

INDIAN ARTICLES OF WAR.

170. B. 217.

THE
INDIAN ARTICLES OF WAR.

WITH ILLUSTRATIONS OF CHARGES: RULES AND FORMS OF
COURTS-MARTIAL: COMPARISON OF ENGLISH AND INDIAN
EVIDENCE AND MILITARY LAW.

INCLUDING

THE STATEMENT OF OBJECTS AND REASONS, AND
A COPIOUS INDEX.

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PREFACE.

No official publication has yet been made of the Indian Articles of War as amended by Act XII of 1894, together with the additions thereto given in subsequent General Orders. A complete edition of these, with an annotated Form of Proceedings and a copious Index, cannot fail to be of use to all officers, both in camp and quarters, as a reliable guide to Court-martial Procedure.

The Introduction to the amended Articles will repay study, as it is a comprehensive survey by the Military Member of Council of the principal changes recently introduced, and gives the reasons which necessitated these changes.

The numerous little differences between the application of Military Law under the Army Act and that practised in the Indian Army frequently misleads many officers, and to assist such, an Appendix tabulating the principal variations side-by-side, has been added.

C. E. P.

BANGALORE, }
January 1896. }

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INTRODUCTION.

Statement of Objects and Reasons for the Introduction of Act No. XII of 1894.

Act V of 1869, known as the Indian Articles of War, has long been felt to require amendment and re-casting, as much for the many defects and redundancies contained therein as for its faulty arrangement.

In 1887, the Indian Army Bill was drafted on the basis of the Army Act with the view to extending to the Native Army, as far as the difference of circumstances would permit, the improvements in military law introduced into the British Army by the Army Act and the preceding Discipline Act; but, as that Bill did not meet with the approval of the Secretary of State, a Bill for the amendment of Act V of 1869 was ordered, and is now submitted, dealing only with the more glaring defects of the Articles of War, following very greatly the proposals of the Indian Army Bill, 1887.

A further reason for the amendment of the Act arises from the passing by Parliament of the Madras and Bombay Armies Act, abolishing, from a date to be determined by the Governor-General in Council, the Presidential system.

It has been deemed expedient to confer on the General Officers Commanding the Forces in the four Commands into which the Army of India is to be divided under the new system all the powers now held by the Commanders-in-Chief of Madras and Bombay.

The powers now held by the Governors of Madras and Bombay have been entirely rescinded.

In explaining some of the more important of the proposed amendments the order of the sections will, as far as possible, be adhered to.

1. Section 3 specified the different classes of persons subject to military law. It will be observed that persons who are not gazetted, attested or enrolled, and who are included

merely on the ground of their being servants or followers, are subject to the law only when on active service, in camp, or the march, or at a frontier post at which the Governor-General in Council may direct that they shall be so subject.

It follows that all persons attached to the Native Army, whom it is desired to subject to military law in cantonments, must be either attested or enrolled, and it is left to executive action to determine what classes of persons shall be enrolled and what classes attested.

2. *Section 6* provides that the Governor-General in Council may declare what persons are to be enrolled only or be both enrolled and attested. It is apprehended that the distinction between the attestation and enrolment has not been always attended to, and that persons may thus have been attested who ought to have been enrolled, and *vice versa*; and, as the amendment makes certain substantial distinctions between attested and enrolled persons, it has been thought well to empower the Commander-in-Chief in India, and General Officers Commanding the Forces in the four Commands, subject to any rules which may be prescribed by the Governor-General in Council, to direct that any persons who have been attested under the old law shall be deemed to be enrolled under the new law, and *vice versa*.

Sub-section (3) provides that, except in the case of a recruit who will be attested when reported fit for duty, the form of attestation should be gone through as soon as possible upon enlistment or enrolment before a civil or military officer; and it should be stated that the intention is that the officer should ordinarily be an officer invested with magisterial powers.

3. In connection with this amendment a question of some importance presents itself as to the mode of dealing with classes of Natives serving with British corps.

The persons in question may, in some cases, be mere servants, as, for example, the grass-cutters attached to a British cavalry regiment, but in other cases, like that of the mahouts attached to a British heavy battery, they may be said to constitute an integral part of the corps.

The necessity of subjecting some persons of those classes to military law appears to be recognized; and it seems clear, and is further in accordance with the general intention shown in the Mutiny Acts and in the Army Act, and by the recent

• •
 action of the Government of India in bringing native drivers of British mountain batteries and the men of the Transport Corps under the Indian Articles of War, that they should, if subject to military law, be subject to that form of it provided for the Native Army.

The Army Act, in so far as it applies Indian military law to any persons of these classes, applies it only to them in certain cases where they are on active service—see section 176 (10); and it is understood that the usual practice has been to enrol them or attest them in some manner under the Indian Articles and then treat them as persons who, though their services are placed at the disposal of the British corps, belong to the Native Army and are subject to the Indian Articles. The amendment will admit of this practice being continued, but with a slight additional formality, in the case of persons who are merely enrolled and not attested. In the case of these persons it would be impracticable to prescribe any more elaborate process for subjecting them to military law than the mere entry of their names on a list with their consent. This being so, the list on which they are entered ought to become specially appropriated to this purpose. If, for example, they were merely entered on the pay list of a British corps which might contain the names of other classes of Native servants whom it is not proposed to subject to military law, there would be nothing to distinguish their position from that of these other servants, and, as has occasionally happened, a doubt might arise on the important point as to whether they were or were not subject to military law. To prevent this the amendment provides that the name of a person to be enrolled must be entered on the list of some corps or department of Her Majesty's Indian Forces. Special lists will therefore have to be kept in such British corps in which Natives attached to the corps, and whom it is desired to subject to Indian military law, will be entered as belonging to some sort of servants, corps or department of Her Majesty's Indian Forces. This, it is believed, will not give much trouble, and it will put an end to the difficulties which now from time to time arise regarding the position of these persons.

4. *Article 2 (1), (2), (3) and (4)* empowers certain authorities to confer upon servants and followers subject to military law a status higher than that of a soldier for the purposes of

any provision of the law, and has been suggested by section 175 (8) of the Army Act; but having regard to the great diversities of position among the numerous persons who accompany an army in this country in connection with the furnishing of supplies, for the performance of clerical work, as private traders, and otherwise, it has been thought well to give a wider discretion and to allow not merely the status of an officer but also that of a warrant officer or non-commissioned officer to be thus conferred.

5. *Article 2 (5)* empowers the Governor-General in Council to determine in cases of doubt any question as to the rank of any person, or as to whether he is above or below a specified rank, and has been introduced with reference to those Articles which apply, *e.g.*, to persons "below the rank of warrant officer" or "below the rank of non-commissioned officer." It is believed that, as a rule, there will be no difficulty in determining the rank of a person subject to the Articles of War; but, as in the case of some enrolled persons a doubt might arise, it has been deemed advisable to provide for its removal.

6. *Articles 3 and 4.*—Under the existing law, the *discharge* as distinguished from the *dismissal*, of a commissioned officer or other person has been practically impossible. Dismissal carries with it *forfeiture of all claim to pension*. This has not unfrequently been found to be inconvenient. It may often be desirable to discharge a commissioned officer or soldier under conditions which do not call for a forfeiture of pension earned.

The proposed amendment will effect this and without injustice to the discharged person.

The further amendment in Article 4, giving power to General Officers Commanding divisions or districts to dismiss or discharge, is thought to be very desirable. This power is exercised by the General Officers Commanding the Punjab Frontier Force and the Hyderabad Contingent under the existing law, and has worked well.

Courts-martial.

7. An effort, which necessarily leads to the repealing of a large number of the existing Articles, has been made to effect a considerable simplification. At present there are no less than ten different kinds of Courts-martial. The formal

list in Article 72 mentions only eight, but the headings "General Courts-martial" and "District Courts-martial" in that list each comprise two sub-divisions, General and District Courts-martial being practically different Courts when they are convened under the authority of an Order in Council from what they are when otherwise convened.

The amendment provides for only five descriptions of Courts-martial, namely :

General Courts-martial, District Courts-martial and Regiment Courts-martial, and	}	Which are called ordinary Courts-martial.
Summary General Courts- martial and Summary Courts-martial.		
	}	Which are called extraordi- nary Courts-martial.

8. The General Court-martial corresponds to the General Court-martial of the Army Act and the present Articles, and will consist of seven officers, instead of nine; but if the full complement of seven officers is not available, it may consist of any number not less than five.

The District Court-martial corresponds to the District and Garrison Courts-martial of the present Articles, but differs therefrom in the following particulars, that it is to consist of not less than five officers instead of seven, but if so many as five are not available, it may consist of any number not less than three; that it is competent to try *any offence under the Articles*, and its power of awarding imprisonment is extended from *one to two* years. It will be observed that, as to this last particular, its powers have been put on the same footing as those of a District Court-martial under the Army Act.

The Regimental Court-martial corresponds to the Regimental Court-martial, Regimental Detachment Court-martial and Detachment Court-martial of the present Articles. Its powers remain the same, but it is to consist of three—instead of five—officers.

It is debarred from trying a considerable number of the more serious military offences and any civil offence without the permission of superior authority. It can try any person subject to the Articles and not above the rank of non-commissioned officer who is under the command of the convening officer.

9. *Article 89.*—Every finding and sentence of an ordinary Court-martial requires confirmation and will be valid only in so far as it is confirmed. This is in substantial accordance with the existing law, but an important change is proposed in Article 89A, sub-section (1), which, except on active service or beyond the limits of India, makes sentences of death, transportation or imprisonment for a term exceeding seven years confirmable only by the Commander-in-Chief in India, the General Officer of a Command or an Officer Commanding a Force not attached to a Command.

10. Of the extraordinary Courts-martial the Summary General Court-martial corresponds to the Field General Court-martial of the Army Act and to the Detachment General Court-martial of the present Articles. It is intended also to replace to some extent the General Court-martial which the present Articles allow to be convened under an Order in Council, but which has, as a matter of fact, now fallen into disuse. It may be convened by an Officer specially empowered by the Government of India or by the Commander-in-Chief in India, or the General Officer of a Command, or by an Officer Commanding any detached portion of Her Majesty's troops on active service, when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary General Court-martial.

It has the same powers as a General Court-martial, and differs from a General Court-martial chiefly in this, that it may consist of any number of officers not less than three, that these officers may be either British officers or Native officers, or both combined as the convening officer thinks fit, that it may be convened and the proceedings may be recorded in the form in which a Field General Court-martial under Army Act is convened records its proceedings, that is, without recording the evidence, unless the convening officer specially directs the evidence together with the prisoner's statement in defence to be fully recorded; and that a sentence passed by it, and not exceeding that which might be passed by a District Court-martial, is valid without confirmation, while more severe sentences passed by it are confirmed by the convening officer.

11. The Summary Court-martial corresponds to the Summary Court-martial of the present Articles. It is an institu-

tion peculiar to Indian military law. It may be held by the Commanding Officer, *being a combatant officer*, of any corps or department of Her Majesty's Indian Forces or of any detachment thereof, or by the Commanding Officer of any British corps or detachment to which Native *combatant details* are attached. It consists of the Commanding Officer sitting with two other officers, who attend to watch the trial and sign the proceedings. Its ordinary functions are restricted to the trial of any person under the command of the officer holding the trial, except an officer, medical subordinate or warrant officer, but a member of an Army Hospital Corps may be tried by Summary Court-martial by any officer authorized in this behalf by the Officer Commanding the district. It can take cognizance of any of the less serious offences punishable under the Articles where they do not happen to be offences committed against the officer holding the trial, and when there is grave reason for immediate action, or reference cannot, without detriment to discipline, be made to superior authority, of any offence whatever. When held by an Officer Commanding a corps or department, it can pass any sentence except one of death, transportation or imprisonment for a term exceeding one year, but when held by an Officer Commanding a detachment it cannot pass a sentence of imprisonment for a term exceeding six months.

