details subject to these Articles are attached,

or who is in charge of any arsenal, ordnance establishment, or camp equipage depôt.

(b)—In detached situations, beyond sea, or out of British India, or on service in the field, or under any circumstances where immediate example being necessary, a Detachment Court Martial cannot be assembled as provided in Article 87, and reference cannot be made to superior authority without detriment to the service, a Summary Court Martial may be held by the European Commissioned Officer commanding a detachment of any strength:

Provided that if the Officer is of less than five years' standing, he shall not carry into effect any sentence by such Court Martial, until it has received the approval of the nearest superior Military Officer holding a command of not less than a regiment.

Constitution of such Courts.

Article 91.—At every Summary Court Martial the Commanding Officer holding it shall alone constitute the Court.

Persons triable by such Court.

Article 92.—No Commanding Officer shall have power to try by a Summary Court Martial any Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, or any person who is not liable to trial by Courts composed of Native Commissioned Officers; but all other persons subject to these Articles shall be liable to trial and punishment by a Summary Court Martial:

Provided that no person shall be so tried unless he is under the command of the Officer holding the trial.

Offences triable by such Court.

Article 93.—Any offence against these Articles, except mutiny, may be tried and punished by Summary Court Martial:

Provided that, when there is no emergent reason for immediate action, and reference can, without detriment to discipline, be made to superior military authority, a Commanding Officer shall not try by Summary Court Martial, without such reference, any of the following offences:—

Offences under Articles 7 to 23 both inclusive, ordinarily punishable by General Court Martial only:

Disgraceful offences under Articles 54, 55, 56, 60, 61, and 64; and

Offences against such Commanding Officer.

Its powers.

Article 94.—A Summary Court Martial held by any Officer commanding a regiment or corps may award any sentence not exceeding that awardable by a District Court Martial.

A Summary Court Martial held by any Commanding Officer other than the Officer commanding a regiment or corps, may award any sentence not exceeding that awardable by a Regimental or Detachment Court Martial.

Trial of grave offences by inferior Courts.

Article 95.—Save as provided by Articles 85, clauses (a) and (b) and Article 89, no Commanding Officer shall try by a Regimental or Detachment Court Martial offences which are by these Articles declared to be punishable by a General, District, or Garrison Court Martial only. But, as it may be expedient that some such offences should be tried by inferior Courts Martial, the Commanding Officer of any Regiment, Corps, or Detachment shall, in every such instance, submit the case for the orders of the Officer commanding the Division or District in which he is serving, and the Officer commanding such Division or District, whether on or without such application, may direct trial by such kind of Court Martial as he thinks fit:

Provided that mutiny shall in no case be tried save by a General Court Martial, and that desertion and disgraceful conduct shall in no case be tried by any Court Martial inferior to a District or Garrison Court Martial.

The permission to try grave offences by District or Garrison, Regimental or Detachment Courts Martial, shall be entered upon the proceedings of such Court, and in the monthly return of trials furnished to Army Head Quarters.

Courts composed of European Officers.

Article 96.—The Governor General of India, or the Governor of any Presidency, may, by an order in Council, direct that any Court Martial appointed under these Articles, shall be composed of European instead of Native Commissioned Officers or authorize any General or other Officer to appoint Courts Martial so composed at his discretion.

Any such Court Martial shall in such case be constituted accordingly, but shall in all other respects be governed by these Articles.

Claim to be tried by European Officers.

Article 97.—With the exception of cases of trial by Courts Martial appointed under orders in Council, every person subject to these Articles, who is under orders for trial by Court Martial, may claim to be tried by European Officers.

When any such claim is made, the Court, whether a General, District, Garrison, Regimental, or Detachment Court Martial, shall be composed of European instead of Native Commissioned Officers; but shall in all other respects be governed by these Articles.

CHAPTER II.—*Procedure.*

Limitation of trials.

Article 98.—No person subject to these Articles shall be tried or punished by a Court Martial for any military offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and brought to trial within that period; in which case he shall be liable to be tried at any time not exceeding two years after such impediment shall have ceased.

Place of trial.

Article 99.—Any person subject to these Articles who commits any offence against them, may be tried and punished for such offence in any place whatever in the same manner as if the offence had been committed in such place.

Arrest or confinement of accused.

Article 100.—Whenever any person subject to these Articles is accused of any military offence which his Commanding or other superior Officer considers should be tried by Court Martial, such Officer shall order the accused, if not below the rank of Non-Commissioned Officer, to be placed in arrest, or if below such rank, to be put in confinement, until he can be tried by a Court Martial or discharged by proper authority.

No such person shall be detained in arrest or confinement longer than is necessary for the purposes of justice.

Judge Advocate.

Article 101.—It shall not be necessary to appoint a Judge Advocate to any General Court Martial appointed under the authority of an order in Council. But every other General Court Martial shall be attended by a Judge Advocate, who shall conduct the proceedings; and every District or Garrison, Regimental, or Detachment Court Martial, composed of Native Commissioned Officers, shall be attended by an European Superintending Officer of not less than four years' service who shall conduct the proceedings.

Interpreter.

Article 102.—An Interpreter shall be appointed to every Court Martial, and shall, when the Court is composed of Native Officers, form part of such Court.

If no duly qualified Interpreter is available at the station or place where the Court Martial sits, the Officer appointing the Court, or the Officer Commanding in the Division, District, or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of Interpreter.

When no other qualified or competent person is available, the Superintending Officer, or, in the case of an European Court, the President shall perform the duty of Interpreter.

No Interpreter shall as such have a vote upon any matter.

President.

Article 103.—At every Court Martial, whether composed of European or Native Commissioned Officers, the senior Officer shall sit as President, without special appointment as such.

In case of the death or unavoidable absence of the President, the next senior member shall take the place of President, without special appointment as such, and the trial shall proceed if the Court be still composed of the smallest number of members of which it is required by these Articles to consist.

Conduct of proceedings.

Article 104.—In the case of any General Court Martial appointed under an order in Council, or of any other Court Martial composed of European Commissioned Officers under Article 96 or 97, the President shall conduct the proceedings.

Precedence of Native Officers.

