

# THE INDIAN ARTICLES OF WAR.

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## ACT No. V OF 1869.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 26th February 1869).*

*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Act No. V of 1863 (*to amend Act XXIX of 1861*), and Act No. XXVI of 1865 (*to amend Act XXIX of 1861*) shall be repealed:

Provided that all crimes and offences committed against any Articles of War repealed by this Act may be enquired into and punished in like manner as if they had been committed against the Articles of War contained in this Act, and that any warrant for holding Courts Martial, issued under any Act hereby repealed, shall remain in full force, notwithstanding such repeal: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



Provided also, that no proceedings in any trial begun under any Articles so repealed, shall be discontinued owing to such repeal, but every such trial shall proceed and be completed in the same manner as if this Act had not been passed.

References to any Act hereby repealed, or any Act passed subsequently thereto, shall be read as if made to this Act.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

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 Depôt, as the case may be :

“Judge Advocate” includes any European Officer duly authorized 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 Saint George in Council, in the case of the Bombay Army, the Governor of  
of

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 Bázars 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 as may be usual 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*

*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*

*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.*

*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 wilfully 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*

*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, or intentionally uses 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 who 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

*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

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 Death 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*



*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*

*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*

*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 bázár, 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*

*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.

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 causes 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 a 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

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 return or report of the matters aforesaid ;—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 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 prevaricates, ;—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 competent to try the offender, be liable to such punishments as the convicting Court is, by these Articles, empowered to award.

CHAPTER VI.

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

- (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 authorized 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, 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*



*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

(e).—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*

*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.

*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*

*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

(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

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 8 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

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 Article 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

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.

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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,



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

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

“ 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

“ 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*

*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 him 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

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, enquire 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 before trial to the person tried 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 person tried.

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

less 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.

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

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 Court.*

*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.

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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*



*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

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.

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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*

*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*

*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,

pages, 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 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

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 Saint 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,

ment, 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 anything 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 upon a Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, may be  
commuted

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 a Court of Criminal Justice, the Government of India, or the Local Government of the Presidency

sidency 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 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.

*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

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.

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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

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

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.

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TITLE IV.—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 command.

*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

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

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

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 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*



*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 is 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

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 thereout 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.

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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*

*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 belongs 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 recovered costs awarded to him by a decree against the person obtaining such process.

The arms, horse, clothes, equipments, regimental accoutrements and necessities of any such attested person shall not be seized, nor shall his pay and allowances or 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

ture 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*

*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 the 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

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 Government, 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.

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APPENDIX.

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

*Fraudulently.*

*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*

*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



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

(*f*). A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if 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

378. Whoever, intending to take dishonestly 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.

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 everything 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,

(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. It could not therefore be taken out of 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

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 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 anything 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 monies to A. Z signs and delivers the note. A has committed extortion.

(*c*). A

(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 anything 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.*

*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

(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 concerts 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.



## I N D E X.

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

- Abandoning garrison, &c., Article 14.  
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 „ „ procedure in trial for, Article 115.  
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 „ from camp after retreat-beating, Article 52.  
 „ from cantonment or lines after tattoo, *ib.*  
 „ of President of Court Martial, Article 103.  
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 „ of officer on revision, Article 120.  
 „ from duty for two months, Article 162.  
 „ as prisoner of war, Article 163.  
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 Additional pay, forfeiture of, Articles 76, 82, 136.  
 Adjournment of Court Martial, Article 106.  
 „ of trial for desertion, absence without leave, overstaying leave, or not rejoining, Article 115.  
 Adjutant General of Army to send copies of certain sentences and orders passed thereon, Article 158.  
 Affirmation of person reported fit for duty, Article 1.  
 „ of interpreter, Article 108, at Summary Court, Article 127.  
 „ of President and Members, Article 109.  
 „ of Judge Advocate, Article 110.  
     See *Evidence*.  
 Aggravating disease or infirmity, Article 58.  
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 Alarm, using words intended to create, in time of war, Article 23.  
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 American not triable by Court composed of Native Officers, Part I, clause (d), proviso.  
 „ when to be sentenced to penal servitude, Article 144.