A sentence of Summary Court-martial, except when it is a sentence passed by an officer of less than five years' service will not require confirmation, but the proceedings in all cases must, without delay, be submitted to the Commander-in-Chief or some other superior officer, who is empowered, if he thinks fit, to set aside the trial on the merits of the case, but not on merely technical grounds.

12. *Article 117A*.—Allows the Governor-General in Council to modify the provisions of the Indian Evidence Act as applied to Courts-martial.

13. *Article 120*.—This provision, differing from the corresponding provision of the Army Act, will empower the officer to whom the proceedings of a Court-martial are submitted for confirmation to direct, when the proceedings are sent back for revision, *additional evidence* to be taken when necessary.

This seems desirable in order to avoid the necessity for ordering a fresh trial in cases where, as may happen in outlying

stations in this country, irregularities and omissions are apt to occur.

Miscellaneous.

14. *Article 132.*—Following on the principles of the Army Act, it will now be possible for a Court-martial to reduce a non-commissioned officer to a junior grade instead of necessarily being compelled to reduce him to the ranks; and further, a Court-martial will be in a position to award, on occasion, a duplicate punishment, as, for example, dismissal coupled with one of the other punishments awardable under the article.

15. *Article 151.*—This proviso is intended to do away with the anomaly of sentence of less than three months' hard labour imprisonment having either to be commuted to simple imprisonment, or, if not commuted, losing the services of a soldier for perhaps a comparatively venial offence, as it is held to be prejudicial to the interests of a regiment to receive back into the ranks a person who has been an inmate for any time of a civil jail.

16. *Article 155* provides a necessary safeguard to the soldier who, having been convicted by the civil power in a court of first instance, is acquitted on appeal.

It further provides for the temporary retention to the ranks of a soldier who, on active service, has been sentenced to transportation or imprisonment, and declares the time the soldier is so retained shall be reckoned as part of his term of transportation or imprisonment.

17. *Article 161A*, following generally on the provisions of the Army Act, makes due provision for the preservation of the proceedings of Courts-martial, and the means by which these records will be available to persons interested.

18. *Article 162.*—The amendments will empower the Court of Enquiry not only to declare the unauthorised absence and the period thereof, but also to take evidence upon oath as to any deficiency of Government property which had been entrusted to the absentee, and the recorded declaration thereof will be, at any subsequent trial, presumptive evidence of that deficiency.

19. *Article 164.*—Power is given to General Officer Commanding a District to summarily reduce a non-commissioned officer to a lower grade or to the ranks.

The want of this power has been greatly felt and is considered to be a very desirable power to grant to General Officers Commanding Districts.

20. *Articles 171 to 175.*—Civil offences committed beyond British India, or on active service within British India. These articles will entirely remove the difficulties which have not unfrequently been experienced in dealing with civil offences of the graver classes committed by soldiers when serving beyond the limits of British India.

The Criminal Courts are given concurrent jurisdiction with Courts-martial over such offences. Conflicts may at times arise, but, to prevent any difficulty from this, it is provided that when the two classes of Courts have concurrent jurisdiction it will be for the military authorities to decide in the first instance on the tribunal to which the case is to be submitted; but that, if the ordinary Criminal Court having jurisdiction is of opinion that the case ought to be tried before itself, it may require the military authorities to stop their proceedings pending a reference to the Governor-General in Council.

Article 173 is quite a new provision, but it is in accordance with the practice which has to some extent at least prevailed under the existing law when violence or threats have been made against a superior officer.

It provides that certain grave offences involving violence or threats against any person subject to military law shall, though committed in British India, be cognizable by a Court-martial.

The British soldier is, throughout the greater part of British India, triable by a Court-martial for a civil offence.

The Native soldier, on the contrary, is triable by Court-martial only for military offences, and the Indian Articles in defining these offences do not provide expressly for the case of a soldier killing, or inflicting some serious injury on, his superior officer. In such a case, therefore, the Native soldier ought, strictly speaking, to be made over for trial to the ordinary Criminal Court; but it is thought sometimes desirable that he should be tried by a Court-martial, which would dispose of the case rapidly and with a due regard to the interests of discipline; and he is accordingly put on his trial before a Court-martial "for assaulting his superior officer" an offence

punishable with death or any less penalty under the existing Articles, and thus substantial justice is done and the ends of discipline are secured, though by a procedure which must be allowed to be somewhat irregular. It should be observed that, apart from the irregularity of trying for a mere assault a man who is guilty perhaps of murder, this mode of dealing with such cases is practicable only under a law which, like the present Articles, makes all assaults on a superior officer indiscriminately punishable with death without taking account, as the Army Act does, of circumstances so important as that of the officer being in the execution of his duty or otherwise, or that of the offence being committed on active service or in a cantonment; and such a law it seems difficult to maintain.

It has accordingly been thought better to recognize the fact that it is desirable in the interests of discipline that certain civil offences whether against a superior officer or other person subject to military law should be triable by a Court-martial instead of exclusively by an ordinary Criminal Court, and to make them triable by a Court-martial in the same way as civil offences committed by a British soldier.

21. *The concluding section* gives the Governor-General in Council power to apply all or any of the provisions of Articles as amended by this Bill to any force raised in India under the authority of the Governor-General in Council, with respect to which there may be doubt whether it forms part of Her Majesty's Indian Army. It will, it is thought, be found useful as affording a means of removing the difficulties which have occasionally been felt regarding the application of any form of military law to certain forces which are maintained chiefly for local purposes under the control of the Governor-General's Agents in Native territory, and which are entirely distinct from the forces of Native States known as Imperial Service Troops.

HENRY BRACKENBURY.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

The 13th August 1894.

ACT No. V. OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF
• INDIA IN COUNCIL.

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

[As modified up to the 1st January, 1895.]

• 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. [Repealed by Act XII of 1894, s. 2.]

(d).—Application of Articles.

These Articles shall apply to all—

(a) persons to whom they actually apply at present;

Preliminary

DEFINITIONS.

- (b) persons commissioned or gazetted as Native officers, or gazetted as warrant officers, of Her Majesty's Indian Forces ;
- (c) medical subordinates ;
- (d) persons attested under these Articles ;
- (e) unattested recruits ;
- (f) persons enrolled under these Articles ;
- (g) persons, not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor-General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, Her Majesty's Indian Forces :

Provided as follows :

^{44 & 45}
^{Vict., c. 58.} if any person claims to belong to a class to which the Army Act is, and these Articles are not, applicable, the burden of proving that he belongs to that class shall lie upon him.

(e).—DEFINITIONS.

In these Articles, unless there is something repugnant in the subject or context,—

(1) "notification" means a notification published in the official Gazette :

(2) "prescribed" means prescribed by rules made by the Governor-General in Council or by any authority empowered by him in this behalf :

(3) "British officer" means an officer holding a commission in Her Majesty's land forces, but does not include an honorary commissioned officer :

(4) "Native officer" means an officer commissioned or gazetted as an officer holding a Native rank in Her Majesty's Indian Forces :

Preliminary

DEFINITIONS—(Continued).

(5) "officer" means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer :

(6) "medical subordinate" means a senior hospital assistant, a hospital assistant of the first, second or third class, and a sub-hospital assistant, but does not include an officer :

(7) "superior officer," when used in relation to a person subject to these Articles, includes a warrant officer, a non-commissioned officer and an acting non-commissioned officer :

(8) "soldier" includes a non-commissioned officer and any armed person doing duty in the ranks of Her Majesty's Indian Forces :

(9) "recruit" means a person enlisted for enrolment in any corps or department as a soldier :

(10) "corps" means a unit of command, such as a regiment of cavalry, a regiment or battalion of infantry, a battery of artillery, and any other separate body of troops which is declared by the Governor-General in Council by general or special order to be a corps for the purposes of these Articles ; it also includes an army hospital corps and a transport corps :

(11) "department" includes any division or branch of a department :

(12) "military reward" means any gratuity or annuity for long service or good conduct ; it also includes any good-conduct pay or pension and any other pecuniary reward :

(13) "enemy" includes all armed mutineers, armed rebels, armed rioters and pirates :

(14) "active service," as applied to a person subject to these Articles, means the time during which such person is attached to or forms part of a force which is engaged in operations against an

Preliminary.

DEFINITIONS—(Continued).

enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country :

(15) the expression "India" means British India, together with any territories of any Prince or Chief under the suzerainty of Her Majesty exercised through the Governor-General in Council or through any Governor in Council or other officer subordinate to the Governor-General in Council : and the expression "British India" means all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General in Council or through any Governor in Council or other officer subordinate to the Governor-General in Council :

(16) the expression "general officer of the Command" means the general officer commanding the forces in a Command : and the expression "Command" means one of the principal portions into which the army of India is, for the time being, divided :

(17) "commanding officer," when used in any provision of these Articles with reference to any separate portion of Her Majesty's forces or to any department, means the British officer whose duty it is under the Army Regulations, India, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision :

(18) "military custody" means the arrest or confinement of a person, according to the usages of the service :

Preliminary.

DEFINITIONS—(Concluded).

(19) "court-martial" means a court-martial held under these Articles :

(20) "criminal court" means a court of ordinary criminal justice in British India, or established or continued elsewhere by the authority of the Governor-General in Council :

(21) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court :

(22) "offence" means any act or omission punishable under these Articles, and includes a civil offence as hereinbefore defined : and

(23) expressions occurring in the Indian Penal Code and used in these Articles and not herein otherwise defined shall have the meanings respectively assigned to them by that Code. XLV of
1860.

(f).—*Saving of certain Regulations.*

Nothing in these Articles shall affect any regulations by which the respective offices and powers of cantonment magistrates and officers in charge of the police in cantonments are defined and controlled.

PART II.—THE ARTICLES OF WAR.

I.—ENROLMENT, ATTESTATION, DISMISSAL AND DISCHARGE.

Enrolment
and attest-
ation

Article 1.—(1) The Governor-General in Council may, by notification, declare what persons or classes of persons shall be enrolled only, or be both enrolled and attested, respectively.

Mode of
enrolment.

(2) A person shall be deemed to be enrolled under these Articles when his name has, with his consent, been entered in the prescribed manner on the list of a corps or department of Her Majesty's Indian Forces.

Mode of
attestation.

(3) Subject to the provisions of this Article with respect to recruits, every person to be attested under these Articles shall be taken before the prescribed civil or military officer, and that officer shall read and explain to him, or cause to be read and explained to him in his presence, the questions set forth in the prescribed form of attestation, and such other matters (if any) as may be prescribed; and, after having cautioned him that if he makes a false answer to any question set forth in the attestation form he will be liable to be punished as provided by these Articles, shall record the answer to each question, and shall, if he is satisfied that the person fully understands the questions, and that the answer has been correctly recorded opposite each question, and if he perceives no impediment, administer to the person an affirmation or oath in the prescribed form.

(4) The form of affirmation or oath prescribed under this Article shall contain a promise that the

Enrolment, Attestation, Dismissal and Discharge.

ENROLMENT—(Continued).

person to be attested will be faithful to Her Majesty, Her heirs and successors, and that he will serve in Her Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(5) When a recruit is reported fit for duty, an affirmation or oath in the same form shall be administered to him in the prescribed manner by the commanding officer in front of the corps or such portion thereof or such members of the department as shall be present.

(6) After administering the affirmation or oath, the officer shall authenticate the attestation paper by his signature, and the person shall then be deemed to have been attested.