Article 105.—Risáldár Majors and Súbahdár Majors shall take precedence according to the dates of their commissions, and above all Súbahdárs or Risáldárs.

Sirdár Bahádurs and Bahádurs shall take rank only according to their respective commissions of Risáldár Major, Súbahdár Major, Risáldár, Risáidár, Súbahdár, or Jemadár.

Risáldárs shall take rank with Súbahdárs, according to the dates of their commissions as Risáidárs, or if they have not been Risáidárs, then according to the dates of their commissions as Risáldárs.

Time of trial, Adjournment, and Re-assembly.

Article 106.—Trials by Courts Martial may be carried on at any time without restriction.

The date and hour of the Court's original assembly shall be fixed by, or under the orders of, the convening Officer; but the adjournment and re-assembly of a Court Martial shall be determined by the Court itself.

Challenges.

Article 107.—At all trials by Courts Martial, other than Courts Martial appointed under an order in Council or Summary Courts Martial, as soon as the Court is assembled, the names of the President and members shall be read over to the prisoner, who shall thereupon be asked by the Officer conducting the proceedings, whether he objects to being tried by any Officer sitting on the Court.

If the prisoner objects to any such Officer, his objection and also the reply thereto of the Officer objected to, shall be heard and recorded, and the remaining Officers of the Court shall, in the absence of the challenged Officer, decide on the objection.

When no challenge is made, or when challenge has been made and disallowed, or the place of every Officer successfully challenged has been filled by another Officer to whom no objection is made or admitted, the Court shall proceed as hereinafter provided.

Interpreter's oath.

Article 108.—The Officer conducting the proceedings shall then administer to the Interpreter, or, when necessary, shall himself make as Interpreter, an affirmation or oath as follows:—

“ I solemnly affirm, in the presence of Almighty God, that I will faithfully interpret and translate the proceedings of this Court; and that I will not divulge the sentence until it shall have been published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of the Court unless required to give evidence thereof by a Court of Justice or Court Martial, in due course of law.”

When oath is made instead of affirmation, the oath shall commence—

“ I do swear that I will faithfully interpret,” &c., and shall be in all other respects in the above form, and shall end with the words, “ So help me God.”

Oaths of President and Members.

Article 109.—The Interpreter, or the Officer conducting the proceedings, shall then administer to the President and each of the Members of the Court Martial an affirmation or oath in such of the following forms as shall be appropriate:—

For European Officers.

“ I solemnly affirm, in the presence of Almighty God, that I will duly administer justice, according to the Indian Articles of War, without partiality, favour, or affection; and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of the Court until it shall be published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of the Court, unless required to give evidence thereof by a Court of Justice or a Court Martial, in due course of law.”

When oath is made instead of affirmation, the oath shall commence—

“ I do swear that I will duly administer justice,” &c., and shall be in all other respects in the above form, and shall end with the words “ So help me God.”

For Native Officers of the Mussulman or Hindú religion, or of any other religion for which it may be appropriate.

“ I solemnly affirm, in the presence of Almighty God, that I will duly administer justice, according to the Indian Articles of War, without partiality, favour, or affection; and if any doubt shall arise, then according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of the Court until it shall be published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of the Court, unless required to give evidence thereof by a Court of Justice or a Court Martial, in due course of law.”

Judge Advocate's oath.

Article 110.—The Interpreter, or any other European Officer of the Court, shall then administer

to the Judge Advocate, or Superintending Officer, the following affirmation or the following oath:—

“ I solemnly affirm, in the presence of Almighty God, that I will not, upon any account whatsoever, disclose or discover the vote or opinion of any particular member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice or a Court Martial, in due course of law; and that I will not, unless it be necessary for the due discharge of my official duties, disclose the sentence of the Court until it shall be published by authority.”

When oath is made instead of affirmation, the oath shall commence—

“ I do swear that I will not, upon any account whatsoever, disclose,” &c., and shall be in all other respects in the above form, and shall end with the words “ So help me God.”

Oaths of Witnesses.

Article 111.—Every person giving evidence at a Court Martial shall be examined on oath, or on affirmation, where affirmation is appropriate and admissible, and shall be duly sworn or affirmed in such of the following forms as may be appropriate:—

For Europeans and persons professing the Christian religion.

“ I do swear that what I shall state shall be the truth, the whole truth, and nothing but the truth.” So help me God.

or,

“ I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth.”

For Mussulman, Hindú, or other Native Witnesses.

“ I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth.”

Oaths to be binding on conscience.

Article 112.—If none of the forms of oath or affirmation prescribed in Articles 108 to 111, both inclusive, are appropriate to any officer of a Court Martial or any witness, such officer or witness shall make oath or affirmation to the purport hereinbefore prescribed, in such form as the Court ascertains to be according to his religion or otherwise binding on his conscience.

Re-swearing in case of several trials.

Article 113.—When more trials than one are held by the same Court Martial, every Officer of the Court and every witness before the Court, shall make a fresh oath or affirmation, as hereinbefore prescribed, notwithstanding any previous oath or affirmation.

Presumptive evidence of desertion.

Article 114.—If at any trial for desertion it is proved that the person tried has been absent without authority for the space of two months, such proof shall be deemed sufficient presumptive evidence of desertion; and the Court may thereupon convict the prisoner of desertion, unless he proves that his absence was not wilful, or otherwise rebuts the presumption of desertion arising from the proof of his unauthorized absence.

Reference by prisoner to Government Officer.

Article 115.—If at any trial for desertion, absence without leave, overstaying leave, or not rejoining when warned for service, the person tried states, in his defence, any sufficient or reasonable excuse for his unauthorized absence and refers in support thereof to any Officer in the Civil or Military service of Government, or if it appears that any such Officer is likely to prove or disprove the said statement in the defence, the Court shall address such Officer, and adjourn until his reply is received.

The written reply of any Officer so referred to shall if signed by him be received in evidence, and have the same effect as if made on oath or affirmation before the Court.

If the Court is dissolved before the receipt of such reply, or if the Court omits to comply with the provisions of this Article, the convening Officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another Court Martial.

Trial for desertion.

Article 116.—On any trial for desertion the accused may be found guilty either of desertion or of absence without leave.

Evidence of previous convictions and general character.

