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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Prisons is published for information :—

We, the undersigned, Members of the Select Committee to which the Bill

From Chief Commissioner, Central Provinces, No. 671, dated 30th January, 1894 [Paper No. 1].

From Chief Commissioner, Coorg, No. 236, dated 30th January, 1894 [Paper No. 2].

From Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 31st January, 1894 [Paper No. 3].

From Chief Commissioner, Assam, No. 14 L. L., dated 5th February, 1894 [Paper No. 4].

From Resident, Hyderabad, No. 47, dated 10th February, 1894, and enclosures [Papers No. 5].

From Chief Commissioner, Burma, No. 238, L.—4, dated 10th February, 1894, and enclosures [Papers No. 6].

From Agent to Governor General in Baluchistan, No. 877, dated 10th February, 1894 [Paper No. 7].

From High Court, Calcutta, No. 514, dated 15th February, 1894 [Paper No. 8].

From Government, Bombay, No. 1091, dated 15th February, 1894, and enclosure [Papers No. 9].

Endorsement by Officiating Deputy Secretary to Government of India, Home Department, No. 125, dated 21st February, 1894, and enclosures (letter from Government of Madras, No. 346, dated 14th February, 1894) [Papers No. 10].

From Government, Punjab, No. 241, dated February, 1894, and enclosures [Papers No. 11].

Endorsement by Officiating Deputy Secretary to Government of India, Home Department, No. 126, dated 21st February, 1894, and enclosure (letter from Indian Relief Society, dated 16th February, 1894) [Papers No. 12].

From High Court, Calcutta, No. 410, dated 26th February, 1894, and enclosures [Papers No. 13].

From Government, Bengal, No. 781 P., dated 26th February, 1894, and enclosure [Papers No. 14].

From Government, North-Western Provinces and Oudh, No. 525, dated 23rd February, 1894, and enclosures [Papers No. 15].

From Secretary, Kashi Sujan Samaj, Benares, No. 11 S. S., dated 5th March, 1894 [Papers No. 16].

to the valuable suggestions on minor matters which have been received from Local Governments generally and from the Governments of Madras and Bombay particularly. These amendments are indicated in italics in the Bill annexed to this Report. We have also considered suggestions made by independent bodies interested in the Bill.

3. *Section 3.*—In several sections of the Bill we have found it desirable to assign certain functions to Medical Subordinates as well as to Medical Officers. We have therefore added a definition of "Medical Subordinate," whom we propose to describe as an Assistant Surgeon, Apothecary or qualified Hospital Assistant. Such Medical Subordinate need not be exclusively a prison-officer, but may be a qualified Assistant attached to a dispensary in or near the place where the prison is situated. We have made it clear that the Medical Officer is, even in respect of sanitary administration, to be subject to the control of the Superintendent.

4. *Section 15.*—We have required detailed particulars respecting deaths of prisoners to be recorded in a register by the Medical Officer.

5. *Section 23.*—In order to remove a difficulty which has arisen in the construction of existing law, we have expressly provided that prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

6. *Section 28.*—We have made provision for the confinement of prisoners in cells as an ordinary mode of detention in prison. The circumstances of Indian jails may not, at the present time, allow of this being done, but we have thought it right to recognize separation of prisoners, especially at night time, as a desirable object to be worked up to.

7. *Section 40.*—We have added to this section a provision suggested by No. 54 of the Regulations for Government of Prisons in Schedule I to the Prison Act, 1865 (28 & 29 Vict., c. 126), with respect to interviews between prisoners and their legal advisers.

8. *Section 42.*—We have now provided for the punishment of persons improperly removing prohibited articles (such as unauthorised letters) from a prison as well as of persons improperly introducing such articles into a prison.

9. *Section 50.*—We have provided that change of labour as a punishment shall not be enforced without medical advice.

10. *Section 55.*—We have introduced this section to cover the case of prisoners who are being transferred from one prison to another or are engaged on extra-mural duty. Such prisoners are to be deemed to be in prison and are to be subject to all the same incidents as if they were actually in prison. This provision follows the law as already expressed in Bombay and other enactments, and is obviously necessary.

