

XIV

# THE INDIAN MARINE ACT, 1887.

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## ACT NO. XIV OF 1887.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 30th June, 1887.)*

An Act for the better administration of Her Majesty's Indian Marine Service.

& 48 Vic.,  
38. WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service:

Provided that—

- & 25 Vic.,  
37. (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans

or

*Indian Marine.* [ACT XIV  
(Chapter I.—Preliminary.—Sections 1-2.)

or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title and  
commence-  
ment.

1. (1) This Act may be called the Indian Marine Act, 1887; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.

Definitions.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) “person subject to this Act” means a person who is employed or serves in, or belongs to, the Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act:

(b) “gazetted

(b) “gazetted officer” means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,  
First grade officer,  
Second grade officer,  
Third grade officer,

Chief engineer,  
Engineer,  
Assistant engineer, or  
Clerk :

(c) “warrant-officer” means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,  
Apothecary,  
Assistant apothecary,  
Assistant clerk,

Engine-driver, first class,  
Carpenter,  
Hospital assistant, or  
General mess steward :

(d) “petty officer” means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,  
Chief syrang, second class,  
Ship’s steward,  
Engine-driver, second class,  
Cook on a salary of not less than  
fifty rupees per mensem,  
General mess butler,  
Syrang of lascars, first class,  
Syrang of lascars, second class,

Tindal of lascars, first class,  
Tindal of lascars, second class,  
Tindal of stokers, first class,  
Tindal of stokers, second class,  
Cassaub, first class,  
Cassaub, second class, or  
Cook on a salary of less than  
fifty rupees per mensem :

(e) “superior officer”, used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses :

(f) “commanding officer” means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons :

(g) “enemy”

(g) "enemy" includes a pirate or rebel:

(h) "Indian Marine Court" means an Indian Marine Court held under this Act:

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council: and

(j) "prescribed" means prescribed by rules made by the Governor General in Council.

(2) If an appointment in the Indian Marine Service is created after the passing of this Act, the Governor General in Council may, by notification published in the Gazette of India at any time after the commencement of this Act, assign to the officer for the time being holding the appointment such place in clause (b), clause (c) or clause (d) of sub-section (1) as he thinks fit, and thereupon that officer shall for all the purposes of this Act be deemed to be mentioned in that place, and to be a gazetted officer, warrant-officer or petty officer, as the case may be, and to be the superior officer of any officer mentioned after him in any of the clauses aforesaid, and of any person subject to this Act who is not mentioned in any of those clauses.

Procedure  
on enrol-  
ment.

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(a) cause to be read and explained to him the rules of the service,

(b) administer to him an oath of allegiance, and

(c) cause him to sign a roll.

(2) The rules, oath and roll shall be in prescribed forms.

General  
power to  
make rules.

4. In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make rules



rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

## CHAPTER II.

### OFFENCES AND PUNISHMENTS.

#### *Misconduct in the Presence of the Enemy.*

5. If a commanding officer—

- (i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or
- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or
- (iii) when capable of making a successful defence, surrenders his vessel to the enemy, or
- (iv) in time of action improperly withdraws from the fight,

he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

6. If any officer subject to this Act—

- (i) forbears to pursue the chase of any enemy beaten or flying, or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or
- (iii) improperly

Misconduct of commanding officer in action.

Not pursuing the enemy or not assisting a friend in view.

(Chapter II.—Offences and Punishments.—Sections 7-9.)

(iii) improperly forsakes his station, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Delaying or discouraging action or service, or deserting post or sleeping on watch.

7. If any person subject to this Act,—

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Misconduct of subordinate officers and men in action.

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Communications with the Enemy.*

Corresponding, &c., with the enemy.

9. if any person subject to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
- (ii) fails

(Chapter II.—*Offences and Punishments.*—*Sections 10-13.*)

(ii) fails to make known to the proper authorities any information which he may have received from the enemy, or

(iii) relieves the enemy with any supplies,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Improper communication with the enemy.

#### *Neglect of Duty.*

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Neglect of duty.

#### *Mutiny.*

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned; and

Mutiny accompanied by violence.

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

(a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned;

(b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this

Mutiny not accompanied by violence.

this Act, shall suffer death or such other punishment as is hereinafter mentioned ; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Inciting to mutiny.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Mutinous assembly or uttering seditious words.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Concealing traitorous, mutinous or seditious practice, design or words.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Striking or using violence to superior officer.