Article 117.—When any person subject to these Articles has been convicted by a Court Martial of any military offence, such Court Martial shall enquire into and receive and record evidence of any previous convictions of such person, either by a Court Martial, or by a Court of Justice; and shall further, in the case of any person below the rank of a Warrant officer, inquire into and record the general character of such person.

Evidence received under this Article may be either oral, or in the shape of entries in, or certified extracts from the Court Martial Books; and it shall not be necessary to prove the signature to such certified extract, nor shall it be necessary to give notice to the prisoner before trial that evidence as to his previous convictions or character will be received.

Voting of Members.

Article 118.—The members of a Court Martial shall preserve order; and in giving their votes upon any matter, shall begin with the junior in rank.

Except where otherwise specially provided, every decision shall be passed by a majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the prisoner.

In matters other than the finding or sentence, the President shall have a casting vote.

Majority requisite to sentence of death.

Article 119.—No sentence of death shall be passed by any General Court Martial, other than a General Court Martial held under an order in Council, unless such sentence is concurred in by at least two-thirds of the officers composing the Court, or by five out of seven, or four out of five officers, when the Court consists of either of those numbers.

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A General Court Martial held under an order in Council may by the votes of a majority of such Court, pass a sentence of death.

Revision of finding or sentence.

Article 120.—The finding or sentence of any Court Martial may be revised by order of the Officer authorized to dispose of the proceedings.

But no finding or sentence of a Court Martial shall be revised more than once; nor shall any evidence, save evidence as to previous convictions or general character, be received on a revision.

The Court, on revision, shall consist of the same, and the same number of Officers as were present when the original decision was passed, unless any such Officer or Officers shall be unavoidably absent.

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 it still consists of the smallest number of Officers of which such Court is by these Articles required to consist.

Procedure to be generally followed.

Article 121.—The procedure laid down in the Articles 106 to 119 (both inclusive) shall be adopted at all trials by Courts Martial, save when otherwise specially ordered or provided.

Summoning witnesses.

Article 122.—The Judge Advocate, in the case of a General Court Martial, and the Officer ordering the trial in the case of any other Court Martial may, by summons under his hand, require the attendance before the Court at a time and place to be mentioned in the summons, of any person either to give evidence or to produce documents.

In the case of a witness amenable to military authority, the summons shall be sent to the Officer in actual command of the corps to which he belongs, and such Officer shall serve it upon him accordingly.

In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

When a witness is required to produce any particular document in his possession or power, the summons shall describe it with convenient certainty.

Contempts of Courts.

Article 123.—Any witness duly summoned, or any other person who commits any contempt of Court in the presence of a Court Martial, or who commits any of the offences described in Articles 56, 67, or 68, shall, if subject to these Articles, be proceeded against as they direct, and shall, if not so subject, be delivered over to a Magistrate, who shall proceed against the offender in the same manner as if the offence had been committed before or towards a Court of Criminal Justice.

Privilege of witnesses.

Article 124.—Every witness, while proceeding to, attending on, or returning from, any Court Martial before which he has been summoned, shall

be privileged from arrest in any civil suit or proceeding; and if arrested in any such suit or proceeding, may be discharged by order of such Court Martial.

SUMMARY COURTS MARTIAL.

Persons to attend Summary Court Martial.

Article 125.—Every Summary Court Martial shall be attended by two Commissioned Officers, European or Native, exclusive of the Commanding Officer holding the trial.

An Interpreter shall, in every case, attend at a Summary Court Martial; but when no other competent Interpreter is available, the Officer holding the trial, or one of the Officers in attendance thereat, may perform the duty of Interpreter.

No Interpreter shall as such have a vote upon any matter.

Proceedings of such Courts.

Article 126.—The proceedings of every Summary Court Martial shall be conducted in presence of all the Officers specified in Article 125, and shall be recorded in the English language in the manner usual at other Courts Martial.

Oaths of Interpreter and Officer holding trial.

Article 127.—The Interpreter at a Summary Court Martial shall first make oath or affirmation, as provided by Article 108, down to the words "published by authority;" and the Commanding Officer holding the trial shall then make oath or affirmation, as provided in Article 109, down to the words "custom of war in the like cases."

The Officers in attendance shall not as such be sworn or affirmed.

Evidence.

Article 128.—All evidence at a Summary Court Martial shall be taken on oath or affirmation, as provided by Article 111.

Any previous convictions on record against the offender, and his general character, shall be recorded by the Commanding Officer, as of his own knowledge, or proved as provided by Article 117.

Signature and transmission of proceedings.

Article 129.—The proceedings in every case in which a Regimental Court Martial or a Detachment Court Martial tries an offence not within the ordinary jurisdiction of a Regimental Court Martial, committed on the line of march or on board a vessel, shall be sent for the information of the Commander-in-Chief of the Presidency to which the Regiment or Detachment belongs, and of the Presidency within which they may be, or to which they are proceeding.

The proceedings of every Summary Court Martial shall, when closed, be signed by the Commanding Officer, and the Officers attending the trial, and shall, without delay, be forwarded to the Officer commanding the Division or District within which the trial was held; and such Officer, or the Commander-in-Chief in India or of the Presidency in which the trial was held, is hereby authorized to set aside the trial for reasons based on the merits of the case, but not on any merely technical grounds.

When a Summary Court Martial is held in a force not attached to any Presidency, the Officer commanding such force may exercise the powers given in this Article in regard to setting aside trials.

The proceedings of every other Court Martial shall, when closed, be signed by the members, and shall without delay be forwarded or delivered to the Officer under whose orders the trial has been held.

CHAPTER III.—Sentences.

Of General Courts Martial.

Article 130.—(a) Any General Court Martial may for any offence falling under Articles 7 to 23, both inclusive, and for such offences only, sentence any person subject to its jurisdiction to death; or to transportation for life, or for any period not less than seven years: or to imprisonment (with or without hard labour, and with or without solitary confinement) for any period not exceeding fourteen years.

(b)—Any General Court Martial may for any offence falling under Article 54, 55, or 56 of these Articles, sentence any person as aforesaid to the penalties attached to such offences in Article 57, and may for any other disgraceful conduct award the penalties attached to that offence in Articles 136, 137, and 138.