11. *Section 57, sub-section (1).*—We have not preserved in the Bill the obligation imposed by the present law to keep in fetters for the first three months prisoners sentenced to transportation, but have left to be determined by rules the circumstances in which such prisoners may be confined in fetters.

12. *Section 59.*—We have added to section 59 a clause enabling the Governor General in Council to define the circumstances, and regulate the conditions, under which prisoners in danger of death may be released.

13. *Sections 59 and 60.*—We have provided in these sections for the recognition of the practice which now obtains of making rules for the transfer of prisoners whose terms of sentence are about to expire, from distant prisons in which they are confined to prisons near to their homes, so that their release, when their terms expire, may be made from the latter prisons.

We have also, following English law in this respect, made provision for rules being made for regulating periods of rest from labour.

14. The other alterations in the Bill appear to require no notice. Such as they are they will be found in italics in the revised Bill annexed to this Report.

15. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	13th January 1894.
Fort Saint George Gazette	23rd January 1894.
Bombay Government Gazette	18th January 1894.
Calcutta Gazette... ..	17th January 1894.
North-Western Provinces and Oudh Government Gazette	20th January 1894.
Punjab Government Gazette	25th January 1894.
Central Provinces Gazette	27th January 1894.
Burma Gazette	27th January 1894.
Assam Gazette	27th January 1894.
Coorg District Gazette	1st February 1894.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Marathi	1st March 1894.
	Gujarathi	1st March 1894.
	Kanarese	1st March 1894.
Bengal	Bengali	30th January 1894.
	Hindi	6th February 1894.
	Uriya	8th February 1894.
North-Western Provinces and Oudh.	Urdu	3rd February 1894.
	Burmese	17th February 1894.
Sindh	Sindhi	8th February 1894.

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

(Signed) A. P. MACDONNELL.
 „ ALEX. EWD. MILLER.
 „ RASHBEHARY GHOSE.
 „ FAZULBHOY VISRAM.
 „ A. S. LETHBRIDGE.
 „ G. M. CHITNAVIS.
 „ H. F. CLOGSTOUN
 „ W. LEE-WARNER.

The 9th March 1894.

No. II.

THE PRISONS BILL.

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THE SCHEDULE.

ENACTMENTS REPEALED.

No. II.

A Bill to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Prisons Act, 1894.

(2) It extends to the whole of British India, inclusive of Upper Burma, British Baluchistan, the Santal Parganas, and the Pargana of Spiti; and

(3) It shall come into force on the first day of July 1894.

(4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II of 1874, as those sections heretofore have been, or hereafter may be, amended by any Act passed, and for the time being in force, under the Indian Councils Acts, 1861 and 1892.

2. (1) On and after that day the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof.

(2) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, and issued under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act—

(1) "prison" means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police;

(b) any place specially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882;

or

(c) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail:

(2) "criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction or by order of a Court-martial;

(3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882, or under the Prisoners Act, 1871:

(4) "civil prisoner" means any prisoner who is not a criminal prisoner:

(5) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails:

(6) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder:

(7) "Inspector General" means the Inspector General of Prisons:

(8) "Medical Subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant: and

(9) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

4. The Local Government shall provide, for the accommodation for prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

5. An Inspector General shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government the general control and superintendence of all prisons situated in the territories under such Government.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary:

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

7. Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not

24 & 24 Vict., c. 67, and 55 & 56 Vict., c. 14.

X of 1882 V of 1871.

X of 1882.

*The Prisons Bill.**(Chapter III.—Duties of Officers.—Sections 8-16.)*

convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

8. All officers of a prison shall obey the directions of the Superintendent; all officers shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

11. (1) Subject to the orders of the Inspector Superintendent, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than a central prison or a prison situated in a Presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

12. The Superintendent shall keep, or cause to be kept, the following records:—

- (1) a register of prisoners admitted;
- (2) a book showing when each prisoner is to be released;
- (3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences;

(4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules under section 59 or section 60.

Medical Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section 60.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

15. On the death of any prisoner, the Medical Officer shall forthwith report on death of prisoner in a register the following particulars, so far as they can be ascertained, namely:—

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day,
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of the disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
- (8) when the prisoner died, and
- (9) (in cases where a post-mortem examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Jailer.