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Insubordination.*

Disobedience or using threatening language to superior officer.

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed

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(Chapter II.—*Offences and Punishments.—Sections 19-22.*)

missed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Desertion and Absence without Leave.*

19. A person subject to this Act who—

Desertion.

- (i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place; or
- (ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor General in Council.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Inducing any person to desert.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Breaking out of vessel.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel

Absence without leave.

*Indian Marine.* [ACT XIV  
(Chapter II.—Offences and Punishments.—Sec-  
tions 23-26.)

vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

*Miscellaneous Offences.*

Drunkenness  
on boardship  
or on duty.

23. A person subject to this Act who is guilty of any drunkenness on boardship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Cruelty or  
misconduct  
by officer.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Suffering  
vessel to be  
lost or im-  
perilled.

25. A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Unlawful  
taking of  
goods on  
board.

26. An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

27. A

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*Indian Marine.*

(Chapter II.—Offences and Punishments.—Sections 27-31.)

27. A person subject to this Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Embezzling public stores.

28. A person subject to this Act who unlawfully sets fire to any dockyard, victualling yard, steam-factory yard, arsenal, magazine, building or stores, or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Arson.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Making false documents.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Malingering, or misconduct in hospital.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act

Creating disturbance on account of complaints.

who,

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(Chapter II.—Offences and Punishments.—Sec-  
tions 32-35.)

who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Offences to the prejudice of good order and discipline not otherwise specified.

**32.** A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned :

Provided that, if such act, disorder, or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

Not assisting in arresting offenders.

**33.** A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Contempt of Court.

**34.** A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

False evidence.

**35.** A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer



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(Chapter II.—*Offences and Punishments.*—*Sections 36-37.*)

suffer imprisonment for a term which may extend to seven years.

*Offences punishable by Ordinary Law.*

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India :

Offences punishable by ordinary law.

Provided that, except as authorised by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

47 & 48 Vic.,  
c. 38.

*Punishments.*

37. (1) The following punishments may be inflicted under this Act :—

Schedule of punishments.

- (a) death;
- (b) penal servitude;
- (c) dismissal with disgrace from the Indian Marine Service;
- (d) imprisonment;
- (e) dismissal from the Indian Marine Service;
- (f) loss of seniority as an officer for a specified time or otherwise;
- (g) dismissal from the vessel to which the offender belongs;
- (h) severe reprimand, or reprimand;
- (i) disrating a warrant-officer or petty officer or any other person below that rank;
- (j) forfeiture

(Chapter II.—*Offences and Punishments.*—Section 38.)

(j) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations  
as to the in-  
fliction of  
punishments.

38. The following regulations shall apply to the infliction of punishments:—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except

(Chapter II.—*Offences and Punishments.*—Sections 39-40. Chapter III.—*Jurisdiction and Powers.*—Section 41.)

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(8) When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Scale of punishments.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

Limitation of time for trials.

### CHAPTER III.

#### JURISDICTION AND POWERS.

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating

Offences cognizable by Criminal

to

(Chapter III.—Jurisdiction and Powers.—Section 41.)

Courts and Indian Marine Courts respectively.

to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table :—

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 5	Misconduct of commanding officer in action.	Criminal Courts and Indian Marine Courts.
" 6	Not pursuing the enemy or not assisting a friend in view.	
" 7	Delaying or discouraging action or service or deserting post or sleeping on watch.	
" 8	Misconduct of subordinate officers and men in action.	
" 9	Corresponding, &c., with the enemy.	Indian Marine Courts.
" 10	Improper communication with the enemy.	
" 11	Neglect of duty . . . . .	Criminal Courts and Indian Marine Courts.
" 12	Mutiny accompanied by violence . . . . .	
" 13	Mutiny not accompanied by violence . . . . .	
" 14	Inciting to mutiny . . . . .	
" 15	Mutinous assembly or uttering seditious words.	Indian Marine Courts.
" 16	Concealing traitorous, mutinous or seditious practice, design or words.	
" 17	Striking or using violence to superior officer.	Criminal Courts and Indian Marine Courts.
" 18	Disobedience or using threatening language to superior officer.	
" 19	Desertion . . . . .	Indian Marine Courts.
" 20	Inducing any person to desert . . . . .	
" 21	Breaking out of vessel . . . . .	Criminal Courts and Indian Marine Courts.
" 22	Absence without leave . . . . .	
" 23	Drunkenness on boardship or on duty . . . . .	
" 24	Cruelty or misconduct by officer . . . . .	
" 25	Suffering vessel to be lost or imperilled . . . . .	Criminal Courts and Indian Marine Courts.
" 26	Unlawful taking of goods on board . . . . .	
" 27	Embezzling public stores . . . . .	Indian Marine Courts.
" 28	Arson . . . . .	
" 29	Making false documents . . . . .	Criminal Courts and Indian Marine Courts.
" 30	Malingering or misconduct in hospital . . . . .	
" 31	Creating disturbance on account of complaints.	
" 32	Offences to the prejudice of good order and discipline not otherwise specified . . . . .	