(7) Subject to any rules which may be prescribed, the Commander-in-Chief in India, or the general officer of the Command, may direct that any persons to whom these Articles apply as attested persons shall, for the purposes of these Articles, be deemed to be enrolled, and that any persons to whom these Articles apply as enrolled persons shall, for the purposes of these Articles, be deemed to be attested.

Article 2.—(1) Subject to the provisions of the Army Act, the Governor-General in Council may, by notification, direct that persons of any class subject to these Articles shall, for any of the purposes of these Articles, be deemed to be Native officers, warrant officers or non-commissioned officers; and,

(2) Subject as aforesaid, any proscribed authority may issue an order giving a like direction with respect to any such person.

Treatment
of enrol-
ment and
attestation
as of same
effect in
certain
cases.

Rank and
subordina-
tion.

41 & 46
Vet., c.
58

 Enrolment, Attestation, Dismissal and Discharge.

 DISMISSAL.

(3) Any notification or order issued under this Article may be cancelled by the authority issuing the same ; and,

(4) Subject as aforesaid, any person of the said classes with respect to whom no such notification or order is in force shall, so far as may be, be deemed for all the purposes of these Articles to be of a rank inferior to that of a non-commissioned officer.

(5) Should any question arise as to the rank of any other person subject to these Articles, or as to whether any such person is above or below a specified rank, the decision of the Governor-General in Council thereon shall be conclusive.

(6) Every person subject to these Articles shall, for the purposes thereof, be deemed to be under the commanding officer of the corps or department (if any) to which he is attached, and, if not attached to any corps or department, under any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the said general or other officer commanding :

Provided that a general or other officer commanding shall not place any person under an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whom he can be placed.

Dismissal
and dis-
charge of
commis-
sioned
officers.

Article 3.—(1) Every Native officer shall be liable to dismissal from the service by the sentence of a general court-martial, and to dismissal or discharge by order of the Governor-General in Council, or of the Commander-in-Chief in India;

Enrolment, Attestation, Dismissal and Discharge.

DISMISSAL—(Continued).

or of the general officer of the Command to which he belongs.

(2) A Native officer dismissed under these Articles shall forfeit all claim to pension.

Article 4.—(1) Every person subject to these Articles, other than a Native officer, shall be liable to—

(a) dismissal from the service by the sentence of any court-martial empowered to try him, and

(b) dismissal or discharge from the service, by order of the Governor-General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs, or of the officer commanding the division or district in which he is serving, or, if he belongs to a force not attached to a command, by order of the officer commanding such force.

(2) Every person so dismissed shall forfeit all claim to pension.

Article 5.—(1) 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 corps or department with which he is serving; and

(2) Every attested person of or below the rank of non-commissioned officer who is discovered to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by, or by direction of, the officer

Dismissal
and dis-
charge of
other per-
sons.

Attested
person dis-
missed or
discharged
and re-
enlisting
or making
false
answer at
his attest-
ation.

Military Offences.

CRIMES PUNISHABLE WITH DEATH OR TRANSPORTATION.

before whom he appears for the purpose of being attested, shall, on conviction by court-martial, be liable to suffer imprisonment (with hard labour and with or without solitary confinement) or such less punishment as is in these Articles mentioned.

Certificate
to person
dismissed
or dis-
charged.

Article 6.—Every attested personⁿ 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.

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 ;

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 sedition, or of any intention to mutiny or create sedition, 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

Military Offences.

CRIMES PUNISHABLE WITH DEATH OR TRANSPORTATION—(Continued).

superior officer, whether on or off duty, knowing or having reason to believe him to be such ;—or

Article 9.—Who disobeys the lawful command of his superior officer ;—or Disobedi-
ence.

Article 10.—Who deserts or attempts to desert the service ;—or Desertion.

Article 11.—Who, without having first obtained a regular discharge from the corps or department to which he belongs, enlists or enrolls himself in any other corps or department ;—or Re-enlist-
ment with-
out having
been dis-
charged.

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
sleeping
on or quit-
ting post
in time of
war.

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 Sentry
plunder-
ing.

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 Abandon-
ing garr-
ison.

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

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 Corro-
sponding
with
enemy.

Military Offences.

CRIMES PUNISHABLE WITH DEATH OR TRANSPORTATION—(Concluded).

- discover it immediately to his commanding or other superior officer ;—or
- Assisting enemy. *Article 17.*—Who directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects any enemy, or person in arms against the State ;—or
- Releasing prisoners. *Article 18.*—Who, without proper authority, releases any State-prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape ;—or
- Misbehaviour in presence of enemy. *Article 19.*—Who, in presence of an enemy, or of any persons in arms against whom it is his duty to act, shamefully casts away his arms or ammunition, 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

Military Offences.

CRIMES PUNISHABLE OTHERWISE THAN BY DEATH OR TRANSPORTATION.

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,

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

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

or such other punishment as a general court-martial is, by these Articles, empowered to award.

Whenever any person is convicted of an offence specified in Article 7 and punishable with death under this Article, all his property, moveable and immoveable, shall be forfeited to the Government.

CHAPTER II.—CRIMES PUNISHABLE OTHERWISE THAN BY DEATH OR TRANSPORTATION.

Article 25.—Any officer, medical subordinate or warrant officer who behaves in a manner unbecoming his position and character ;—and any person subject to these Articles—

Article 26.—Who is in a state of intoxication when on or after having been warned for any duty, or on parade, or on the line of march ;—or

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

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

Causing
false alarm
in time of
war.

Punish-
ment for
the fore-
going of-
fences.

Unbecom-
ing beha-
viour.

Intoxica-
tion on
duty.

Striking
sentry.

Harbour-
ing deser-
ter.

Military Offences.

CRIMES PUNISHABLE OTHERWISE THAN BY DEATH OR TRANSPORTATION—(Continued).

utmost endeavours to cause such deserter to be apprehended ;—or

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

Enlisting deserter.

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

Absence without leave.

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

Failure to rejoin.

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

Failure to attend parade.

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 parade or division.

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

Quitting guard in time of peace.

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

Refusing to receive or releasing prisoners.

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

Leaving arrest.

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

Insubordination.

Military Offences.

CRIMES PUNISHABLE OTHERWISE THAN BY DEATH OR TRANSPORTATION—(Continued).

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 Refusal to superintend military work.

Article 39.—Who impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person ;—or Impeding provost-marshal.

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

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

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 House-breaking or plundering in time of peace.

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 Neglecting to compensate person injured by subordinates.

Article 44.—Who, by defiling any place of worship, or otherwise, intentionally insults the Defiling places of worship.

Military Offences.

CRIMES PUNISHABLE OTHERWISE THAN BY DEATH OR TRANSPORTATION—(Concluded).

religion or wounds the religious feelings of any person ;—or

Taking
bribes.

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

Causing
false alarm
in time of
peace.

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

Making
away with
regimental
neces-
saries.

Article 47.—Who—

- (a) designedly or through neglect kills, injures, makes away with, or loses his horse or ill-treats any animal used in the public service ;—or
- (b) dishonestly or fraudulently removes, conceals or delivers to any person, or 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
- (c) sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty or of the Governor-General in Council for service in the field or for general good conduct ;—or

Military Offences.

CRIMES TO BE PUNISHED WITH DISMISSAL FROM THE SERVICE.

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

Article 49.—Any person subject to these Articles Appearing
below the rank of warrant officer— armed in
camp.

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 bazar, carrying a sword, bludgeon or other offensive weapon ;—or

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

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

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

Article 53.—Shall, on conviction by any court- Punish-
martial competent to try him, be sentenced to such ment for
punishment, other than death or transportation, as offences
such court is, by these Articles, empowered to mentioned
award. in Articles
25-52.

CHAPTER III.—CRIMES TO BE PUNISHED WITH DISMISSAL FROM THE SERVICE.

Article 54.—Any person subject to these Arti- Embozalo-
cles— ment.

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,

Military Offences.

DISGRACEFUL CONDUCT.

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 and 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 two years : and shall, if convicted by a district court-martial, be liable to any or all of the penalties which such court is competent to inflict.

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

 Military Offences.

DISGRACEFUL CONDUCT—(Continued).

Article 59.—Who, with intent to render himself wilfully or any other person unfit for service, voluntarily ^{causing} causes hurt or voluntarily causes grievous hurt to himself or any other person ;—or

Article 60.—Who commits theft in respect of Theft, 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

Article 61.—Who dishonestly misappropriates or converts to his own use any property of Gov- Embozzlo-
ment of
Govern-
ment pro-
perty not
entrusted
on public
account.
ornment 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

Article 62.—Who obtains or attempts to obtain Obtaining
pension by
false state-
ment.
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

Article 63.—Who knowingly furnishes a false Furnishing
false re-
turns.
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

Military Offences.

OFFENCES AGAINST COURTS-MARTIAL.

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
indecent,

Article 65.—Who commits any 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
to 65,

Article 66.—Shall, on conviction by a general or district court-martial, be liable to any or all of the punishments, other than death or transportation, which the court-martial is competent to award.

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 ;—

Punish-
ment for

Article 69.—Shall, on conviction by the same or any other court-martial which is competent to



Jurisdiction.

COURTS-MARTIAL.

try the offender, be liable to any or all of the offences punishments, other than death or transportation, ^{specified in Articles 67 and 68.} which the court-martial is competent to award.

CHAPTER VI.—UNSPECIFIED OFFENCES.

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

Article 71.—Every person who abets, within ^{Abetment.} the meaning of the Indian Penal Code, any offence punishable under these Articles, may be punished with the punishment hereinbefore provided in these Articles for such offence.

III.—JURISDICTION.**CHAPTER I.—COURTS-MARTIAL.**

Article 72.—For the purposes of these Articles, ^{Courts-martial and the kinds thereof.} there shall be five kinds of courts-martial, that is to say—

- | | |
|-------------------------------------|--|
| (1) General courts-martial. | } Hereinafter called ordinary courts-martial. |
| (2) District courts-martial. | |
| (3) Regimental courts-martial. | |
| (4) Summary general courts-martial. | } Hereinafter called extraordinary courts-martial. |
| (5) Summary courts-martial. | |

Ordinary Courts-martial.

Article 73.—(1) The following authorities shall ^{Power to convene ordinary Courts-martial.} have power to convene general or district courts-martial, namely :

Jurisdiction.

COURTS-MARTIAL—(Continued).

- (a) the Commander-in-Chief in India,
- (b) the general officer of the Command,
- (c) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command.

(2) The power of convening general or district courts-martial may be granted under clause (1), sub-clause (c), subject to such restrictions, reservations, exceptions and conditions as the Commander-in-Chief in India or the general officer of the Command granting the power may think fit.

(3) Any warrant under this Article for convening general or district courts-martial, or either of them, may be addressed to an officer by name, or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which it is addressed, be limited to an officer named or be extended to any person for the time being performing the duties of such officer, or to the successors in command of such officer.

Composi-
tion of
General
Courts-
martial.

Article 74.—A general court-martial shall, if held in British India, consist of not less than seven officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers.

Article 75.—[*Composition of General Court-martial appointed under Order in Council.*] Repealed by Act XII of 1894, s. 24.

Power 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,

Jurisdiction.

COURTS-MARTIAL—(Continued).

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 a lower grade or 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.

Articles 77 to 79.—[Appointment, composition and powers of Detachment General Court-martial; appointment of District Court-martial and Garrison Court-martial.] Repealed by Act XII of 1894, s. 24.

Article 80.—A district court-martial shall consist of not less than five officers, unless that number, due regard being had to the public *Composition of District Court-martial.*

Jurisdiction.

COURTS-MARTIAL.—(Continued).

service, is not available, in which case the court may consist of not less than three officers.

Officers
composing
such
Courts.