(c)—Any General Court Martial may in any case where no special punishments are prescribed, or in addition to any special punishment, where so authorized, sentence any person amenable thereto to any punishment specified in Articles 131, 132, 133, 135, 137, and 138.

(d)—No Court Martial other than a General Court Martial shall have power to award a sentence of death, transportation, or imprisonment exceeding one year.

Any General Court Martial may sentence any Commissioned Officer to be dismissed the service or to be suspended from rank, pay and allowances for any stated period; or to be placed one or more steps lower in the list of his rank.

No Court Martial other than a General Court Martial shall have power to try or punish a Commissioned Officer.

Of General, District, or Garrison Courts Martial.

Article 131.—Any General, District, or Garrison Court Martial may sentence a Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer to be dismissed the service; or to be suspended from rank, pay, and allowances for any stated period; or to be reduced to a lower grade or class in his Department or to be placed one or more steps lower in the list of his rank.

No Court Martial inferior to a District or Garrison Court Martial shall have power to try or punish any Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer.

Reduction, dismissal, corporal punishment, and imprisonment.

Article 132.—Any Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; or to be placed one or more steps lower in the list of his rank;

Or may sentence any person subject to these Articles below the rank of Warrant Officer, to be dismissed the service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment with or without hard labour, and with or without solitary confinement for such periods as are hereinafter prescribed.

Limit of Imprisonment.

Article 133.—Except in the cases provided for in Articles 24 and 57, the limit of imprisonment, whether with or without hard labour and solitary confinement awardable by Courts Martial under these Articles, shall be for General Courts Martial two years; for District or Garrison Courts Martial one year; and for Regimental or Detachment Courts Martial six months.

Solitary Confinement.

Article 134.—No person shall, under any such sentence, or under one or more sentences, be kept in solitary confinement more than eighty-four days in one year, or more than fourteen days at one time, and there shall be between the periods of solitary confinement intervals of ordinary imprisonment at least equal to the period of solitary confinement.

Reduction to ranks.

Article 135.—No Non-Commissioned Officer shall be sentenced by any Court Martial to imprisonment or to corporal punishment without being first sentenced to reduction to the ranks.

Forfeiture of pay and pension.

Article 136.—On a conviction of any disgraceful conduct, a General, District, or Garrison Court Martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay, good conduct pay, and claim to pension on discharge, which might otherwise have accrued from the length or nature of his former service; or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service.

Forfeiture of arrears of pay.

Article 137.—On any conviction of disgraceful conduct, if the offender be sentenced to dismissal from the service, or if his sentence involve dismissal under Article 155 or Article 157, he shall further be sentenced to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal or such portion thereof as may be required to make good any proved loss or damage arising out of his disgraceful conduct.

Any Court Martial may, in addition to dismissal, or to any punishment involving dismissal under Article 157 sentence any person whom it is authorized to try, to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his misconduct.

Stoppages.

Article 138.—Every offender convicted of disgraceful conduct whose dismissal from the service is not so awarded or involved as aforesaid, shall, in addition to any other punishment, be sentenced by the Court to be put under stoppages, to the extent provided by Article 139, until the amount of any proved loss or damage arising out of such conduct, be made good.

And any Court Martial, in addition to any punishment other than, or not involving, dismissal, may sentence any person as aforesaid to be put under stoppages, to the extent specified in Article 139, until any proved loss or damage arising out of his misconduct be made good.

Extent of Stoppages.

Article 139.—Stoppages under Article 138 shall not be awarded, whether under one or more than one sentence to a greater extent than, in the case of an Officer, two-thirds, or in the case of any other person, one-half of his monthly pay and allowances; and shall not be so awarded as to extend beyond one year.

Any public money issued to the offender within the said period of one year, shall, for the purposes of this Article, be deemed to be pay and allowances.

Sentence of Transportation or Imprisonment on person already sentenced.

Article 140.—Whenever a sentence of transportation or imprisonment is passed by any Court Martial upon an offender already under sentence of transportation for a limited term, or of imprisonment, the Court may award transportation or imprisonment to commence on the expiration of such previous sentence; notwithstanding that the aggregate of any terms of imprisonment may thus exceed the limit of imprisonment which such Court is by these Articles of War empowered to award.

Form of sentence of death.

Article 141.—In awarding a sentence of death, a General Court Martial shall, at its discretion, direct that the offender shall "suffer death by being hanged by the neck until he be dead," or shall "suffer death by being shot to death."

CHAPTER IV.—Confirmation and Commutation of sentences.

Sentences to be confirmed or otherwise disposed of.

Article 142.—Save in the case of a Summary Court Martial, no decision or sentence of any Court Martial shall be carried into effect until confirmed or otherwise disposed of by—

(a)—In the case of any Court Martial for the trial of any person within his command—the Commander-in-Chief of a Presidency: or

(b)—In the case of any Court Martial for the trial of any person under his command any Officer authorized in this behalf by warrant of the Commander-in-Chief of any Presidency, but subject to any restrictions contained in the warrant: or

(c)—In the case of any Court Martial for the trial of any person under his command—any Officer in actual command of troops who is authorized in this behalf by the Governor General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council:

(d)—In the case of any Court Martial for the trial of any person under his command—any Officer commanding Native troops not attached to the forces of a Presidency, who is authorized in this behalf by warrant of the Commander-in-Chief in India:

(e)—In the case of a Detachment General Court Martial held beyond the limits of British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty—the

Officer appointing such Court Martial, unless the sentence of such Court Martial exceeds that awardable by a District or Garrison Court Martial, in which case the Commander of Her Majesty's forces with which the offender is serving shall alone have power to confirm, remit, commute, or annul such sentence :

(*f*)—In the case of a Regimental Court Martial for the trial of any person under his Command—the Officer appointing such Court Martial :

(*g*)—In the case of a Regimental or other Detachment Court Martial for the trial of any person under his command, where the detachment consists of, or is equal in strength to, three troops or companies,—the Commanding Officer :

(*h*)—But when any such Court Martial is held in a Detachment of less than, or not equal in strength, to three troops or companies, the sentence shall be submitted for confirmation to the Officer commanding the prisoner's Regiment, or to the nearest superior Officer holding a command of not less than a Regiment, who is hereby empowered to dispose of such sentence in like manner as if the trial had been held by his own order :

Provided that in detached situations beyond sea, or out of British India, or on service in the field, or in cases where immediate example is necessary and reference cannot be made to such Regimental or other superior Commanding Officer without detriment to the service, the Officer commanding any Detachment, whatever its strength, may dispose of and carry out the sentence of any Detachment Court Martial held by his order.

