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PART IV.

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 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. III of 1880.

THE CANTONMENTS ACT, 1880.

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An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments;
Preamble. It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Cantonments Act, 1880."

This section, section two and section twenty-four apply to the whole of British India. The remaining portions of this Act extend to the whole of British India except the territories respectively administered by the Governor of Fort St. George in Council and the Governor of Bombay in Council. The Governor of Fort St. George in Council or the Governor of Bombay in Council may, by notification in the official Gazette, extend any such portion to any place under his administration; and, from the date on which any such portion is so extended to any place such of the enactments for the time being in force in such place as are in any way inconsistent with, or repugnant to, such portion shall cease to have effect in such place.

Enactments inconsistent with this Act in Madras and Bombay cantonments.

2. Act No. XXII of 1864 (to provide for the administration of Military Cantonments) is hereby repealed; but all orders, declarations, rules and regulations made, powers conferred, and Courts established under that Act, shall be deemed to be respectively made, conferred and established under this Act.

All references to the said Act No. XXII of 1864 in enactments passed subsequently thereto shall be read as if made to this Act.

CHAPTER II.

CRIMINAL JURISDICTION.

3. Every person invested by the Local Government, under the Code of Criminal Procedure, with the powers of a Magistrate of the first class within the limits of any cantonment, shall be styled the Cantonment Magistrate, and shall be deemed a Magistrate in charge of a division of a district within the meaning, and for the purposes of the said Code.

4. Every person invested by the Local Government, under the provisions of the said Code, with the powers of a Magistrate of the second or third class within the limits of any cantonment, shall be styled the Assistant Cantonment Magistrate.

CHAPTER III.

CIVIL JURISDICTION.

5. Whenever the Local Government establishes within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature), the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established.

The Local Government shall declare and may from time to time alter the pecuniary limit of the jurisdiction of every such Court, but such limit shall in no case exceed five hundred rupees.

6. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court referred to in section five; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty rupees.

7. All the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

8. Whenever a Court of Small Causes is established in any cantonment, the jurisdiction exercised in such cantonment by any officer under Act No. III of 1859 (for conferring Civil Jurisdiction in certain cases upon cantonment Joint Magistrates) shall cease and so much of any Act as authorises the commanding-officers of stations or cantonments to convene military courts of requests for the trial of actions of debt and other personal actions shall cease to have effect within the limits of such cantonment.

CHAPTER IV.

POLICE.

9. The Police-force employed in any cantonment shall be deemed to be part of the general Police-force under the Local Government in whose territories such cantonment is situate, within the meaning of Act No. V of 1861 (for the Regulation of Police) section two, and all the provisions of the said Act shall be applicable to such force.

The administration of the police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the commanding-officer of such cantonment.

10. The Local Government may extend section thirty-four of the said Act No. V. of 1861 to any cantonment situate in the territories administered by such Government.

11. The commanding-officer of a cantonment may send any process requiring service or execution by any means not immediately at his disposal to the chief Police-officer in the cantonment for service or execution through the cantonment-police; and the said chief Police-officer shall

serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

12. The Local Government may, by notification in the official Gazette, extend the provisions of Act No. XX of 1856 (to make better provision for the appointment and maintenance of Police *Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal*), to any cantonment to which a Cantonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the Local Government.

Whenever any such Cantonment Magistrate is absent, or when his office is temporarily vacant, the Magistrate of the district shall, during such absence, or until the Local Government fills up the vacancy, carry out the provisions of the same Act when so extended as aforesaid.

13. The Local Government may order that any cantonment to which the provisions of the said Act No. XX of 1856 are extended shall be divided into any number of cantonment-divisions, and may determine the nature of the tax to be levied in each such division according to section ten of the same Act.

CHAPTER V.

SPIRITUOUS LIQUORS.