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere,

(2) The Jailer shall not, without the Inspector General's sanction, in writing, be concerned in any other employment.

The Prisons Bill.

(Chapter III.—Duties of Officers.—Sections 17-23. Chapter IV.—
Admission, Removal and Discharge of Prisoners—Sections 24-26.)
Chapter V.—Discipline of Prisoners—Sections 27-28.)

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Jailer to give notice of death of prisoner.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Responsibility of Jailer.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Jailer to be present at night.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Powers of Deputy and Assistant Jailers.

Subordinate Officers.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Duties of gate-keeper.

22. Officer subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Subordinate officers not to be absent without leave.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

Convict officers.

XLV of 1860.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

24. (1) Whenever a prisoner is admitted into a prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be examined on admission.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer,

who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the Jailer.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

27. The requisitions of this Act with respect to the separation of prisoners are as follows:—

- (1) in a prison containing female as well as male prisoners the females shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;
- (2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;
- (3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and
- (4) civil prisoners shall be kept apart from criminal prisoners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Association and segregation of prisoners.

The Prisons Bill.

(Chapter V.—Discipline of Prisoners.—Sections 29-30. Chapter VI.—Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners.—Sections 31-33. Chapter VII.—Employment of Prisoners.—Sections 34-36. Chapter VIII.—Health of Prisoners.—Section 37.)

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICED CRIMINAL PRISONERS.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

HEALTH OF PRISONERS.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

The Prisons Bill.

(Chapter VIII.—Health of Prisoners.—Sections 33-39. Chapter IX.—Visits to Prisoners.—
Sections 40-41. Chapter X.—Offences in relation to Prisons.—Sections 42-44.
Chapter XI.—Prison-offences.—Section 45.)

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the Local Government may by rule direct, and the *Jailer* shall make an entry in the proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the *Jailer* thinks fit to make, and the date of the entry.

39. In every prison a hospital or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO PRISONERS.

40. (1) Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

41. (1) The *Jailer* may demand the name and address of any visitor to a prisoner, and when the *Jailer* has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the *Jailer* may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Local Government may direct.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

42. Whoever, contrary to any rule under section 60, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any prison or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article, and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison, and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

45. The following acts are declared to be prison-offences when committed by a prisoner:—

- (1) such wilful disobedience to any regulation of the prison which shall have been declared by rules made under section 59 to be a prison-offence;
- (2) any assault or use of criminal force;
- (3) the use of insulting or threatening language;
- (4) immoral or indecent or disorderly behaviour;
- (5) wilfully disabling himself from labour;
- (6) contumaciously refusing to work;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
- (10) wilful damage to prison-property;
- (11) tampering with or defacing history-tickets, records or documents;
- (12) receiving, possessing or transferring any prohibited article;
- (13) feigning illness;
- (14) wilfully bringing a false accusation against any officer or prisoner;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for

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attack upon any prisoner or prison-official; and

- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish

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such offence by—

- (1) a formal warning :

EXPLANATION.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;

- (2) change of labour to some more irksome or severe form ;
 (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;
 (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor General in Council ;

- (5) the substitution of gunny or other coarse fabric for clothing of other material not being woollen, for a period which shall not exceed three months ;

- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council ;

- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council ;

- (8) separate confinement for any period not exceeding six months :

EXPLANATION.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners ;

- (9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government.

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

- (10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :

EXPLANATION.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners :

- (11) solitary confinement for any period not exceeding seven days :

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement :

EXPLANATION.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

- (12) penal diet as defined in clause (5) combined with solitary confinement as defined in clause (11) ;

- (13) whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

47. (1) The Superintendent shall have power to

award any of the punishments enumerated in the

Award of punishments under section 46. last foregoing section subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

48. Any two of the punishments enumerated

in section 46 may be awarded for any such offence in combination, subject to the following exceptions, namely :—

- (1) formal warning shall not be combined with any other punishment except loss of privileges under section 46, clause (4) ;

- (2) penal diet shall not be combined with change of labour, under section 46, clause (2), nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement ;

- (3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable ;

- (4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges under the remission system.

49. Except by order of a Court of Justice, no

Punishments to be in accordance with foregoing sections. punishment other than the punishments specified in the foregoing sections

shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

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(Chapter XII.—Miscellaneous.—Sections 55-57.)