(*i*)—Any Commander-in-Chief or Officer mentioned in clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), and (*g*) of this Article may, subject to the provisions of these Articles, and to the restrictions (if any) in the warrant (if any) by which he is authorized in this behalf, mitigate, remit, commute, or annul any sentence to the execution of which his confirmation is necessary.

Sentence of death.

Article 143.—When a sentence of death has been passed by any General Court Martial, the Officer so authorized in accordance with these Articles may confirm such sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to transportation for life or for any term not less than seven years, or to imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years.

Sentence of penal servitude or transportation.

Article 144.—Notwithstanding any thing hereinbefore contained, whenever any person being an European or American or a legitimate lineal descendant of an European or American, is convicted of an offence punishable under these Articles with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act No. XXIV, of 1855.

When a sentence of transportation has been awarded by any General Court Martial, the Officer authorized in accordance with these Articles may confirm the sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to imprisonment (with or without hard labour,

and with or without solitary confinement) for any term not exceeding fourteen years, and not exceeding the term of transportation awarded by the Court.

Sentence of dismissal on Commissioned Officers, &c.

Article 145.—A sentence of dismissal from the service passed by any Court Martial under these Articles of War upon a Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, may be commuted by the Officer duly authorized to confirm or otherwise dispose of such sentence, to suspension from rank, pay, and allowances for any stated period.

Any sentence on Commissioned Officers, &c.

Article 146.—Except on foreign service, or when reference cannot, without detriment to discipline, be made to superior military authority, no decision or sentence passed upon any Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, shall be carried into effect until confirmed or otherwise disposed of by the Commander-in-Chief of the Presidency to which the offender belongs, or, when the offender is serving in a Presidency, by the Commander-in-Chief of such Presidency, or, when the offender belongs to a force not attached to any Presidency, by the Officer commanding the force.

Sentence of corporal punishment.

Article 147.—A sentence of corporal punishment passed by any Court Martial may be commuted, by the Officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for any period not exceeding one year, which might have been awarded by such Court Martial.

Sentence of imprisonment with hard labour.

Article 148.—A sentence of imprisonment with hard labour passed by any Court Martial may be commuted, by the Officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for the term mentioned in the sentence, or for any shorter term.

Sentence of reduction with corporal punishment or imprisonment.

Article 149.—The Officer duly authorized to confirm or otherwise dispose of the sentence of any Court Martial may, in the case of a Non-Commissioned Officer sentenced by any such Court, mitigate a sentence of reduction to the ranks followed by corporal punishment or imprisonment to reduction only.

Commutation of sentence of dismissal on Non-Commissioned Officers.

or may commute a sentence of dismissal from the service to reduction to the ranks.

CHAPTER V.—*Execution of Sentences.*

Transportation.

Article 150.—Whenever the sentence of a General Court Martial awarding transportation is duly confirmed, or whenever a sentence of death is duly commuted to transportation, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the

sentence, or commuted sentence, to the Officer in charge of the nearest jail; and such Officer shall give effect to the sentence accordingly under such order as he may receive from the Local Government.

Imprisonment with hard labour.

Article 151.—Whenever the duly confirmed sentence of any Court Martial awards imprisonment with hard labour, or whenever the sentence of any Court Martial is duly commuted to such imprisonment, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the said sentence or commuted sentence, to the Officer in charge of the nearest jail; and such Officer shall detain the offender, under the rules in force, in such jail according to the exigency of the warrant, or until he is discharged by due course of law.

Place of imprisonment.

Article 152.—The Commander-in-Chief of a Presidency may, as occasion requires, direct that any person under his command and sentenced under these Articles to imprisonment, shall be confined in any jail or other fit place for confinement, situate within the local limits of such command, or may order his removal from any place of confinement under military control to any other such place, or to any jail or other fit place of confinement situate within such local limits.

The Officer commanding any force not attached to any Presidency shall have the like powers so far as regards persons under his command and jails or other places of confinement situate within the local limits of such command.

Transfer to Military custody.

Article 153.—When any person subject to these Articles is confined in any jail or other place not subject to military control, under a sentence of transportation or imprisonment, whether passed by a Court Martial or by Court of Criminal Justice, the Government of India, or the Local Government of the Presidency or place wherein such person is confined, may order his transfer to military custody,

or may order his removal from one to any other such place of confinement within the territories of such Government.

The period during which such person is in custody during his removal shall be reckoned as part of his term of transportation or imprisonment.

Forfeiture of pay during imprisonment.

Article 154.—Any person subject to these Articles of War in receipt of public pay, who is imprisoned in any place, under the sentence, or commuted sentence, of a Court Martial, or a Court of Criminal Justice, shall, during such imprisonment, if his sentence does not involve dismissal under Article 155 or Article 157, forfeit all pay and allowances, and be entitled to subsistence only, according to the rates prescribed in the regulations of the Government to which he is subject.

And any such person in confinement in any place whatsoever, whether as a punishment by his Commanding Officer, or under any charge of which he is subsequently convicted, shall, during such confinement, forfeit all pay and allowances, and be entitled to subsistence, only according to the regulations of the Government to which he is subject.

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Striking Convict off strength of Regiment.

Article 155.—Every person sentenced by any Court Martial, or by any Court exercising jurisdiction in criminal cases, to transportation or to imprisonment with hard labour, for any term exceeding three months, shall, in the case of a sentence by a Court Martial, from the date of confirmation of such sentence, and in the case of a sentence by a Criminal Court from the date of such sentence, be struck off the strength of the regiment, corps, or department to which he belongs.

Non-re-admission of Convict.