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- Ammunition, making away with or losing, Article 17.
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- „ of sentence of Detachment General Court Martial, held neither in British India nor in allied Indian State, Article 142, clause (e).
- „ of illegal sentence, re-admission after, Article 156.
- Appearing armed when off duty, Article 49.
- Application of Articles, Part I, clause (d).
- „ for aid in apprehending person accused of military offence, Part III, clause (e).
- Apprehension of deserter, omission to cause, Article 28.
- „ of person breaking cantonment rules, Part III, clause (c).
- „ of person accused of military offence, Part III, clause (e).
- Arms, making away with, or losing, Article 47.
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- „ furnishing false return of, Article 63.
- ‘Army’ defined, Part I, clause (e).
- „ Head Quarters, monthly returns of trials furnished to, Article 95.
- Arrears of pay and allowances, forfeiture of, Articles 76, 82, 85, 137.
- Arrest, leaving, Article 36.
- „ of person accused of military offence, Article 100.
- „ detainment in, *ib.*
- „ witnesses privileged from civil, Article 124.
- „ of attested persons for debt, prohibited, Part III, clause (b).
- „ of persons suspected to be deserters, Part III, clause (d).
- See Apprehension.*
- Arsenal, Summary Court Martial held by European Officer in charge of, Article 90.
- Articles, application of, Part I, clause (d).
- „ to be read to recruits, Article 1.
- „ to be read to troops every quarter, Part III, clause (k).
- Artificers, Articles apply to, Part I, clause (d).
- ‘Assault’ defined, Part I, clause (e) and Appendix No. 1.
- „ on superior officer, Article 8.
- „ on persons bringing provisions, Article 22.
- „ on sentry, Article 27.
- Assembly of Court Martial, Article 106.
- Assistance to enemy, Article 17.
- „ in apprehending and securing persons accused of non-military offences, Article 170.
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- Attempt to use criminal force to superior officer, Article 8.

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 British India, sentences of Courts Martial held beyond limits of, Article 142, clauses (e), (g).  
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 „ attestation of, Article 2.  
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 Camp Equipage Depôt, Summary Court Martial held by European Officer in charge of, Article 90.  
 Cantonment Magistrates, saving of regulations defining office and powers of, Part I, clause (f).  
 „ rule, procedure on breach of, Part III, clause (c).  
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 „ Europeans not being British subjects, and their Christian lineal descendants, triable  
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 „ authorities to take steps to capture deserter, Part III, clause (d), or other military offender,  
     *ib.*, clause (e).  
 „ „ rules for guidance of, Part III, clause (j).  
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” ” ”	may be empowered to authorize Officer commanding certain Native troops to appoint District or Garrison Courts Martial, Article 79, clause (d).
” ” ”	may set aside trial of Summary Court Martial, Article 129.
” ” ”	to prescribe minor punishments and specify Officer to award them, Article 165.
” ” ”	his confirmation of sentences of death, Article 174.
” ” ”	saving of his authority conferred by Act of Parliament or Royal warrant or commission, Part III, clause (i).
” ” ”	may substitute new forms of affirmation, Part III, clause (j)
” ” of Presidency	may order dismissal of a Commissioned Officer, Article 3, or of any other person subject to the Articles, Article 4.
” ” ”	may appoint General Court Martial, Article 73.
” ” ”	may appoint Detachment General Court Martial, Article 77.
” ” ”	may appoint District or Garrison Court Martial, Article 79.
” ” ”	transmission of proceedings of Regimental or Detachment Court Martial held on line of march or on road to, Article 129.
” ” ”	may set aside trial by Summary Court Martial, <i>ib.</i>
” ” ”	may confirm, mitigate, commute, remit and annul sentences of Courts Martial, Article 142, clauses (a), (b) and (i).
” ” ”	may delegate such powers, <i>ib.</i> , clause (b).
” ” ”	to confirm sentence on Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, and Warrant Officer, Article 146.
” ” ”	may direct offenders to be imprisoned in any jail, Article 152.
” ” ”	may order prisoner's removal from military jail, <i>ib.</i>
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- ‘Commanding Officer’ defined, Part I, clause (*e*).
- ” ” to make declaration to person reported fit for duty, Article 1.
- ” ” may dismiss attested person improperly re-enlisting, Article 5.
- ” ” to furnish certificate to attested person dismissed or discharged, Article 6.
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- ” ” and to record previous conviction and general character of offender;  
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     See *Abetment, Omission.*
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- „ „ composition of, Article 88.
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