14. If within any cantonment, or within any limits around such cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barter, sell or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor, wine or intoxicating drug to, or for the use of, any European soldier, or to or for the use of any European or Eurasian being a camp-follower or a soldier's wife, without a written license from the Officer Commanding or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell or supply, such liquor, wine or drug, shall be liable on conviction to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months, or, in lieu of such fine or imprisonment, to the punishment of whipping as prescribed for offences under section 2 of Act No. VI of 1864 (to authorize the punishment of whipping in certain cases), subject to all the provisions of that Act.

15. If any person convicted of an offence under section fourteen is again convicted of an offence under that section, any spirituous liquor, wine or intoxicating drug within

such cantonment or limits which, at the time of the commission of such subsequent offence, belongs to him, or is in his possession shall, without further proof, be deemed to be in his possession for the purpose of being supplied to European soldiers contrary to the provisions of this Act.

16. If within such cantonment or limits any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, conveys or has, in his or her possession, any quantity of spirituous liquor or wine exceeding one ser or quart, without a permit to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to fine which may extend to fifty rupees, and for any subsequent offence to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

17. If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any Police-officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

18. In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same or any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored: the remainder shall be dealt with as confiscated.

20. The foregoing sections shall not apply to the sale or supply of any article for medicinal purposes by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be imposed in any municipality within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

22. When any tax is leviable in a cantonment under section twenty-one, the Local Government may from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

23. The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the Police-force and the carrying out of measures under the rules made under section twenty-five.

24. Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

CHAPTER VII.

SUBSIDIARY RULES.

25. The Local Government may from time to time make rules consistent with this Act to provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

26. No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor-General in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the commanding-officer directs.

27. The rules made under section twenty-five may provide for all or any of the following matters:—

1st—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed;

2nd—maintaining proper registers of immovable property within the limits of the cantonment, and providing for the registration of transfers of such property;

3rd—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers;

4th—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five; and the appointment of the necessary servants and establishments;

5th—the definition and prohibition of public nuisances;

6th—the maintenance generally of the cantonment in a proper sanitary condition; the prevention and cure of disease; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private necessities, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations;

7th—inspecting and controlling brothels and preventing the spread of venereal disease;

8th—the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

9th—the execution and promotion of works of public utility and convenience;

10th—the registration of deaths, and the making and recording observations and facts important for the public health and interest;

11th.—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

28. Breaches of any rule made under section twenty-five shall be triable by the Cantonment Magistrate when there is such an officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section; but every person trying any such case shall, for the purposes of Chapter XXII. of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session and the Magistrate of the District.

29. In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

If no such property sufficient for the payment of the fine can be found, the offender shall be liable to simple imprisonment for any term which may extend to one month.

30. Nothing in this Act, nor in any rule made under section twenty-five, shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

31. Whenever it appears necessary for the protection of the health of the troops in any cantonment, the Governor-General in Council may extend to any place outside the limits of such cantonment and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and controlling brothels and preventing the spread of venereal disease and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

32. When such rules, with any additional rules made as aforesaid are extended under section thirty-one to any place outside the limits

of such cantonment, the Governor-General in Council may provide, in the manner described in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

33. Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations regarding matters other than military shall cease to have any effect in such cantonment, and all local regulations for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five, shall cease to have any effect.

34. Nothing in the foregoing sections shall be deemed to affect the jurisdiction of Courts-martial, &c. authority of Courts-martial or of commanding-officers of cantonments or of regiments, corps or detachments under any Articles of War, or the provisions of any Statute for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty in the East Indies; and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

Provided that when a Cantonment Magistrate or other officer not being the commanding-officer has been invested by the Local Government with power within the limits of any cantonment to dispose of cases under any rule made under section twenty-five, the commanding-officer shall not exercise the powers described in clause (c) of Part III. of the Indian Articles of War in respect of any case arising under such rule when such rules have been passed for such cantonment under section twenty-five, and penalties have been laid down for their infringement.

The said rules shall be held to be the rules mentioned in the said last mentioned clause, and so much of the same clause as declares the penalties which may be inflicted for breach of cantonment-regulations shall cease from that time to have any effect in such cantonment.