Article 81.—A district court-martial may, when necessary, be composed wholly of officers of the corps or department to which the accused belongs.

Powers of
such
Courts.

Article 82.—A district court-martial shall have power to try all persons subject to these Articles, other than commissioned officers, for any offence 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 two years,

Dismissal from the service,

Suspension from rank, pay and allowances,

Degradation,

Loss of standing,

Reduction to a lower grade or 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.

Convening
order to
state if
larger num-
ber of offi-
cers is not
available.

Article 82A.—Whenever a general or district court-martial is ordered to be composed of the smaller number of officers specified in Article 74 or 80, the order convening the court shall expressly state that the larger number of officers is not, due regard being had to the public service, available; and that statement shall be conclusive evidence of the fact so stated.

Appoint-
ment of
Regimen-
tal Court-
martial.

Article 83.—A regimental court-martial may be appointed by the officer commanding any corps or department or detachment thereof or by any

Jurisdiction.

COURTS-MARTIAL.—(Continued).

officer when in command of two or more corps or departments or detachments thereof.

Article 84.—A regimental court-martial shall consist of not less than three officers.

Composition of Regimental Court-martial.

Article 85.—A regimental court-martial shall have power to try all persons subject to these Articles and not above the rank of non-commissioned officer—

Powers of such Court.

- (a) for any offence triable by a court-martial under these Articles, except an offence punishable under Articles 7 to 23 (both inclusive), Articles 54 to 65 (both inclusive), or Articles 171 to 173 (both inclusive), and,

- (b) with the previous sanction of the prescribed authority, for any of the offences so excepted.

Article 85A.—A regimental court-martial shall have power to pass any sentence which might have been passed by a district court-martial for the like offence other than suspension from rank, pay and allowances :

Powers as to sentences of such Courts.

Provided that no sentence of imprisonment for a term exceeding six months, nor any of the additional punishments specified in Article 135, shall be passed by a regimental court-martial.

Article 86.—(1) The officers composing a court-martial convened under the foregoing provisions shall, except as hereinafter provided, be Native officers.

Native and British officers when to be nominated.

(2) The Governor-General in Council, or the Commander-in-Chief in India or the general officer of the Command, or any officer empowered in that

Jurisdiction.

COURTS-MARTIAL.—(*Continued*).

behalf by warrant of the Commander-in-Chief in India or the general officer of the Command, may direct that any court-martial convened under these Articles shall be composed of British instead of Native officers.

(3) Any person subject to these Articles, who is under orders for trial by any court-martial, may claim to be tried by British officers.

(4) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

(5) A court-martial convened for the trial of any person subject to these Articles, and serving with any British corps or detachment, may be composed of British officers if, in the opinion of the officer convening the court (such opinion to be expressed in the order convening the court and to be conclusive), Native officers are not available with due regard to the public service for service on the court.

Judge-Advocate and appointment of Superintending Officer for Native Court-martial.

Article 87.—(1) Every general court-martial shall be attended by a judge-advocate.

(2) If no officer of the judge-advocate general's department is available, the officer convening the court shall appoint a fit person to act as Judge-Advocate at the trial.

(3) No person under orders for trial or under trial by any court-martial may, without the leave of the court, object to any person acting or professing to act as Judge-Advocate.

(4) A British officer of not less than four years' service, hereinafter called the superintend-

Jurisdiction.

COURTS-MARTIAL—(Continued).

ing officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a Judge-Advocate.

Article 88.—(1) At every court-martial the President, senior officer shall sit as president without special appointment as such.

(2) In case of the death or unavoidable absence of the president, the next senior officer shall take the place of the president, without special appointment as such, and the trial shall proceed if the court is still composed of not less than the smallest number of officers of which it is required by these Articles to consist.

Article 89.—No finding or sentence of a general, district or regimental court-martial shall be valid, except so far as it may be confirmed as provided by these Articles.

Article 89A.—(1) The following authorities shall have power to confirm the findings and sentences of general and district courts-martial :

- (a) the Commander-in-Chief in India ;
- (b) the general officer of the Command, as regards troops under his command wherever stationed ;
- (c) the officer commanding a force not attached to a Command ;
- (d) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command ;

Provided that, except on active service or beyond the limits of India, no warrant issued under this Article shall be deemed to empower an officer to confirm any finding or sentence in the case of

Finding and sentence invalid without confirmation.

By whom findings and sentences may be confirmed or otherwise disposed of.

Jurisdiction.

COURTS-MARTIAL—(Continued).

an officer, medical subordinate, or warrant officer, or a sentence of death, transportation or imprisonment for a term exceeding seven years in any case whatever.

(2) The provisions of Article 78, clauses (2) and (3), shall, with the necessary modifications, apply to warrants issued under this Article.

(3) The officer who convenes a regimental court-martial or the officer having authority to convene such court-martial, at the date of the submission of the finding and sentence thereof, shall have power to confirm the same.

Power of
confirming
officer to
mitigate,
remit or
commute
sentence

Article 89B.—Subject to such restrictions as may be contained in any warrant issued under the last preceding Article, the confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial :

Provided that a sentence of transportation shall not be commuted to a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

Extraordinary Courts-martial.

Convening
of Sum-
mary
General
Courts-
martial.

Article 90.—The following authorities shall have power to convene a summary general court-martial, and such a court-martial may be convened—

(a) in any place, whether within or beyond British India, by an officer empowered in this behalf by an order of the Governor-General in Council or of the Commander-in-Chief in India or of the general officer of the Command ;

Jurisdiction.

COURTS-MARTIAL.—(Continued).

- (b) by an officer commanding any detached portion of Her Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Article 91.—(1) A summary general court-martial shall consist of not less than three officers, who may be either British or Native, or both British and Native officers, as the officer convening the court thinks fit.

Composi-
tion of
Summary
General
Courts-
martial.

(2) Such court may be convened and the proceedings thereof be recorded in accordance with the form in the Second Appendix to these Articles with such variations as the circumstances of each case may require :

Provided that the convening officer may, in respect of any such trial by such court, specially order the evidence, together with the prisoner's statement in defence, to be fully recorded in writing.

Article 92.—A summary general court-martial shall have all the powers of a general court-martial, and, subject to any instructions contained in the order convening the court, its sentence shall be valid, and may be carried out forthwith in case it does not exceed that which a district court-martial is empowered to pass, and in any other case when confirmed by the authority convening the court.

Powers of
a Summary
General
Court-mar-
tial.

Article 93.—(1) A summary court-martial may be held—

- (a) by the commanding officer, being a combatant officer, of any corps or department of Her Majesty's Indian forces, or of any detachment of those forces ;

Convening
and con-
stitution
of, and
persons
triable by,
a Summary
Court-
martial.

Jurisdiction.

COURTS-MARTIAL.—(*Concluded*).

(b) by the commanding officer of any British corps or detachment to which Native combatant details subject to these Articles are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers, British or Native, who shall not, as such, be affirmed or sworn.

(3) The proceedings shall be recorded in the English language, and, when closed, shall be signed by the officer holding the trial, and by the officers attending thereat.

(4) A summary court-martial may try any person subject to these Articles and under the command of the officer holding the court, except an officer, medical subordinate or warrant officer.

(5) Any member of an army hospital corps may be tried by summary court-martial by any officer authorised in this behalf by the officer commanding the division, district, brigade or station to which the alleged offender belongs.

Offences
triable by a
Summary
Court-
martial.

Article 94.—A summary court-martial may try any offence punishable under any of these Articles:

Provided that when there is no grave reason for immediate action, and reference can, without detriment to discipline, be made to superior authority, a summary court-martial shall not try without such reference any of the following offences, namely:

(a) any offence punishable under any of the Articles 7 to 23 (both inclusive), or Articles 54 to 65 (both inclusive), or Article 171;

(b) any offence against the officer holding the court.

Jurisdiction.

PROCEEDURE.

Article 95.—(1) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

Powers of
Summary
Court-mar-
tial.

(2) A summary court-martial held by any other officer may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

Article 96.—The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out at once :

Finding
and sen-
tence of a
Summary
Court-mar-
tial.

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer commanding not less than a corps.

Article 97.—The proceedings of every summary court-martial shall, without delay, be forwarded to the officer commanding the district, or the division or brigade, within which the trial was held, or to the prescribed officer : and such officer or the Commander-in-Chief in India or the general officer of the Command, or, when the court is held in a force not attached to a Command, the officer commanding the force, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings.

Transmis-
sion of pro-
ceedings
of Sum-
mary
Court-mar-
tial.

CHAPTER II.—PROCEDURE.

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,

Limitation
of trials.

Jurisdiction.

PROCEDURE—(Continued).

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.—(1) Whenever any person subject to these Articles is accused of any offence which his commanding or other superior officer considers should be tried by court-martial, such officer shall order the accused to be placed in military custody until he can be tried by a court-martial or is discharged by proper authority.

(2) No such person shall be detained in military custody longer than is necessary for the purposes of justice.

Article 101. [Judge-Advocate.] Repealed by Act XII of 1894, s. 34.

Interpreter.

Article 102.—(1) An interpreter shall be appointed to every court-martial.

(2) 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 district or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of interpreter.

(3) 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.

Jurisdiction.

PROCEDURE—(Continued).

(4) In the case of a trial by a summary court-martial, the officer holding the trial, or one of the officers in attendance thereat, may perform the duty of interpreter if no other competent interpreter is available.

(5) No interpreter shall, as such, have a vote upon any matter.

Article 103.—(1) When a court-martial after Dissolution the commencement of the trial is reduced below of courts. the smallest number of officers of which it is by these Articles required to consist, it shall be deemed to be dissolved.

(2) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this Article, the prisoner may be tried again.

Article 103A.—The president of a court-martial Power to clear court. may, on any deliberation among the members, cause the court to be cleared of all other persons.

Article 103B.—The court may, when it thinks Power to view place. fit, view any place.

Article 104.—In the case of any court-martial Conduct of proceedings. composed of European commissioned officers, the president shall conduct the proceedings.

Article 105.—Risaldar Majors and Subahdar Precedence of Native officers. Majors shall take precedence according to the dates of their commissions, and above all Subahdars or Risaldars.

Sirdar Bahadurs and Bahadurs shall take rank only according to their respective commissions of Risaldar Major, Subahdar Major, Risaldar, Risaldar, Subahdar or Jomadar.

Risaldars shall take rank with Subahdars, according to the dates of their commissions as Risaldars,

Jurisdiction

PROCEDURE—(Continued).

or if they have not been Risaidars then according to the dates of their commissions as Risaidars.

Time of
trial, ad-
journment
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 ordinary 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.

Interpre-
ter's oath.

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

“ I solemnly affirm, in the presence of Almighty God, that I will faithfully interpret and translate the proceedings of this court; and that I will not divulge the sentence until it shall

Jurisdiction.

PROCEDURE—(Continued).

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," etc., and shall be in all other respects in the above form, and shall end with the words "So help me God."

Article 108A.—At a summary court-martial the interpreter shall make affirmation or oath down to the words "published by authority" only. Affirma-
tion or oath
of interpre-
tor.

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 :— Oaths of
president
and
members.

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."

Art. 110. INDIAN ARTICLES OF WAR.

Jurisdiction.

PROCEDURE—(Continued).

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

“I do swear that I will duly administer justice,” etc., 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 Hindu religion, or of any other religion, for which it may be appropriate.

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

Judge advocate's oath.

Article 110.—The interpreter, or any other European officer of the court, shall then administer to the judge advocate, or superintending officer, the following affirmation or the following oath:—

“I solemnly affirm, in the presence of Almighty God, that I will not, upon any account whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice or a court-martial, in due course of law; and that I will not, unless it be necessary for the due discharge of my official

Jurisdiction.