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 33	Not assisting in arresting offenders . . . . .	} Criminal Courts and Indian Marine Courts.
" 34	Contempt of Court . . . . .	
" 35	False evidence . . . . .	
" 36	Offences punishable by ordinary law	

**42. Subject as aforesaid—**

(a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and

(b) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

Power to pass sentences.

**43. (1)** An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender.

Jurisdiction and powers of commanding officers.

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

**44.** A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

Place of trial.

45. Where

*Indian Marine.* [ACT XIV  
(Chapter III.—Jurisdiction and Powers.—Sec-  
tions 45-48.)

Jurisdiction  
over person  
ceasing to be  
subject to  
Act.

45. Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Case of per-  
son charged  
with an of-  
fence cogniz-  
able by a  
Criminal  
Court.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely :—

- (a) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court ;
- (b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

Case of per-  
son charged  
with an of-  
fence cog-  
nizable by an  
Indian  
Marine Court  
or command-  
ing officer.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

Conflict of  
jurisdiction.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion

as

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(Chapter III.—*Jurisdiction and Powers.*—Sections 49-51.)

as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

Previous conviction or acquittal.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

Application of Act XV of 1869 to Indian Marine Courts.

51. The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court on a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

Powers of Governor General in Council in respect of sentences.

CHAPTER IV.

*Indian Marine.* [ACT XIV  
(Chapter IV.—*Indian Marine Courts.*—*Sections 52-53.*)

CHAPTER IV.

INDIAN MARINE COURTS.

*Constitution of the Court.*

Power to  
convene  
Indian  
Marine  
Court.

**52. (1)** The following authorities shall have power to convene Indian Marine Courts, namely :—

- (a) the Governor General in Council ;
- (b) the Director of Marine ;
- (c) an officer empowered in that behalf by warrant of the Governor General in Council :

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

Composition  
of Indian  
Marine  
Court.

**53. (1)** An Indian Marine Court shall consist of a president and not less than two or more than four other members of rank not inferior to that of first grade officer as may be ordered by the convening authority :

Provided that an Indian Marine Court convened under section 52, sub-section (2), may be composed of the officer convening the same as president and the two graded officers next in seniority available for the duty.

(2) The president of an Indian Marine Court for the trial of a commander shall always be a commander, and two at least of the other officers composing the Court shall be commanders.

(3) The



*(Chapter IV.—Indian Marine Courts.—Sections 54-55.)*

(3) The president of an Indian Marine Court for the trial of any person below the grade of commander, except an Indian Marine Court convened under section 52, sub-section (2), shall be a commander.

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

*Procedure at the Trial.*

54. An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

Place of sitting of Indian Marine Court.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer

Challenge.

officer

*Indian Marine.* [ACT XIV  
(Chapter IV.—*Indian Marine Courts.*—*Sec-*  
*tions 56-58.*)

officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (2), (3), (4) and (5) :

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

Oaths.

56. (1) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner.

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

Trial of officers and crew by one Court.

57. When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction or capture of any vessel in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court ; and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

Dissolution of Court on illness of prisoner.

58. (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved :

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed

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(Chapter IV.—*Indian Marine Courts.*—Sections 59-62.)

deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

X of 1882.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Re-trial of prisoner after dissolution of Court.

60. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Clearing of Court.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote :

Decision of Court.

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

62. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

Summoning witnesses.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

63. When

*Indian Marine.* [ACT XIV  
(Chapter IV.—*Indian Marine Courts.*—*Sections 63-66.*)

Summary  
punishment  
of certain  
contempts.

63. When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

*Confirmation of Findings and Sentences.*

Submission  
of proceed-  
ings to con-  
firming au-  
thority.