35. The Local Government may from time to time prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act No. XX. of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the rules made under section twenty-five or section thirty-one of this Act, in addition to or in lieu of the purposes described in section thirty-six of the said Act No. XX. of 1856.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1890, and was promulgated for general information in the *Gazette of India* on the 1st January 1890:—

Act No. IV. of 1880.

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth Article of the Treaty between Her Majesty and the King of Portugal and the Algarves.

WHEREAS, by the nineteenth article of the Treaty of Commerce and Extradition between Her Majesty and the King of Portugal and the Algarves, executed at Lisbon on the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, it was provided that the High Contracting Parties should deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, should be found in the Indian dominions or jurisdiction of the other party, and that the circumstances and conditions under which, and the crimes for which such persons should be delivered up, should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty, and that such Convention should have the same binding character as the said Treaty, and should continue in force for the same period;

and whereas, in pursuance of the said article, the Convention set forth in the schedule hereto annexed has been executed.

And whereas by the twentieth article of the said Treaty it was provided that Commissions issued in criminal trials and enquiries by the judicial tribunals of the one party, for the examination of persons resident in the dominions of the other, should be executed according to the provisions of the laws of the dominions where the witness resides;

and whereas it is doubtful whether under the existing law of British India there is authority to give effect to all the provisions of the said Convention and of the said twentieth article;

It is hereby enacted as follows:—

1. The provisions of the said Convention shall be followed in British India in every case to which they apply.

Provisions of Convention to be followed,

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The procedure prescribed in the Code of Criminal Procedure shall, in so far as it is not inconsistent with the said Convention, be followed in every such case.

2. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in Portuguese India in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term 'suit' included a proceeding against a criminal.

3. This Act may be called 'The Portuguese Treaty Act, 1880.'

Short title.

THE SCHEDULE.

Whereas by the nineteenth article of a treaty dated the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves, it is provided that the high contracting parties engage to deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, shall be found in the Indian dominions or jurisdiction of the other party; and whereas by the same article it is further provided that the circumstances and conditions under which, and the crimes for which, such persons are to be delivered up, shall form the subject of a separate Convention between the Governors-General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty.

In pursuance of the said article, the undersigned Governors General of British India and Portuguese India, acting respectively on behalf of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves (hereinafter called the High Contracting Parties), have agreed that the said persons shall be so delivered up under the circumstances, and subject to the exceptions, hereinafter stated, namely:—

(a) When the crime for which extradition is claimed has been committed beyond the dominions of the party claiming, the requisition shall also be complied with, if the laws of the party applied to authorize a prosecution for such crime when committed beyond his dominions, and if the person claimed is a subject of the party claiming his extradition.