PROCEDURE—(Continued).

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."

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 :—

Oaths of witnesses.

For Europeans and persons professing the Christian religion.

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

or,

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

For Mussulman, Hindu 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."

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 ascer-

Oaths to be binding on conscience.

Jurisdiction.

PROCEDURE—(Continued).

tains to be according to his religion or otherwise binding on his conscience.

Re swear-
ing 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 heretofore prescribed, notwithstanding any previous oath or affirmation.

Article 114.—[*Presumptive evidence of desertion.*] *Repealed by Act XII of 1894, s. 40.*

Reference
by prisoner
to Govern-
ment
officer.

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

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

If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provision 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.

Conviction
of one
offence
permissible
on charge
of another.

Article 116.—(1) A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

 Jurisdiction.

PROCEDURE—(Continued).

(2) A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A prisoner charged before a court-martial with any one of the following offences, that is to say, theft, dishonest misappropriation or conversion, criminal breach of trust, or dishonestly receiving or retaining stolen property, may be found guilty of any other of those offences.

(4) A prisoner charged before a court-martial with any other offence under these Articles may, on failure of proof of an offence having been committed under circumstances involving a more severe punishment, be found guilty of the same offence as having been committed under circumstances involving a less severe punishment.

Article 117.—(1) When any person subject to these Articles has been convicted by a court-martial of any 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 criminal court, and shall further enquire into and record the general character of such person.

Evidence of previous convictions and general character.

(2) Evidence received under this Article may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to prove the signature to such certified extracts, 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.

(3) At a summary court-martial the commanding officer holding the trial may, if he thinks fit, record any previous convictions against the

Jurisdiction.

PROCEDURE—(Continued).

offender and his general character, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this Article.

General rule as to evidence.

Article 117A.—Subject to the provisions of the last foregoing Article, the Indian Evidence Act, 1872, subject to such modifications thereof and to such additional rules of evidence as the Governor General in Council may, by notification, direct, shall apply to all proceedings before a court-martial.

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 court-martial without the concurrence of two-thirds at the least of the members of the court.

Revision of finding or sentence.

Article 120.—(1) The finding or sentence of any court-martial may be once revised by order of the officer authorized to dispose of the proceedings, and on such revision, the court, if so directed by him, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers shall be unavoidably absent.

Jurisdiction.

SENTENCES—(Continued).

(8) 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.

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

Procedure
to be gene-
rally fol-
lowed.

Article 122.—(1) 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 any document or other thing.

Summon-
ing wit-
nesses and
production
of docu-
ments.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer actually commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

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

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 .

Jurisdiction.

PROCEDURE—(Continued).

and 124, or to apply to any letter, post-card, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, high court or court of session, wanted for the purposes of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or of any commissioner of police or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph department, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or court.

Contempt
of court.

Article 123.—(1) Any witness duly summoned, and any person who commits any contempt of court in the presence of a court-martial, or any offence described in Article 56, 67 or 68, shall, if subject to these Articles, be proceeded against as the court may direct.

(2) If any such witness or person is not so subject, the president of the court-martial may certify the offence under his hand to the court of any magistrate within the local limits of whose jurisdiction it was committed, and the magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in the court of such magistrate.

Jurisdiction.

SENTENCES.

Article 124.—(1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on, or returning from, a court-martial, be liable to arrest under civil or revenue process.

Privileges
of persons
attending
courts-
martial.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

Articles 125 to 129 [*Summary courts-martial; signature and transmissions of proceedings.*] Repealed by Act XII of 1894, s. 45.

CHAPTER III.—SENTENCES.

Article 130.—(a).—Any general court-martial may for any offence falling under Articles 7 to 28, 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.

Sentences
of general
courts-
martial

(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 there-

Jurisdiction.

SENTENCES—(Continued).

to 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 two years.

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.

Dismissal. *Article 131.*—Dismissal from the service may accompany any other sentence passed by a court-martial.

Reduction, dismissal, corporal punishment and imprisonment. *Article 132.*—Any court-martial may sentence a non-commissioned officer to be reduced to a lower grade or 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.

Solitary confinement. *Article 133.*—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed

Jurisdiction.

SENTENCES—(Continued).

seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Article 134.—A non-commissioned officer sentenced by court-martial to any of the punishments specified in the second paragraph of Article 132 shall be deemed to be reduced to the ranks.

Reduction
of non-
commis-
sioned off-
cers to
ranks.

Article 135.—On a conviction of any offence, a general, summary general or district 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 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, or to forfeit service for the purpose of promotion, increased pay or pension or any other prescribed purpose, or to forfeit any military decoration or reward.

Forfeiture
of pay and
pension.

Article 136.—Whenever a person subject to these Articles is convicted by a court-martial, his good-conduct pay shall, subject to any rules or orders which may from time to time be made with the previous sanction of the Governor-General in Council, cease.

Stoppage
of good-
conduct
pay on
conviction.

Article 137.—On a conviction for any offence, if the offender is sentenced to dismissal from the service, or if his sentence involves such dismissal, he may further be sentenced to forfeit, if the court shall so direct,—

Forfeiture
of arrears
of pay.

- (a) all or any arrears of pay and allowances other public money due to him at the time of his dismissal, or

Jurisdiction.

SENTENCES—(Continued).

(b) such portion thereof as may be required to make good any proved loss or damage arising out of his offence.

Stoppages. *Article 138.*—Any court-martial, in addition to any punishment other than, or not involving, dismissal, may sentence any person as aforesaid to be put under stoppages to the extent specified in Article 139, until any proved loss or damage arising out of his misconduct be made good.

Extent of stoppages. *Article 139.*—Stoppages under Article 138 shall not be awarded, whether under one or more than one sentence, to a greater extent than one half of the offender's 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."

Jurisdiction.

CHAPTER IV.—CONFIRMATION AND COMMUTATION OF SENTENCES.

Articles 142 to 149.—[Repealed by Act XII of 1894, s. 52.]

CHAPTER V.—EXECUTION OF SENTENCES.

*Article 150.*²—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, as soon as may be convenient, be delivered over with a warrant of commitment, containing an authenticated copy of the sentence or commuted sentence, to the officer in charge of a jail; and such officer shall give effect to the sentence accordingly, under such order as he may receive from the Local Government.

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, as soon as may be convenient, 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 a 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:

Provided that, in the case of a sentence of such imprisonment for a period not exceeding three months, the confirming or superior authority or, in the case of a summary court-martial, the commanding officer holding the trial may direct that the sentence shall be undergone in military custody.

Jurisdiction.

EXECUTION OF SENTENCES—(Continued).

Place of
imprison-
ment.

Article 152.—Subject to the control of the Commander-in-Chief in India, the general officer of the Command 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.

Subject as aforesaid, the officer commanding any force not attached to a Command 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 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 im-
prison-
ment.

Article 154.—Any person subject to these Articles in receipt of public pay, who is imprisoned in any place under the sentence, or commuted

Jurisdiction.

EXECUTION OF SENTENCES—(Continued).

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.

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, or, if an appeal be preferred against such sentence and fail, from the date of the disposal of such appeal, be struck off the strength of the regiment, corps or department to which he belongs :

Provided that on active service any such person may, by order of the officer empowered under these Articles to confirm or otherwise dispose of the proceedings of the trial, be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment.

Articles 156 to 159. [Non-re-admission of convict; dismissal with ignominy; publication of

Jurisdiction.

PARDONS AND REMISSIONS,

sentence for disgraceful conduct ; sentences of summary courts-martial.] Repealed by Act XII of 1894, s. 59.

CHAPTER VI.—PARDONS AND REMISSIONS.

Pardons
and remissions,

Article 160.—When any person subject to these Articles has been convicted by a court-martial of any offence,—

- (a) the Governor-General in Council, or,
- (b) when the person has been convicted of any offence other than a civil offence, the Commander-in-Chief in India or the general officer of the Command,

may—

- (1) pardon the person ;
- (2) remit wholly or in part any punishment awarded to him ;
- (3) order the restoration to him of any service or other advantage forfeited under his sentence, or
- (4) re-admit him to the service when he has been dismissed therefrom ;

Provided that the general officer of the Command shall not exercise the powers conferred by this section in respect of any person, unless—

- (1) the person was under his authority when sentenced ; and
- (2) the person is still in the service, or, if the person has been dismissed from the service, the corps or department from which he was dismissed has since continued under the authority of that officer.

Release of
prisoners.

Article 161.—Any officer in charge of a jail, or receiving a notification under the hand of a Secretary to the Government of India, or under the hand of the Commander-in-Chief in India or the

Jurisdiction.

REGIMENTAL COURTS OF ENQUIRY.

general officer of the command, or of the officer commanding any force not attached to a Command, 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.

Preservation of Proceedings.

Article 161A.—(1) The proceedings of all general courts-martial shall be preserved by the judge advocate-general for not less than seven years, and the proceedings of summary general courts-martial and district courts-martial, for not less than three years, from the date of the confirmation of the finding and sentence.

Preservation of proceedings of courts-martial.

(2) The proceedings of regimental and summary courts-martial shall be preserved for three years with the records of the corps or department to which the prisoner belonged.

(3) Every person tried by a court-martial shall be entitled, on demand at any time after the confirmation of the finding and sentence where such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, including the proceedings upon revision, if any, upon payment for the same at the prescribed rate.

CHAPTER VII.—REGIMENTAL COURTS OF ENQUIRY.

Article 162.—(1) When any person subject to these Articles has been absent without due author-

Enquiry on absence of person subject to Articles.

Jurisdiction.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

ity from his duty for a period of sixty days, a Court of Enquiry shall, as soon as practicable, be assembled and, upon affirmation or oath administered in the prescribed manner, shall enquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

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

(3) If the person declared absent surrenders or is apprehended, the record or a copy thereof, purporting to bear the signature of the officer having the custody of the court-martial book, shall, on the trial of the 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 and of the deficiency, if any, therein recorded.

Persons
absent as
prisoners
of war.

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

But when such person rejoins the service, enquiry shall be made by a court-martial into the

Powers of Officers independently of Trial.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

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 in India, or by the general officer of the Command, or the officer commanding any force not attached to a Command to which he belongs, or by any general officer under whose command the person is serving, shall entitle him to receive such arrears and reckon service accordingly.

IV.—POWERS OF OFFICERS INDEPENDENTLY OF TRIAL.

Article 164.—The Commander-in-Chief in India, the general officer of the Command, the officer commanding any force not attached to a Command and the officer commanding any district or division or brigade shall respectively have power to reduce to a lower grade or to the ranks any non-commissioned officer under his command. Reduction to lower grade or ranks.

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. Minor punishments.

Powers of Officers independently of Trial.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

Unless otherwise specially provided by the said Commander-in-Chief, no Native officer, medical subordinate 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, by order of the commanding officer, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India.

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, 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

Powers of Officers independently of Trial.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

of the warrant, or until he is discharged by due course of law.

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. Complaints
against offi-
cers.

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

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

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

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

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 in India or the general officer of the Command, or the officer commanding the forces in the field ; and the powers and duties of such Provost-
marshals.

Powers of Officers independently of Trial.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

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 non-commissioned 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 the assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the commander of the troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

Non-Military Offences.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

V.—NON-MILITARY OFFENCES.

Offences of which any person is accused 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.

Offences of which any person is accused within jurisdiction of criminal court.

Civil offences.

Article 171.—Every person subject to these Articles who at any place beyond British India commits any civil offence shall be deemed to be guilty of an offence against military law, and if charged therewith under this Article shall, subject to the provisions of these Articles, be liable to be tried for the same by court-martial at any place, whether within or beyond British India, and on conviction to be punished as follows, that is to say :

Military jurisdiction with respect to civil offences.