Article 156.—No person who has undergone any such period of transportation or imprisonment with hard labour, shall be re-admitted to the service, or be entitled to any pension:

Provided that in the case of any illegal sentence duly annulled as aforesaid, or of a pardon under Article 160, such person may, by order of the Government when the offence is non-military, or by order of the Commander-in-Chief of the Presidency when the offence is military, be re-admitted to service or pension, as the case may be.

Dismissal with ignominy.

Article 157.—Any person below the rank of Warrant Officer sentenced under these Articles to dismissal, or to imprisonment with hard labour or to corporal punishment, for disgraceful conduct, shall, on the confirmation of such sentence, be dismissed with ignominy from the service.

Publication of sentence for disgraceful conduct.

Article 158.—A copy of every confirmed sentence of dismissal, imprisonment with hard labour, or corporal punishment, for disgraceful conduct, and of the orders passed thereupon, shall be sent by the Adjutant General of the Army to the Chief Civil or Political Officer of the District wherein the offender's place of residence is situated; and such Officer shall publish the sentence and orders at the said place in such manner as may there be usual.

Sentences of Summary Courts Martial.

Article 159.—Any sentence awarded by a Summary Court Martial may be carried into effect forthwith on the Commanding Officer's own authority, and all provisions contained in Articles 151, 152, 153, 154, 155, 156, 157, 158, 160, and 161 as to execution of sentences and disposal of prisoners, shall equally apply to persons sentenced by Summary Court Martial.

CHAPTER VI.—*Pardons and Remissions.*

Pardon of person convicted of military offence.

Article 160.—The Governor General of India in Council, as regards any person subject to these Articles who has been convicted by a Court Martial of a military offence, and the Governors of Fort St. George in Council, and of Bombay in Council, and the Commander-in-Chief of any Presidency, as regards any such person within the territories subject to such Government or under the command of such Commander-in-Chief, shall have power to pardon such person, and may, instead of granting a full pardon to any such person, remit wholly or in part any punishment awarded to him by a Court Martial,

and may order the restoration to such person of any service or other advantage forfeited under his sentence.

Release of prisoners.

Article 161.—Any Officer in charge of a jail on receiving a notification under the hand of a Secretary to the Government of India or to the Government of Fort St. George or to the Government of Bombay, or under the hand of the Commander-in-Chief of any Presidency, or of the Officer commanding any force not attached to a Presidency, or any Division or District, that the sentence under which any person subject to these Articles is imprisoned in such jail, has been annulled or remitted, or that any such person has been pardoned under Article 160, shall on the authority of such notification alone, immediately release the prisoner or return him to military custody.

CHAPTER VII.—Regimental Courts of Enquiry.

Article 162.—If any person subject to these Articles is, without due authority, absent from his duty for two months, a Regimental Court of Enquiry, composed of European or Native Commissioned Officers, or of both in conjunction, shall forthwith assemble, and having received proof on oath or affirmation of the unauthorized absence, shall declare the same, and the period thereof; and the Officer commanding the Regiment or Corps shall record such declaration in the regimental books.

If the person absent does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction of desertion.

If he surrenders or is apprehended, such record, or a copy thereof purporting to bear the signature of the Officer having the custody of the regimental books, shall, on the trial of such person for desertion, be presumptive evidence of the facts therein recorded; and on proof of the identity of the prisoner with the person therein-mentioned, he may be found guilty of desertion.

Persons absent as Prisoners of War.

Article 163.—No person subject to these Articles shall be entitled to any pay or allowances or other public money, or to reckon service during any absence as a prisoner of war.

But when such person rejoins the service, enquiry shall be made by a Court Martial into the circumstances of his absence; and unless it is proved to the satisfaction of such Court that he was taken prisoner through his own wilful neglect of duty, or that he had served with or under or aided the enemy, or that he had not as soon as possible returned to the service, he may be recommended by the Court to receive either the whole or any portion of the arrears due to him, and to reckon his service.

Such recommendation duly confirmed by the Commander-in-Chief of the Presidency, or by the Officer Commanding any Force not attached to a Presidency to which the said person belongs shall entitle him to receive such arrears and reckon service accordingly.

*TITLE VI.—POWERS OF OFFICERS INDEPENDENTLY OF TRIAL.**Reduction to ranks.*

Article 164.—The Commander-in-Chief of a Presidency, and the Officer commanding any force not attached to a Presidency, shall have

respectively power to reduce to the ranks Non-Commissioned Officers under their respective commands.

Minor Punishments.

Article 165.—The Commander-in-Chief in India shall, under the authority of the Governor General in Council, prescribe the minor punishments to which persons subject to these Articles shall for light offences be liable, without the intervention of a Court Martial, and shall specify the Officer or Officers by whom, and the extent to which, such minor punishments may be awarded.

No such minor punishment shall be awarded by a Court Martial; and, unless otherwise specially provided by the said Commander-in-Chief, no Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, shall be liable to any such minor punishment.

Good conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment either by order of the Commanding Officer or by sentence of a Court Martial, as may from time to time be prescribed in the general orders of the Commander-in-Chief in India or of the Commander-in-Chief of the Presidency, as the case may be.

Whenever a soldier is convicted by a Court Martial, his good conduct pay shall cease.

Forfeiture of good conduct pay may be awarded in addition to any other minor punishment.

Offences of Native followers.

Article 166.—For any offence in breach of good order, the Commanding Officer of any Regiment, Corps, or Detachment, whether European or Native, in camp, or at any frontier post at which troops are stationed, and to which this Article may be specially extended by the Governor General of India in Council, the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government, may sentence any Native follower of such regiment, corps, or detachment, if above the degree of a menial servant, to pay a fine not exceeding fifty Rupees, or, in default of payment, or in lieu thereof, to imprisonment for any period not exceeding thirty days; or if the Native follower be not above the degree of a menial servant, to imprisonment not exceeding seven days, or to corporal punishment not exceeding twelve strokes of a rattan.

Imprisonment awarded under this Article may be carried out in a military guard, or in a jail, as ordered by the said Commanding Officer; and the Officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said Commanding Officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

Complaints against Officers.

Article 167.—Any person subject to these Articles, who deems himself wronged by any superior or other Officer, may, if not attached to a troop or company, complain to the Officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the Officer commanding the same.