(b) The crimes for which the extradition shall be granted are the following :—

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
Murder, culpable homicide not amounting to murder, and causing death by rash or negligent act	299 to 304A	Voluntary homicide, including— Parricide Poisoning Infanticide And involuntary homicide caused by negligence Attempt at homicide	349 355 353 356 368 350 ; 6 to 11
Attempt to commit murder or culpable homicide	307, 308, 511	Wounding, causing contusions or hurts	359 to 367, 369
Voluntarily causing hurt or grievous hurt	319 to 333, 335 and 338	Ordinary hurts under Articles 359 and 360, being excepted in the circumstances described in Articles 370, 377, and 378.	
Rape	375 and 376	Rape	394, 395 to 397
Kidnapping, abduction, concealing kidnapped person, slave dealing, or selling minors for immoral purposes...	360 to 373	Kidnapping and hiding of minors ...	342 to 344
Immodest assault on a woman ...	354	Immodest assault on a woman ...	391
Causing miscarriage and abortion ...	312 to 316	Abortion	358
Exposure or abandonment of a child ...	317	Exposure or abandonment of a child ...	345 to 348
Thefts	378 to 382	Thefts	421 ; 424 to 431
Extortions, robberies, dacoities, attempts to commit robbery and belonging to a gang of thieves ...	383 to 402	Robbery	432 to 444
Criminal misappropriations and criminal breaches of trust	403 to 409	Theft	313 ; 422 to 425 ; 453
Receiving stolen property	410 to 414	Receiving stolen property	463
Cheating	415 to 420	Cheating, false pretences	450 to 452 ; 456
Lurking, house-trespass, house-breaking	443 to 446	House-breaking	380, Clause 1.
Fraudulent bankruptcy and fraudulent disposition of property	206, 208, 421 to 424	Fraudulent bankruptcy and fraudulent disposition of property	447 to 449 ; 455
Dishonest opening of closed receptacle containing property	461 and 462	Dishonest opening or breaking of seals by public servants and others ...	310 to 312
Being a thug	310, 311	Association of malefactors	263
Belonging to a band of dacoits or robbers.	400, 401		
Aggravated cases of wrongful confinement	344 to 348	Aggravated cases of wrongful confinement	331 to 333
Mischief by fire or explosive substance.	435, 436 and 438	Arson	466 to 474
Mischief to a vessel, or after preparation to cause death, hurt, or wrongful restraint	437, 439, 440	Aggravated cases of mischief	475 and 481
Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instruments for above purposes	230 to 254	Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instrument for above purposes	206 to 214
Counterfeiting or fraudulently using of Government stamps issued for purpose of revenue	255 to 263	Counterfeit or fraudulent using of Government stamps or stamped paper...	228 to 229
Forgery and using of forged documents, and making of seals for fraudulent purposes	463 to 468 ; 470 to 477	Forgery and using of forged documents, and making of seals for fraudulent purposes	215 to 217 ; 219 to 223 ; 230 and 231
Use of false trade-mark or property-mark, and frauds connected with such marks	478 to 489	Use of false trade-mark or property-mark, and frauds connected with such marks	230 and 231
Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same.	194 and 195	Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same	238 to 240
Illegal gratification taken by a public servant, or to influence a public servant	161 to 165	Illegal gratification taken by a public servant, or to influence a public servant	314 to 323 ; 452
Causing the evidence of the commission of any offence to disappear	201	Causing the evidence of commission of an offence mentioned in this Convention to disappear	464
False certificate or declaration made by public servant, or used by any person as evidence	197 to 200	False certificate or declaration made by public servants or used by any person as evidence	216 to 218 ; 221 and 222
Escape from lawful custody on accusation or conviction of any crime specified in this Convention	224	Escape from lawful custody on accusation or conviction of any crime specified in this Convention	190 to 195

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
<i>Crimes against other Laws.</i>			
Piracy by law of nations.		Piracy	162
Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.		Voluntary homicide, as above	342, 353, 355, 356
		<i>Portuguese Maritime Code.</i>	
Sinking or destroying a vessel at sea, or attempting or conspiring to do so.		Loss or destruction of vessel, caused by a person on board... ..	42
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master.		Act of revolt committed by more than third of crew	46

The extradition shall also take place for complicity or participation in any of the aforesaid crimes, and for any attempt to commit any such crime, provided such complicity, participation or attempt be punishable by the laws of both the High Contracting Parties.

(c) No British subject by birth or naturalization shall be delivered up by the Government or authorities of British India to the Government or authorities of Portuguese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portuguese India to the Government or authorities of British India. Naturalization after the commission of the crime shall not be an obstacle to the extradition.

(d) The Governor General of British India will, from time to time, communicate to the Governor General of Portuguese India a list of Native States which, with the subjects thereof, are entitled to be placed, for the purposes of this Convention, upon the same footing as British India and the subjects of Her Britannic Majesty.

(e) The extradition shall not take place if the person claimed has already been tried and acquitted, or punished, for the same crime for which extradition is asked. If he should be under trial for any other crime, his extradition shall be deferred until the conclusion of the trial; and if the execution of the sentence, if any, would interfere with the extradition, it shall be postponed, in order that the extradition may take place. If upon extradition he be sentenced to other further punishment, the two High Contracting Parties shall arrange that the punishment shall be fulfilled according to priority of date of sentence.