- (a) if the offence is one which would be punishable under the law of British India with death or with transportation, or with imprisonment for a term exceeding three years, he shall be liable to suffer any punishment assigned for the offence by the law of British India ; and
- (b) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India or such

Non-Military Offences.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

punishment as might be awarded to him in pursuance of these Articles in respect of an act to the prejudice of good order and military discipline.

Extension of Article 171 to certain civil offences.

Article 172.—The Governor-General in Council may, by notification, extend the last foregoing Article to civil offences or any class of those offences committed by a person subject to those Articles when on active service in British India, and may cancel any such notification.

Certain offences when triable by military law.

Article 173.—Every person subject to these Articles who, whether within or beyond British India, commits or attempts to commit or abets the commission of any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive) or section 506 of the Indian Penal Code, shall be deemed to be guilty of an offence against military law, and if charged under this Article with any such offence shall, subject to the provisions of these Articles, be liable to be tried by court-martial at any place whether within or without British India, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

Jurisdiction over certain offences.

Article 174.—When under any of the foregoing Articles a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

Property of Deceased Persons and Deserters.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

Article 175.—(1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the convening authority or the prescribed military authority at his option either to deliver over the offender to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Governor-General in Council.

Power of criminal court to require delivery of offender.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor-General in Council, whose order upon such reference shall be final.

VI.—PROPERTY OF DECEASED PERSONS AND DESERTERS.

Article 176.—The following rules are enacted respecting the disposal of the property of every person who belongs to a class subject to those Articles who dies, is killed in the field or deserts :—

Property of deceased persons, deserters and lunatics.

(1) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory thereof to be made, and draw any pay and allowances due to the deceased or deserter.

(2) In the case of a deceased person who has left in a Government Savings Bank (including any Post Office Savings Bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the Secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding,

Property of Deceased Persons and Deserters.

REGIMENTAL COURTS OF ENQUIRY—(Continued).

anything in any departmental rules ; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (2) of this Article to that representative

(4) In the case of a deceased person whose estate is not dealt with under clause (3) of this Article, and in the case of any deserter, the commanding officer shall cause the property to be sold by public auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (2) of this Article.

(5) The surplus, if any, shall in the case of a deceased person be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed officer.

(6) In the case of the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed officer.

Disposal of
certain
property
without
production
of probate,
etc.,

Article 177.—Property deliverable and money payable to the representative of a deceased person under the last foregoing Article may, if the total value or amount thereof does not exceed one

Property of Deceased Persons and Deserters.**REGIMENTAL COURTS OF ENQUIRY—(Continued).**

thousand rupees, and if the prescribed officer thinks fit, be delivered or^s paid to any person, appearing to him to be entitled to receive it or to administer the estate of the deceased, without acquiring 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 those 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 Article shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Article 178.—A person shall be deemed to have deserted within the meaning of Article 176 who ^{Meaning of desertion in Article 176,} has been convicted of desertion, or who has been illegally absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Article 179.—The provisions of the last-mentioned Article shall, so far as they can be made ^{Applica- tion of Article 176 to lunatics.} applicable, apply in the case of a person subject to those Articles becoming insane, such allowance being made for his support as is authorised by the Military Lunatics Act, 1877.

PART III.—MISCELLANEOUS.

Prohibition of second trial. *Article 180.*—When any person subject to these Articles has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under Article 165 or 166, he shall not be liable to be again tried for the same offence by a court-martial or dealt with summarily in respect of it under either of the said Articles. *

Exemption from arrest for debt. *Article 181.*—(1) No person subject to these Articles shall, so long as he belongs to Her Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(2) 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 provisions of this Article, and may by warrant under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the persons obtaining the process.

(3) For the recovery of such costs no fee whatever shall be payable to the court by the complainant. *

Property exempted from attachment. *Article 182.*—Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to these Articles, nor any animal used by him for the discharge of his duty, shall be seized; nor shall the pay and allowances of any such person for any part thereof be attached, by

Miscellaneous.

direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Article 183.—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, as an officer or soldier, be entitled to all the privileges accorded by the two last foregoing Articles to a person subject to these Articles.

Applica-
tion of the
last two
foregoing
Articles to
reservists.

Article 184.—(1) On the presentation to any court by or on behalf of any officer or soldier subject to these Articles of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such officer or soldier, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

Priority of
hearing by
courts of
cases in
which
Native
officers and
soldiers are
concerned,

(2) The certificate from the proper military authority must state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee whatever shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such officer or soldier for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall

Miscellaneous.

cause a copy thereof to be furnished to such officer or soldier on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to the nearest officer commanding a corps, whose decision shall be final.

Capture of
deserters.

Article 185.—(1) Whenever any person subject to these Articles deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil, political or police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose capture a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

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

(3) Any police-officer may arrest, without warrant, any person reasonably believed to be subject to these Articles and to be travelling without authority, 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.

Miscellaneous.

Article 186.—Whenever any person subject to these 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.

Apprehension of military offenders.

Article 187.—In any proceeding under these Articles, any application, certificate, warrant, or other document purporting to be signed by 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.

Presumption as to signatures.

Article 188.—(1) The Governor-General in Council may direct that for the purposes of these Articles—

Portions of the forces under an Army Command.

(a) any portion of Her Majesty's Indian Forces belonging to a Command shall, when serving beyond the ordinary limits of the Command, continue subject to the authority of the general officer of the Command; or

(b) any portion of those forces not belonging to a Command shall be attached to a Command, and shall be subject to the authority of the general officer of the Command.

(2) Except as may be directed under clause (1) of this Article, any portion of the said forces shall, when serving in a Command, be for the purposes of these Articles subject to the authority of the general officer of that Command.

Article 189.—Nothing in these Articles shall be deemed to affect the authority conferred on the

Saving of authority of Commander-in-

Miscellaneous.

Chief in India, Commander-in-Chief in India by any Act of Parliament or by Royal Warrant or Commission.

Power to make rules. *Article 190.*—(1) The Governor-General in Council may, by notification, make rules consistent with these Articles to regulate the procedure of courts-martial, and officers, military, civil or political, having any jurisdiction or authority under these Articles, and for the purpose of carrying these Articles into execution, so far as relates to the investigation, trial and punishment of offences triable under them.

(2) Rules under this Article may provide among other matters for the following :—

- (a) the assembly and procedure of courts of enquiry ;
- (b) the convening and constituting of courts-martial ;
- (c) the adjournment, dissolution and sittings of courts-martial ;
- (d) the procedure to be observed in trials by courts-martial ;
- (e) the confirmation and revision of the findings and sentences of courts-martial ;
- (f) the carrying into effect sentences of courts-martial ;
- (g) the forms of orders to be made under the provisions of these Articles relating to courts-martial, transportation or imprisonment.

(3) The Governor-General in Council may by any such rule confer on any court-martial or officer any power (other than a power to try an accused person or pass a sentence) conferred on a court of original jurisdiction by the Code of Criminal Procedure, 1882.

Miscellaneous.

Article 191.—(1) The Governor-General in Council may, by notification, apply all or any of the provisions of these Articles to any force raised and maintained in India under the authority of the Governor-General in Council, and may cancel or modify any such notification.

Powers to
apply
Articles to
certain
forces
under the
Govern-
ment of
India.

(2) While any of the provisions of these Articles apply to any such force, the Governor-General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of those provisions shall be exercised or performed in respect to that force.

APPENDIX I.

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.

“Wrongful gain and loss.” 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.” 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.

a Or 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.

Definitions in the Indian Penal Code.

OF HURT—(Continued.)

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.

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."

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.

Definitions in the Indian Penal Code.

OF CRIMINAL FORCE AND ASSAULT.

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

First.—By his own bodily power.

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

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

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

Illustrations.

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

Definitions in the Indian Penal Code.

OF CRIMINAL FORCE AND ASSAULT—(Continued.)

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

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has, by his own bodily power, moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes, or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

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

Definitions in the Indian Penal Code.

OF CRIMINAL FORCE AND ASSAULT—(Continued.)

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.

"Theft." 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.

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

Definitions in the Indian Penal Code.

OF CRIMINAL FORCE AND ASSAULT—(Continued.)
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, 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.

Definitions in the Indian Penal Code.

OF CRIMINAL FORCE AND ASSAULT—(Concluded.)

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding-place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z, as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is

Definitions in the Indian Penal Code.

OF EXTORTION.

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 authorised 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 *Z*'s possession. Here, as *A* does not take dishonestly, he does not commit theft.

OF 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 money to *A*. *Z* signs and delivers the note. *A* has committed extortion.

(*c*) *A* threatens to send club-men to plough up *Z*'s field, unless *Z* will sign and deliver to *A*, a bond binding *Z* under a penalty to deliver certain produce to *A*, 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 misre-
 presentation, 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.'

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 omis-
 sion of an act may amount to an offence, although the
 abettor may not himself be bound to do that act.

Indian Penal Code—Chapter V.

OF ABETMENT—(Continued.)

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 lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as *A*. Here *A*, whether the act be committed or not, is guilty of abetting an offence.

(b) *A*, with the intention of murdering *Z*, instigates *B*, a child under seven years of age, to do an act which causes *Z*'s death. *B*, in consequence of the abetment, does the act, and thereby causes *Z*'s death. Here, though *B* was not capable by law of committing an offence, *A* is liable to be punished in the same manner as if *B* had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) *A* instigates *B* to set fire to a dwelling-house. *B*, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of *A*'s instigation. *B* has committed no offence, but *A* is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

Indian Penal Code—Chapter V.

OF ABETMENT—(Concluded.)

(d) A, intending to cause a theft to be committed instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

APPENDIX II.

ILLUSTRATIONS OF CHARGE SHEETS.

Every Charge Sheet must begin as follows :—

Charge Sheet.

"The prisoner (number, rank, full name, full title of regiment) is charged with."

First Charge.—Here enter charge as laid down in the following Articles :

Second Charge.—Here enter charge as laid down in the following Articles : And so on for the other charges (if any).

Article 5.

Making a wilfully false answer to a question set forth in the attestation paper which was put him by, or by direction of, the officer before whom he appeared for the purpose of being attested

Article 7.

- | | |
|-------------------|--------------------------|
| 1. (a) Beginning, | } a mutiny.
sedition. |
| (b) Exciting, | |
| (c) Causing, | |
| (d) Joining, | |

In that—

At (place), on the (date), he began (or excited, caused, or joined) a mutiny (or sedition) in the (full title of) regiment (or corps, detachment or guard) by (here state full particulars without unnecessary matter of the case) *e.g.*, by advising the men of his company not to turn out to parade, in consequence

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

of which the said company did not turn out for the said parade.

2. Being present at, and not using his utmost endeavours } a mutiny.
to suppress } sedition.

In that—

At (place), on the (date), he was present at a mutiny of the regiment (corps, detachment or guard), and did not use his utmost endeavours to suppress the same by failing to (here enter what the prisoner might have done, had he the will to do it), *e.g.*, threatening to report it, or looking up the ammunition, &c.

- 3 (a) Knowing the existence of a mutiny, sedition, an intention to mutiny
(b) Having reason to believe in an intention to create sedition
of a conspiracy against the State and failing to inform without delay his commanding (or superior) officer of the same.

In that—

At (place), on the (date), being present in barracks where Havildar and other men of the (full title of) regiment were assembled, and in his hearing (or presence) agreed to destroy their arms (or conspire against the State), he failed to inform without delay his Commanding (or superior) Officer of the same.

Article 8.