64. (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

Confirmation  
of findings  
and senten-  
ces.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

Confirming  
authority.

66. (1) The confirming authority shall ordinarily be the authority convening the Court.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council.

(3) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

67. (1) The

**67.** (1) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence. Powers of confirming authority.

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(3) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

(a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;

(b) suspend for such time as seems expedient the execution of the sentence;

(c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

#### *Evidence.*

I of 1872.

**68.** The Indian Evidence Act, 1872, subject to such modifications therein as the Governor General in Council may, by notification in the Gazette of India, direct, shall apply to all proceedings before Indian Marine Courts. Law of evidence applicable.

#### *Preservation of Proceedings.*

**69.** (1) The proceedings of all Indian Marine Courts Preservation of Indian

(Chapter IV.—Indian Marine Courts.—Section 70.  
Chapter V.—Supplemental Criminal Provisions.  
Section 71.)

Marine Court proceedings and grant of copies.

Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

*Power to make Rules respecting Procedure.*

Power to make rules respecting procedure.

70. (1) The Governor General in Council may make rules to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

(2) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882. X of 1882.

CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

*Procedure of Criminal Courts beyond British India.*

Procedure of Criminal Courts beyond British India.

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

*Arrest.*

*Arrest.*

72. The following rules shall apply to persons sub- Arrest of  
offenders.  
ject to this Act when charged with offences under this  
Act:—

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with; but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial. Power of  
commanding  
officer.

*Execution of Sentences of Indian Marine Courts and  
Commanding Officers.*

74. (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which Commence-  
ment of  
sentences of  
imprison-  
ment.

the

*Indian Marine.* [ACT XIV  
(Chapter V.—Supplemental Criminal Provisions.—  
Section 75.)

the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced :

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

Execution of  
such sen-  
tences.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court :

Provided that—

(a) when he is a person sentenced to imprisonment by his commanding officer, the commanding



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(Chapter V.—*Supplemental Criminal Provisions.*—  
Sections 76-78.)

manding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged ;

- (b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

*Savings.*

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

Saving of authority of ordinary Courts.

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

Minor punishments.

- (a) to dismissal, loss of seniority, disrating, forfeiture or stoppages ; or
- (b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

*Amendment of Acts.*

78. In the Code of Criminal Procedure, 1882, section 54, after the words " Army or Navy " the following shall be inserted, namely :—

Amendment of Act X of 1882, section 54 (Arrest of Deserters).

" or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service."

79. After

(Chapter V.—*Supplemental Criminal Provisions.*—  
Section 79. Chapter VI.—*Provisions of Civil  
Law.*—Section 80.)

Amendment  
of Chapter  
VII of the  
Penal Code  
(Offences  
relating to  
Army and  
Navy).

Application  
of foregoing  
sections to  
the Indian  
Marine  
Service.

79. After section 138 of the Indian Penal Code XLV of  
the following section shall be inserted, namely :—

“138A. The foregoing sections of this Chapter  
shall apply as if Her Majesty’s Indian Marine Service  
were comprised in the Navy of the Queen.”

## CHAPTER VI.

### PROVISIONS OF CIVIL LAW.

#### *Exemption from Process.*

Exemption  
from arrest  
for debt.

80. (1) A person below the position of gazetted  
officer shall not, while subject to this Act, be liable to  
be taken out of the Indian Marine Service by any  
process, execution or order of any Court of law, or  
otherwise, or be compelled to appear in person before  
any Court of law except in respect of the following  
matters, or one of them; that is to say :—

- (a) on account of a criminal charge or conviction;
- (b) on account of a decree for money, when the  
amount exceeds three hundred rupees over  
and above the costs of the suit.

(2) The Judge of any such Court may examine  
into any complaint made by any such person, or his  
superior officer, of the arrest of the person contrary to  
the provisions of this section, and may by order under  
his hand discharge the person, and award reasonable  
costs to the complainant, who may recover those costs  
as he might have recovered costs awarded to him by  
a decree against the person obtaining the process.

81. The

*(Chapter VI.—Provisions of Civil Law.—Sections 81-82.)*

81. The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature.

Property which cannot be attached.

*Property of Deceased Persons and Deserters.*

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts:—

Disposal of property of deceased persons and deserters.

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed

one

*Indian Marine.* [ACT XIV, 1887.]  
(Chapter VI.—Provisions of Civil Law.—Section 82.)

one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.