(f) The extradition shall not take place if, after the commission of the crime, or the institution of the prosecution or the conviction thereon, the person claimed shall have acquired exemption from prosecution, or punishment, by lapse of time according to the laws of the State applied to.

(g) A person surrendered shall not be kept in prison or brought to trial, by the party to whom the surrender is made, for any other crime or on account of any other matters than those for which the surrender has been granted. This stipulation is not applicable to crimes committed after the extradition.

(h) If the person whose extradition is claimed by one of the High Contracting Parties shall be also claimed by one or more other Governments, on account of crimes committed in their respective dominions, the following rule shall be observed:—

If he is a subject of the High Contracting Party who claims him, the surrender shall be made to such party. If he is not so, the other High Contracting Party shall have the power of delivering him up to the reclaiming Government which, in the case in question, may appear to the former best entitled to the preference.

(i) The requisition for extradition may be made, on behalf of Her Britannic Majesty, by the Government of British India or by the Government of the Presidency of Bombay; and, on behalf of His Most Faithful Majesty, by the Government of Portuguese India:

Provided that, when the person claimed is accused of any of the above crimes which in British India is not exclusively triable by the High Court or the Court of Session, the requisition may also be made by the Governors of the Portuguese Settlements of Damaun and Diu, for any such crime committed in such Settlements respectively, and may be preferred directly to any District Magistrate or Political Agent within whose local jurisdiction such accused person may be found. Such District Magistrate or Political Agent shall, subject to the exceptions and conditions of this Convention, and unless he deem reference to higher authority to be absolutely necessary, comply with such requisition by delivering up the accused.

In like manner, any District Magistrate or Political Agent may make requisition to the Government of Portuguese India, or to the Governors of Damaun and Diu respectively, for the extradition of any person found in their jurisdiction who is accused of the commission, within the local jurisdiction of such District Magistrate or Political Agent, of any of the above crimes, the maximum punishment for which, by the Portuguese Penal Code, does not exceed imprisonment for seven years or an equivalent thereto. Subject to the exceptions and conditions of this Convention, such requisition shall be complied with by the delivering up of the accused, unless reference to higher authority shall be deemed absolutely necessary.

The authority receiving a requisition may hold, or cause to be held, such inquiry as he may deem sufficient for the purpose of ascertaining the existence of *prima facie* proof of facts which constitute a crime for which extradition may be granted under clause (b) of this Convention, and, in the absence of such proof, may decline to deliver up the accused person.

(j) Every requisition shall ordinarily be accompanied by the summons or warrant of arrest, or an authenticated copy thereof, issued by the competent authority of the State applying for it, and by a statement setting forth the facts of the offence, and sufficient particulars to enable the accused to be identified.

In cases of urgency, satisfactory proof of the existence of a warrant of arrest issued by competent authority may be provisionally accepted in support of a requisition.

(k) If the person claimed has not already been arrested by the authorities of the State to whom the requisition is made, such authorities shall at once proceed to secure his appearance.

(l) Any person accused of any of the above crimes, and whether a subject of the party in whose dominions or jurisdiction he is found or otherwise, may be arrested by the authorities of such dominions—

on production of a warrant of arrest issued by the competent authority of the other party;

or on advice, from such competent authority, transmitted by post, telegraph, or other means, stating the existence of such warrant of arrest;

or on demand made by the Magistrate or Police-officer of the other party who has pursued the accused across the frontier;

or on receipt of advice of the fact of the crime, whether communicated by a private complainant or otherwise, and whether or not the individual offender may be known or specified by name.

(m) Every such Magistrate or Police-officer who has pursued the accused across the frontier shall be entitled to the protection and assistance of the Magistrates and Police-officers of the State to whose dominions or jurisdiction the accused has fled. They shall forthwith take up the pursuit, and without waiting for the orders of higher authority, shall make all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property, in accordance with the local law of criminal procedure.