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Jailor and Superintendent shall affix their initials as evidence of the correctness of the entries.

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46.

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class: and

Provided also that no person shall be punished twice for the same offence.

53. (1) No punishment of whipping shall be inflicted in instalments, or, except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

54. (1) Every Jailor or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment, for a period not exceeding three months, or to both.

(2) No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

55. A prisoner, when being taken to or from Extramural custody, any prison in which he control and employment may be lawfully confined, of prisoners, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Local Government, so confine them.

57. (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the pri-

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soner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector-General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector-General may sanction such retention accordingly.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

59. The Governor General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor General in Council may, for the territories under its administration, make rules consistent with this Act—

- (1) defining the acts which shall constitute prison-offences;
- (2) determining the classification of prison-offences into serious and minor offences;
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof.
- (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence;
- (5) for the award of marks and the shortening of sentences;
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;
- (7) defining the circumstances and regulating the conditions, under which prisoners in danger of death may be released;
- (8) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire; and,
- (9) generally, for carrying into effect the purposes of this Act.

60. The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

- (a) for the classification of prisons, and description and construction of wards, cells and other places of detention;
- (b) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons;
- (c) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act;

(d) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;

(e) for the employment instruction and control of convicts within or without prisons;

(f) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;

(g) for classifying and prescribing the forms of labour and regulating the periods of rest from labour;

(h) for regulating the disposal of the proceeds of the employment of prisoners;

(i) for regulating the confinement in fetters of prisoners sentenced to transportation;

(j) for the classification and the separation of prisoners;

(k) for regulating the confinement of convicted criminal prisoners under section 23;

(l) for the preparation and maintenance of history-tickets;

(m) for the selection and appointment of prisoners as officers of prisons;

(n) for rewards for good conduct;

(o) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire;

(p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;

(r) for the appointment and guidance of visitors of prisons;

(s) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, X of 1882, 1882, and to the officers employed, and the prisoners confined, therein; and

(t) generally in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

61. Copies of rules, under sections 59 and 60, so far as they affect the government of prisons, shall be exhibited, both in

English and in the Vernacular, in some place to which all persons employed within a prison have access.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation.

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(*The Schedule—Enactments repealed.*)

THE SCHEDULE.
ENACTMENTS REPEALED.
(*See section 2.*)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
<i>Acts of the Governor General in Council.</i>			
1856	VIII	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.
1870	XXVI	Prisons Act, 1870	So much as has not been repealed.
1874	XV	Laws Local Extent Act, 1874	So much of Part (b) of the third schedule as relates to Act VIII of 1856.
1878	XIV	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
1886	XX	Upper Burma Laws Act, 1886	So much as relates to Act XXVI of 1870.
1891	XII	Repealing and Amending Act, 1891	So much of the second schedule as relates to Acts VIII of 1856 and XXVI of 1870.
<i>Acts of the Governor of Fort St. George in Council.</i>			
1869	V	Madras Jails Act, 1869	So much as has not been repealed.
1882	VII	Madras Jails Act Amendment Act, 1882	The whole.
1889	II	An Act to amend the Madras Jails Act, 1869.	The whole.
<i>Acts of the Governor of Bombay in Council.</i>			
1874	II	An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed, <i>except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882.</i>
1882	II	An Act to amend Bombay Act II of 1874	Section 3.
1883	IV	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.	The whole.
1887	I	An Act to further amend Bombay Act II of 1874.	The whole.
<i>Acts of the Lieutenant-Governor of Bengal in Council.</i>			
1864	II	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865	V	An Act to amend Act II of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail.	So much as has not been repealed.
<i>Regulations made under the Statute 33 Victoria, Chapter 3.</i>			
1872	III	Santhal Parganas Settlement Regulation	So much of the schedule (as amended by Regulation III of 1886), as relates to Bengal Acts II of 1864 and V of 1865.
1874	IX	Arakan Hill District Laws Regulation, 1874.	So much as relates to Act XXVI of 1870.
1875	II	Assam Prisons Regulation, 1875	The whole.
1890	I	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI of 1870.

S. HARVEY JAMES,
Secretary to the Government of India.