When the Officer complained against is the Officer to whom any other complaint should under this Article be preferred, the aggrieved person shall complain to such Officer's next superior Officer.

No such complaint shall be made to any Officer other than those indicated in the former part of this Article.

Every Officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

Every such complaint shall be preferred through such channels as may be from time to time prescribed by proper authority; and any person preferring a frivolous or groundless complaint shall be liable to trial by any Court Martial competent to try him, and to such punishment, other than dismissal, corporal punishment, or imprisonment with hard labour, as the Court is empowered by these Articles to award.

Provost Marshals.

Article 168.—For the prompt and instant repression of irregularities and offences committed in the field or on the line of march, Provost Marshals shall be appointed by the Commander-in-Chief of the Presidency, or the Officer commanding the forces in the field; and the powers and duties of such Provost Marshals shall be regulated according to the established custom of war and the rules of the service.

Their duties and powers.

Article 169.—The duties of a Provost Marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the Army.

The Provost Marshal may punish, corporally, then and there, any person amenable to these Articles below the rank of Warrant Officer, who in his view, or in the view of any of his assistants, commits any breach of good order and military discipline:

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the orders which the Provost Marshal may from time to time receive from the Officer commanding the troops:

Provided also that the orders of the said Commanding Officer shall in no case authorize such corporal punishment in excess of that awardable by sentence of a Court Martial.

If the actual commission of the offence is not witnessed by the Provost Marshal, or any of his assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the Commander of the Troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

TITLE V.—NON-MILITARY OFFENCES.

Offences committed within jurisdiction of Criminal Court.

Article 170.—Any person subject to these Articles who, at any place in British India within the jurisdiction of any Court of Criminal Justice established by Her Majesty, or by the Government of India, or by the Local Government, is accused

of any offence against the Indian Penal Code, and not included in the foregoing Articles, shall be delivered over to the nearest Magistrate to be proceeded against according to law.

All persons in, or attached to, the Army, are hereby required, upon application duly made to them for that purpose, to assist the Officers of Justice in apprehending and securing any such accused person.

Any person in, or attached to, the Army, wilfully neglecting or refusing so to assist shall be punished with any punishment, other than death or transportation, awardable under these Articles.

Offences committed out of British India.

Article 171.—In any place out of British India, offences against the Indian Penal Code, and not included in the foregoing Articles of War, shall, when committed by any person amenable to these Articles, be cognizable by a General Court Martial to be convened by any Officer who is empowered by warrant, or order in Council, or by Article 77, to appoint General Courts Martial.

General Court Martial for trial of such offences.

Article 172.—The provisions of these Articles as to the composition and procedure of General Courts Martial shall, with the exception of those contained in Article 117, apply to General Courts Martial for the trial of non-military offences:

Provided that such General Courts Martial shall in every case be attended by a Judge Advocate.

Sentences of such Court.

Article 173.—A General Court Martial held for the trial of a non-military offence, shall, on the conviction of any offender, award punishment in accordance with the provisions of the Indian Penal Code.

Confirmation of Sentences.

Article 174.—No decision or sentence passed by any such General Court Martial shall be carried into effect until confirmed or otherwise disposed of by the authority which, under these Articles, is empowered to confirm or otherwise dispose of the sentence of such General Court Martial; and no sentence of death shall be carried into effect until confirmed by the Commander-in-Chief of the Presidency to which the offender belongs, or when the offender beyond the limits of British India, until confirmed by the Officer commanding Her Majesty's Forces with which the offender is serving, or when the offender does not belong to any Presidency, until confirmed by the Commander-in-Chief in India.

Commutation of Sentences.

Prisoners.

Article 175.—All the provisions contained in Articles 143, 144, 148, 150, 151, 152, 153, 154, 155, 156, and 161, relating to the disposal of sentences and of sentenced prisoners, shall apply to persons sentenced by a General Court Martial for a non-military offence.

TITLE VI.—EFFECTS OF DECEASED MEN AND OF DESERTERS.

Article 176.—When any person subject to these Articles dies, or is killed in the field, the Officer commanding the Regiment, Corps, or Detachment, or the Officer in charge of the Department to which such person belonged, shall, if no representative in interest of such person be on the spot,

secure his effects in camp or quarters, and cause an inventory thereof to be made, and a duplicate of such inventory to be lodged with the Officer commanding, or in charge of, the Regiment, Corps, Detachment, or Department to which the deceased belonged.

Sale of effects and discharge of debts.

Article 177.—If there be no representative on the spot, or readily accessible, such Officer shall, without any representation taken out, publicly sell such part of the effects of the deceased in camp or quarters as do not consist of money, and shall pay thereout the debts of the deceased in camp or quarters, the expense of his funeral ceremonies, and his regimental debts of every description; and shall pay the surplus (if any) to the representative in interest of the deceased.

Remittal of Surplus.

Article 178.—In the event of no claim for the surplus of the deceased person's estate being made and established within twelve months of his death, the amount in the hands of the Officer in charge of the estate shall be remitted to the Controller General of Accounts at Calcutta, or to the Accountant General to the Government of Fort St. George or of Bombay; or, if the deceased shall have belonged to a force not under any Presidency, to the Controller General of Accounts at Calcutta.

Sale of effects of Deserters.

Article 179.—The effects in camp or quarters of a deserter shall be publicly sold, and the proceeds, after payment thereof of all regimental or departmental claims, shall be remitted by the Officer commanding, or in charge of, the Regiment, Corps, Detachment, or Department to which the deserter belongs, to the Controller General of Accounts at Calcutta or to the Accountant General to the Government of Fort St. George or of Bombay.

Remittal of proceeds.

If the deserter belongs to a force not attached to any Presidency, then the said proceeds shall be remitted to the Controller General of Accounts at Calcutta.

PART III.—MISCELLANEOUS.

Prohibition of Second Trial.

(a)—Persons subject to the Articles contained in Part II. of this Act, who have been acquitted or convicted either by a Court Martial or by a Court of Criminal Justice, of any offence, whether military or non-military, shall not be again tried or punished for the same offence by any Court whatsoever.

But any such person may be dismissed the service.

Prohibition of Arrest for Debt.