- (a) Using criminal force to
(b) Attempting to use criminal force to
(c) Assaulting a superior officer knowing, having him to be such, reason to believe such,

In that—

At (place), on the (date), he used (or attempted to use) criminal force towards (or committed an assault on, as the case may be) (rank, name, regiment) his superior Officer knowing him to be such by (here state the particular acts), *e.g.*, striking with his fist the said Naique.

 Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 9.

Disobeying the lawful command of his superior Officer.

In that—

At (place), on the (date), he disobeyed the lawful command of (rank, name, regiment) his superior Officer by (here describe the precise nature of the Act of disobedience, e.g., not turning to the right when ordered to do so by the said).

Article 10.

1. Deserting the service.
2. Attempting to desert the service.

In that—

At (place), on the (date), he absented himself from the (full title of) regiment until apprehended by (here state Civil power or name of apprehender) at (place), on the (date).

Article 11.

Without having first obtained a regular discharge from his corps, enlisting himself into another corps department, or enrolling himself into another corps department.

In that—

At (place), on the (date), he enlisted as a private in the (full title of) corps or department without having first obtained a regular discharge from the (full title of) corps or department to which he belongs.

Article 12.

In time of war, when a sentry sleeping on his post, In time of alarm, over a State prisoner, transmitting his post, a magazine, before being regularly relieved or a dockyard, quitting his post without leave.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), he between (here state the hours) when sentry on No. post, guard (in the time of war) was asleep (or quitted his post, before being regularly relieved or without leave).

Article 13.

(a) When a sentry	plundering	placed under his
(b) When on guard	wilfully destroying property	charge.
	wilfully injuring	placed under charge of his guard.

In that—

At (place), on the (date), he, when a sentry on No. post, guard, between the hours of plundered (or wilfully destroyed, or injured) the following property placed under his charge (or in charge of his guard), viz. (specify property and value, if possible, or if injured, description of injury, and amount of damage).

Article 14.

Shamefully	abandoning a	garrison	committed to his charge.
	delivering up a	fortress	which it was his duty to
		post	defend.
		guard	

In that—

At (place), on the (date), when in Command of (fortress, post, guard or garrison), he abandoned the same to (or delivered up the same to) the enemy by not defending it to the utmost of his power, when it was his duty to do so.

Article 15.

Treacherously making known the watchword to a person not entitled to receive it.

In that—

At (place), on the (date), he treacherously told (person) the countersign, knowing that the said (person) was not entitled to receive the said countersign.

 Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 16.

1. (a) Directly holding correspondence with the enemy.
 (b) Indirectly communicating intelligence to a person in arms against the State.
2. Coming to the correspondence with the enemy, and failing to disclose knowledge of a communication with a person in arms against the State immediately to his commanding (or superior) officer.

In that—

At (place), on the (date), he communicated to (person), then an enemy of Her Majesty's Indian Government (or who was in arms against the State), that the said Government had made arrangements to despatch a force for his capture.

Article 17.

1. (a) Directly assisting an enemy person in arms against the State with money
 (b) Indirectly relieving a person in arms against the State with victuals, ammunition.

In that—

At (place), on the (date), he directly assisted (person), then in arms against the State by sending to the said (person) boxes of ammunition.

Or

2. Knowingly harbouring or protecting an enemy person in arms against the State.

In that—

At (place), on the (date), when a company under Capt. A., arrived at his house at the said (place) and demanded the surrender of (person) then in arms against the State, he told the said Capt. A. that the said (person) was not in his house, well knowing that the said (person) was there at that time and under his protection.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 18.

- (a) Releasing without proper authority a State prisoner
an enemy
a person taken in arms against the State placed under his charge.
- (b) Negligently suffering to escape a State prisoner
an enemy
a person taken in arms against the State placed under his charge.

In that—

At (place), on the (date), he, when in command of (guard, picquet, party or patrol), without proper authority, released (person), a State prisoner (of enemy, &c.), placed under his charge (or negligently suffered him to escape) by having an insufficiency or sentries over the said (person) [or permitted a crowd to assemble round the said (person) when in his charge without taking reasonable means to prevent the same, and thereby the said (person) escaped], or if a sentry —when on sentry between the hours of m. and m., negligently suffered to escape (person) placed under his charge, by leaving his post (or sleeping on his post) whereby the said (person) escaped.

Article 19.

- (a) Shamefully casting away his arms in the presence of the enemy.
in the presence of persons in arms against whom it was his duty to act.

In that—

At (place), on the (date), when on outlying picquet and attacked by dacoits (or persons in arms against whom it was his duty to act) shamefully cast away his rifle, left his picquet, and ran away.

Or

- (b) Intentional- ly using words or other means to induce an officer or soldier to abstain from acting against an enemy, persons in arms against whom it was his duty to act.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), when was about to charge a stockade, intentionally stated to the said that there was no enemy in the said stockade, well knowing the enemy was there, and thereby induced the said (person) to abstain from charging the said stockade, whereby the enemy escaped.

Or

(c) Misbehaving in the presence of an enemy. persons in arms against whom it was his duty to act.

In that—

At (place), on the (date), during an attack on the —stockade, and when under the enemy's fire, he fell out of the ranks under pretence of being unable to march further.

Article 20.

In time of action, without authority, leaving his	commanding officer's post colour party	to go in search of plunder.
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In that—

At (place), on the (date), he, when belonging to a force in military occupation of Burma and when marching with his battalion under Colonel through the town of Yeu, left his Commanding Officer and went in search of plunder.

Article 21.

In time of war, quitting his	guard picquet party patrol	without being regularly relieved. without leave.
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In that—

At (place), on the (date), he, when on the (guard, picquet, &c.), in time of war, quitted his (guard, picquet, &c.), without being regularly relieved.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 22.

1. (a) In time of war, using original force to commit an assault on a person bringing provisions to the camp for the Major's quarters.
- (b) During a military operation, committing an assault on a person bringing provisions to the camp for the Major's quarters.

In that—

At (place), on the (date), he assaulted one (person) who was bringing into camp meat and provisions for the use of the troops, and forcibly took from him a portion of the same, value Rs. As. P.

2. (a) In time of war, forcing a safeguard.
- (b) During a military operation, forcing a safeguard.

In that—

At (place), on the (date), he intentionally and after being duly warned in camp orders, entered the dwelling house of (person), the headman of the village, in which, by orders of General Commanding, Subadar had been placed as a safeguard for the protection of the occupants and the property therein, and took therefrom jars of toddy, value , or thereabouts.

3. (a) In time of war, breaking into a house or other place for plunder.
- (b) During a military operation, breaking into without authority a house or other place for plunder.

In that—

At (place), on the (date), he broke open the gate of a dwelling-house, the 3rd in the main street, and entered it in search of plunder.

4. (a) In time of war, plundering a field.
- (b) During a military operation, injuring a garden (other property).
- destroying

In that—

At (place), on the (date), he entered the garden at the south gate of the town and injured the same by digging up the seeds, and thereby committed damage to the extent of Rs. , or thereabouts.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 23.

- | | | |
|------------------------|---------------------|-----------|
| 1. (a) In time of war, | intentionally occa- | action. |
| (b) During a mili- | sioning a false | camp. |
| tary opera- | alarm in | garrison. |
| tion, | | quarters. |

In that—

At (place), on the (date), he, when in camp with his regiment by intentionally discharging his rifle, occasioned a false alarm,

or

if there is any doubt as to whether the discharge of the rifle was intentional,

An act prejudicial to good order and military discipline.

In that—

At (place), on the (date), he, when in camp with his regiment by negligently discharging his rifle, occasioned a false alarm.

- | | | | |
|----------------|------------|----------|----------------|
| 2. (a) In time | | | |
| of war, | | | |
| (b) During a | spreading, | words, | reports enlou- |
| mili- | by | lotions, | ated to |
| tary | | | create |
| opera- | | | alarm. |
| tion, | | | despon- |
| | | | dency. |

In that—

At (place), on the (date), he wrote to the Subadar of his company a letter in which he stated to the said Subadar that the regiment had no chance of defeating such a large number of the enemy, which report was calculated to create despondency.

Article 25.

- | | |
|-------------------------------------|------------------------|
| Behaving in a manner unbecoming the | an officer. |
| position and character of | a medical subordinate. |
| | a warrant officer. |

In that—

At (place), on the (date), he was drunk in the lines of his regiment.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)**Article 26.**

Intoxication on
after having been } duty.
warned for
on parade.
on the line of
march.

In that—

At (place), on the (date), at A.M., or P.M., he
was intoxicated on Commanding Officer's Parade or
(on the line of march between and

Article 27.

- (a) Stalking
(b) Forcing a sentry.
(c) Attempting to force

In that—

At (place), on the (date), he, between the hours
of and , wilfully struck (forced or attempted
to force) Private (number, name, regiment), then a
sentry on duty.

Article 28.

- (a) Knowingly harbouring a deserter.

In that—

At (place), on the (date), he harboured a Private
of the Regiment, knowing that the said
was a deserter.

- | | | |
|-------------------|------------------|--------------------------|
| (b) Knowing | a person has de- | ailing to give immedi- |
| (c) Having reason | sorted, | ate notice to his own |
| to believe | a deserter has | (or superior) officer. |
| | been harbour- | ailing to use his utmost |
| | ed by another | endeavours to cause |
| | person, | the apprehension of |
| | | such deserter. |

In that—

At (place), on the (date), knowing (or having
reason to believe), that of the Regiment

 Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

had deserted, he failed to give notice thereof to his own (or some other) superior Officer (or use his utmost endeavours to cause the said to be apprehended).

Or

At (place), on the (date), knowing (or having reason to believe), that of the Regiment, a deserter, was harboured by failed to give notice thereof to his own (or some other) superior Officer (or to use his utmost endeavours to cause the said [deserter] to be apprehended).

Article 29.

Enlisting a person knowing having reason to believe to the person so enlisted to be a deserter.

In that—

At (place), on the (date), when in command of a recruiting party of the Regiment he enlisted for the said regiment, knowing (or having reason to believe) that the said was a deserter.

Article 30.

(a) Absenting himself without leave.

In that—

At (place), on the (date), he, without leave from his Commanding Officer, absented himself from the Regiment, and so remained absent until the .

Or

(b) Overstaying his leave without sufficient cause.

In that—

He, without sufficient cause, overstayed the leave granted him by from to by not rejoining his regiment (corps or detachment) until the .

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 31.

⁠ Falling, without sufficient cause, to rejoin without delay from leave, after receiving information from proper authority

that his corps department

has been ordered on service

In that—

He, when on leave of absence at _____, after having received information from _____ on the (date), that his regiment (corps or department) had been ordered on service, failed without sufficient cause to rejoin without delay.

Article 32.

Without sufficient cause, failing to appear at the

parade place

appointed for

exercise duty

In that—

⁠ At (place), on the (date), he, without sufficient cause, failed to appear at the parade (or place) appointed for exercise (or duty) (specify both place and purpose).

Article 33.

⁠ Quitting

parade the line of march

without sufficient cause without leave from his superior officer.

In that—

⁠ At (place), on the (date), when on parade (or on the line of march) without sufficient cause (or without leave from his superior Officer) left the parade (or line of march).

Article 34.

⁠ In time of peace, quitting his

guard
picquet
patrol

without being regularly relieved.
without leave.

In that—

⁠ He, when on the guard (or picquet or patrol) in the time of peace, at (place), on the (date), left his

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued)

(guard or picquet or patrol) without being regularly relieved (or without leave).

Article 35.

When in command
of a

guard
picquet
patrol

refusing to receive a prisoner
committed to his charge
releasing a prisoner without
proper authority
negligently suffering a prisoner
to escape

In that—

At (place), on the (date), when in command of picquet, patrolling the town, released without proper authority, Private of the Regiment, a prisoner who had been committed to his charge by Subadar

Or

In that—

He, at (place), on the (date), when in command of the guard (picquet or patrol), negligently allowed Private, Regiment, a prisoner committed to his charge, to escape by allowing him to go to the rear without an escort.