The Magistrate or Police-officer who has pursued the accused across the frontier shall not enter houses or buildings, or make searches or arrests, except in presence or under the authority of a local Magistrate or Police-officer, but shall act in subordination to the local Magistrates or Police-officers, and shall assist them, if so required, in all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property.

(n) Whenever any person is arrested in the dominions or jurisdiction of the one party for any of the above crimes committed in the dominions or jurisdiction of the other party, notice shall be given to the authorities of the other party, who

may then, if the accused is a subject of the State where he is found, claim that he be tried there; or, if he is not such a subject, claim his extradition as provided in this Convention.

(o) All weapons and articles necessary as evidence shall be seized in order to their production before the proper officer, and, in case of extradition, in order that they may be delivered up with the accused when the extradition shall take place.

Such seizure and delivery shall extend to articles stolen or obtained by other offences, and the proceeds of such property, and to everything that may serve as evidence of the crime; and shall be made even when the extradition cannot be made, or the trial cannot be held, on account of the flight or death of the accused.

Nothing in this clause shall affect the rights of third parties to any such weapons and articles.

(p) The expenses occasioned by the arrest, imprisonment, maintenance and transport of criminals, and the conveyance of articles, shall, within the dominions and as far as the frontier, be defrayed by the party in whose dominions or jurisdiction such criminals or articles are found: the expenses by sea and beyond the frontier shall be defrayed by the other party.

(q) A British subject accused of having committed any of the above crimes in the Portuguese Indian dominions or jurisdiction, may be dealt with by the British Indian authorities as if the crime had been committed in British India; and a Portuguese subject accused of having committed any of the above crimes in the British Indian dominions or jurisdiction, may be dealt with by the Portuguese Indian authorities as if the crime had been committed in Portuguese India:

Provided that the accused is found in the dominions or jurisdiction of the party to whom he is subject, and has not been acquitted or punished in the dominions or jurisdiction in which he committed the crime.

Complaints of any such crimes shall be inquired into by the police and judicial authorities, irrespective of the nationality of the complainant, in accordance with the local laws.

(r) In all such trials and enquiries, the evidence of witnesses whose attendance cannot be procured without an unreasonable amount of delay, expense or inconvenience, may be recorded by the judicial authorities of the State where the offence occurred, on receipt of an interrogatory Commission from the other State, and such depositions or certified copies thereof shall be received by the authorities of the other State as valid evidence: Provided that the authorities of the one State shall in all cases aid those of the other, as far as may be, in securing the personal attendance of witnesses, and reasonable time shall be allowed for the production of evidence before the final discharge or conviction of the accused.

(s) If within two months after receipt of notice of the arrest no requisition for extradition or complaint or application for a trial shall have been made, the accused may be set at liberty. He shall be set at liberty if, within one month of the day on which he was brought to the frontier or seaport,

and there placed at the disposal of the party claiming, he shall not have been despatched to the dominions of such party :

Provided that, until the extradition takes place, the accused may be liberated on bail or recognizance where such procedure is allowed by the law of the dominions or jurisdiction where he is found; and that after the extradition, the procedure shall be that provided by the law of the other dominions or jurisdiction.

(f) The High Contracting Parties engage to aid each other in the apprehension and surrender of deserters from their respective naval and military forces, and to apply all the provisions of this Convention to the offence of deserting.

It is agreed that this Convention shall have effect from the first day of February one thousand eight hundred and eighty.

Done at Calcutta on the thirtieth day of January in the year of our Lord one thousand eight hundred and eighty.

LYTTON,
*Viceroy and Governor General
of British India.*

Done at PUnjim on the twentieth day of January in the year of our Lord one thousand eight hundred and eighty.

CAETANO AL^{RES} D'ALMEIDA,
ALBUQUERQUE,
Governor General of Portuguese India.

D. FITZPATRICK,
*Secy. to the Govt. of India,
Legislative Department.*