(b)—No person attested under this Act or any previous Articles of War for Her Majesty's Indian Army, shall so long as he belong to such Army be liable to be arrested for debt under any process issued by or by the authority of any Court of Law.

The Judge of any such Court may examine into any complaint made by such person or his superior Officer, of the arrest of such person contrary to the intent of this Act, and may by warrant under his hand discharge such person and shall award reasonable costs to the complainant, who may recover such costs in like manner as he might have recover-

ed costs awarded to him by a decree against the person obtaining such process.

The arms, horse, clothes, equipments, regimental accoutrements, and necessaries of any such attested person shall not be seized, nor shall his pay and allowances or any any part thereof be attached, in satisfaction of any judgment against him or any person whom he may represent.

Breach of Cantonment Rules.

(c)—When any offence in breach of any duly authorized Cantonment rule or regulation is committed by any person not subject to the said Articles, and not an European British subject or an Officer or Soldier, the Officer commanding the Cantonment may, where there is no Cantonment Magistrate, summon or order the apprehension of the offender; and such Officer may (after personally investigating the case) sentence the offender to pay a fine not exceeding fifty rupees; or in default of payment of, or in lieu of such fine, to imprisonment in any jail or military guard for a period not exceeding thirty days.

The Officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said Commanding Officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

Capture of Deserters.

(d)—Whenever any person subject to the said Articles deserts, the Commanding Officer of the regiment, corps, or detachment to which he belongs, shall give written information of the desertion to such Civil, Political, or Police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter, in like manner as if he were a person for whose capture a warrant had been issued by a Magistrate, and shall deliver the deserter when apprehended to Military custody.

Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably suspected to be subject to the said Articles from travelling through the districts subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

Any Police Officer may arrest without warrant any person so suspected, and shall bring him without delay before the nearest Magistrate, or the nearest Military Commanding Officer when no Magistrate is readily accessible, to be dealt with according to law.

Apprehension of Military Offenders.

(e)—Whenever any person subject to the said Articles, who is accused of any military offence, is within the jurisdiction of any Civil, Political, or Police Officer, such officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect, signed by his Commanding Officer.

Presumption as to signatures.

(f)—In any proceeding under this Act, any application, certificate, warrant, reply, or other document purporting to be signed by an officer in the civil or military service of Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Native Troops serving out of their own Presidency.

(g)—When any portion of the Native troops belonging to any Presidency is serving within the limits of any other Presidency, such troops shall, during such service, for all the purposes of the said Articles, be under the authority and orders of the Commander-in-Chief of the Presidency in which they are serving:

Provided that it shall be lawful for the Governor General of India in Council to direct that, for the purposes of the said Articles, Native troops serving out of their own Presidency shall continue subject to the authority and orders of the Commander-in-Chief of the Presidency to which such troops belong.

Power to make Orders and issue Warrants.

(h)—The Governor General of India in Council, The Governors of Fort St. George and Bombay in Council,

The Commander-in-Chief of any Presidency, may respectively make all orders and issue all warrants for holding Courts Martial or otherwise, which appear necessary for the purposes of this Act; and in the case of military offences requiring to be disposed of without delay, the Governor General of India in Council and the Governors of Fort St. George and Bombay in Council may respectively further authorize any officer empowered by order in Council to confirm, commute, remit or annul sentences in such cases to refer such sentences for orders to the Commander-in-Chief of the Presidency.

Limitation of Powers.

(i)—Nothing hereinbefore contained shall empower the Commander-in-Chief of a Presidency to re-admit to service or pension any person not within his command, or to authorize any officer to appoint, or to confirm, commute, remit, or annul the sentences of Courts Martial for the trial of any person not within the command of such Commander-in-Chief except in the case specified in the proviso in Clause (g) of this Part,

or shall empower any Government to give directions as to the composition of, or to authorize the appointment of Courts Martial in any place for the time being subject to any other Government.

Nothing in this Act shall be deemed to affect authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal warrant or commission.

Power to make rules.

(j)—It shall be lawful for the Governor General of India in Council from time to time to make rules consistent with this Act, for the guidance of officers, whether Military, Civil, or Political, in all matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon be deemed to have the force of law.

The Commander-in-Chief in India, as regards the Presidency of Fort William and Forces not attached to any Presidency, may, with the previous sanction of the Governor General of India in Council, and the Commanders-in-Chief of the Presidencies of Fort Saint George and Bombay, as regards their respective Presidencies, may, with the previous sanction of the Local Govern-

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ment, from time to time substitute for the forms of affirmation given in Articles 109 and 111 as appropriate to Native officers and witnesses, such other forms as may be thought appropriate to Native officers and witnesses of any religion.

Articles to be read periodically.

(k)—The following Articles, namely, Articles 3, 4, 5, 7 to 71, both inclusive, 90, 91, 92, 93, 94, 125, 126, 130, 131, 132, 133, 135, 136, 137, 138, 139, 154, 167, and 176, shall be read once in every three months at the head of every regiment, corps, troop, or company in the service.

APPENDIX.

PART I.—DEFINITIONS IN THE INDIAN PENAL CODE.
[See PART I. CLAUSE (e).]*Wrongful Gain.*

23 “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

Wrongful loss.

“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

Dishonestly.

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing “dishonestly.”

Fraudulently.

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

Reason to believe.

26. A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing, but not otherwise.

OF HURT.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Grievous Hurt.

320. The following kinds of hurt only are designated as “grievous” :—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt.”

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

OF CRIMINAL FORCE AND ASSAULT.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:—

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal Force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion, A has therefore used force to Z; and if A has done this without Z's consent intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used

force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating." Here though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

378. Whoever, intending to take dishonestly.

Theft. any moveable property, out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate without Z's consent, A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he

may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z, as a reward for its restoration. Here A takes dishonestly: A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives A a valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

OF EXTORTION.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or any thing signed or sealed which may be converted into a valuable security, commits "extortion."

Illustrations.

(a) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain moneys to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here as the paper so signed may be converted into a valuable security, A has committed extortion.

II.—INDIAN PENAL CODE, CHAPTER V.—OF ABETMENT. SECTIONS 107 AND 108.

(See Article 71).

Abetment of a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property, B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

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