Article 36.

When in arrest, leaving his arrest before being set at liberty
confinement, confinement by proper authority.

In that—

At (place), on the (date), when under arrest (or a prisoner in confinement) in the guard (or other room) left his confinement (or arrest) before being set at liberty by proper authority.

Article 37.

Being grossly

insubordinate
insolent

to his superior officer in the
execution of his office

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), he, when personally ordered by (rank, name, regiment) his superior officer upon commanding officer's parade to take up his rifle and fall in, did not do so, divesting himself at the same time of his waist belt and saying, "I'll cut my name."

Article 38.

Refusing to	superintend assist in	the ma- king of a	field - work (other mili- tary work)	ordered to be made	in quar- ters in the field
----------------	--------------------------	-------------------------	--	-----------------------	-------------------------------------

In that—

At (place), on the (date), he, when told off by (number, rank, name, regiment), as one of the working party for the construction of a lunette ordered to be made in the ^a cantonment, refused to assist in the making of the same.

Article 39.

(a) Impeding	a provost marshal, an assistant provost marshal, an officer, a non commissioned officer,	legally exercising au- thority under, or on behalf of, a provost- marshal.
	a person,	

In that—

At (place), on the (date), he impeded a person legally exercising authority on behalf of a Provost-Marshal (or Assistant Provost-Marshal) by (here state particulars).

Or

(b) Refusing when called upon to assist in the execution of his duty.	a provost marshal, an assistant provost-marshal, an officer, a non-commissioned officer, a person,	legally exercising au- thority under, or on behalf of, a pro- vost-marshal.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), he, when called upon^o by (name), a person legally exercising authority under a Provost-Marshal (or Assistant Provost-Marshal) to assist him when requiring aid in the execution of his duty, refused, by walking away and saying, "I'll do nothing of the kind."

Article 40.

(a) Striking a soldier enrolled under the Indian being his su- rank
 (b) Ill treat a person attested Articles of War subordinate in position
 ing

In that—

At (place), on the (date), he struck (or otherwise ill-treated, describe the ill-treatment), Private (number, name, regiment), or a person attested^o under the Indian Articles of War, his subordinate in rank (or position).

Article 41.

(a) Committing extortion,

In that—

At (place), on the (date), he pointed a loaded rifle^o at , and thereby dishonestly induced the said to deliver up his regimental kit, viz., value Rs. , or thereabouts.

(b) Extorting without proper authority carrying porterage provisions from a person.

In that—^o

At (place), on the (date), he pointed a loaded rifle at , inhabitant of , and thereby without proper authority induced the said to deliver up his country-cart.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 42.

- (a) In time of peace, committing house-breaking, for the purpose of plundering.

In that—

At (place), on the (date), he committed house-trespass by making a hole through the wall of _____'s house, and put his hand through the aperture for the purpose of plundering therefrom.

Or

- | | | |
|----------------------|--------------------------------------|--|
| (b) In time of peace | plundering
destroying
damaging | a field.
a garden.
(other property). |
|----------------------|--------------------------------------|--|

In that—

At (place), on the (date), in the time of peace, he entered _____'s garden, and committed damage to the extent of Rs. _____, or thereabouts.

Article 43.

- | | | | | |
|--------------------|--------------------------------|---|--|---|
| When in
command | at a post,
on the
march, | receiving a beaten
complaint maltreated
that a oppressed
person
under his disturbed
command
has committed | any person,

a fair,
a market,
a lot,
a trespass, | neglecting to
have due
reparation
made to
injured
person.
failing to re-
port the
case to pro-
per author-
ity. |
|--------------------|--------------------------------|---|--|---|

In that—

At (place), on the (date), when in command of the post, he received a complaint from (person) that Private (number, name, rank, regiment) had beaten the said (person), he neglected to have due reparation made to the said (person), or failed to report the case to his Commanding Officer).

Article 44.

- (a) Defiling a place of worship.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), he entered the Temple used by Hindus as a place of worship, and defiled the same by spitting on the idol.

Or

(b) Intentionally insulting the religion of a person.

In that—

At (place), on the (date), he intentionally insulted the religion of (person) inhabitant of (village, town, &c.), by (here describe the insult).

Or³

(c) Intentionally wounding the religious feelings of a person.

In that—

At (place), on the (date), he intentionally wounded the religious feelings of (person), inhabitant of (town, village, &c.,) by (here describe how he wounded the religious feelings).

Article 45.

(a) Requiring			the enlist-	
(b) Accepting			ment	
(c) Obtaining		a gratifica-	the enrol-	
(d) Agreeing	for himself	tion as a	ment	
(e) Attempt-	(any other	motive (or	leave of ab-	of a person.
ing to	person)	reward)	sence	of (or for)
obtain		for pro-	the promo-	a person
		curring	tion	in the ser-
			vice	
			an advan-	
			tage	
			an indul-	
			gence	

In that—

At (place), on the (date), he accepted for himself from (rank, name, regiment) the sum of Rs. _____ as a gratification as a reward for procuring the enlist-

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

ment of , the nephew of the said (rank, name, regiment).

Article 46.

In time of peace, intentionally occasioning a false alarm in camp garrison cantonment.

In that—

When in camp, at (place), on the (date), in the time of peace, he fired off his rifle, and thereby occasioned a false alarm in the said camp.

Article 47.

1 (a) Designedly killing
(b) Through neglect injuring making away with his horse, any animal used in the public service.
losing ill-treating

In that—

At (place), on the (date), he designedly injured his horse entrusted to him, by kicking the said horse on the stomach.

Or

2 (a) Dishonestly removing concealing
(b) Fraudulently delivering to a person arms clothes tools musical instruments surgical instruments equipments ammunition accoutrements regimental necessaries
belonging to himself. entrusted to him. belonging to another person.

In that—

At (place), on the (date), he dishonestly (or fraudulently) removed (or concealed, or delivered to

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

his (arms, &c., and the following articles of his regimental necessities), viz.—

Or

			arms	
			clothes	
			tools	
8 (a) Designedly			musical instru-	belonging to him-
(b) Through neg-	injuring		ments	self
lect	losing		surgical instru-	entrusted to him
			ments	belonging to
			equipments	another person
			ammunition	
			accoutrements	
			regimental ne-	
			cessaries	

In that—

At (place), on the (date), he (through neglect) lost (or injured) the following articles (as above).

4. (a) Selling	a medal	granted to	Her Majesty	for service
(b) Pawning	a decora-	him by	The Governor-	in the
(c) Destroying	tion	order of	General of	field
(d) Defacing			India in	for general
			Council	good-con-
				duct

In that—

At (place), on the (date), he sold to (or pawned, or destroyed, or defaced) the medal (or decoration) granted to him by order of for service in the field (or for general good-conduct).

Article 48.

Attempting to commit or doing an act towards the commission of suicide

In that—

At (place), on the (date), with intent to commit suicide jumped down a well.

This is not to be charged till first referred to the Commander-in-Chief.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 49.

a	Being below the rank of warrant offi- cer, carrying a	sword, bludgeon (other offen- sive wea- pon)	without proper authority, when off duty,	in about going to returning from	camp cantonments a town. a bazar. a town a bazar.
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In that—

At (place), on the (date), when off duty, he appeared without proper authority in (or about) the cantonment (or camp, town, or bazar) of carrying a sword (bludgeon or other offensive weapon).

Article 50.

In time of peace, when a sentry,	sleeping on his post. leaving his post before being regularly relieved leaving his post without leave.
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In that—

In the time of peace, at (place), on the (date), between the hours of and A.M. or P.M., he, when on sentry on No. post, guard was asleep (or left his post before being regularly relieved, or without leave).

Article 51.

Being found, without proper authority,	two miles upwards of two miles	from camp.
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In that—

At (place), on the (date), he, without proper authority, was found by two miles (or upwards of two miles) from the camp of his regiment at .

Article 52.

Absenting himself without proper authority from his	cantonments lines camp	after tattoo. after retreat-beating.
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Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), he, without proper authority, absented himself from his lines (or cantonment or camp) at after tattoo (or retreat-beating).

Article 54.

1. (a) Dishonestly misappropriating	money, provisions, forage, arms, clothing,	the property of Government, entrusted to his charge	on the public account, for a military purpose
(b) Dishonestly converting to his own use	ammunition, tools, instruments, equipments, military stores,		

In that—

At (place), on the (date), he dishonestly misappropriated (or converted to his own use) the sum of Rs. (or the following articles of provisions, forage, &c.), the property of Government entrusted to his charge on the public account (or for the purpose of [specify the military purpose and value of provisions, forage, &c.]).

Or

2. (a) Dishonestly using,	in violation of a direction of a proper authority,	money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments, military stores,	the property of Government, entrusted to his charge.	on the public account, for a military purpose.
(b) Dishonestly disposing of,				

In that—

At (place), on the (date), he dishonestly paid (or disposed of) in violation of the direction of (rank, name, regiment), the sum of Rs. (or the following articles of provisions, forage, &c.), the property of

 Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Government entrusted to his charge on the public account (or for the purpose of,—[here specify the military purpose]).

Or

3. (a) Dishon- estly knowing the same mis- receiv. having to have appro- ing, reason been priated, (b) Dishon to be dis- con estly lieve honestly verted, retain- ing,	money, provisions, forage, arms, clothing, ammuni- tion, tools, insti- tutions, equip- ments, (any mili- tary stores),	the pro- on the perty of public Govern- account, ment for a ontrust- military ed to his purpose. charge
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In that—

At (place), on the (date), he dishonestly received (or retained) the sum of Rs. . . (or the following articles of provisions, forage, viz.), the property of Government entrusted to his charge on the public account (or for the purpose of [here state the military purpose]) knowing (or having reason to believe) the same to have been dishonestly misappropriated or converted.

Article 55.

(a) Wilfully de- stroying (b) Wilfully in- juring	Government property	entrusted to him	on the public account for any military purpose
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DISGRACEFUL CONDUCT.

In that—

At (place), on the (date), he wilfully destroyed (or injured) the following property of Government entrusted to him on the public account (or for the purpose of, specify the military purpose) viz. (specify the articles).

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Article 56.

- (a) Making a false statement,
 (b) Making a statement which he knows to be false,
 (c) Making a statement on oath, or affirmation before a court martial or a military court competent to administer an oath or affirmation, which he believes to be false,
 (d) Making a statement which he does not believe to be true,

In that—

At (place), on the (date), when duly sworn (or affirmed) before a Court-martial, then assembled (or a Military Court of Requests, &c.,) made the following false statement, viz. (here enter statement from Court proceedings), which he then knew (or believed) to be false (or did not then believe to be true).

Article 58.

Disgraceful conduct,	malingering.	
	feigning	disease
	producing	infirmity.
	intentionally delaying his cure	disease.
	intentionally aggravating his	infirmity.

In that—

At (place), on the (date), he, with the intention of evading his duties as a soldier, counterfeited madness.

Or (*for feigning*).

At (place), on the (date), he pretended to Surgeon Regiment that he was suffering violent pains in his head and down his back, whereas he was not so suffering.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

Or (for producing disease).

At (place), on the (date), he, when discharged from hospital, applied *chunam* to his eyes, thereby causing sore-eyes.

Or (for delaying his cure or aggravating his disease).

At (place), on the (date), when under treatment for syphilitic sores, tampered with the said sores by the secret application of blue stone.

Article 59.

Disgrace- ful con- duct in	volun- tarily	causing hurt causing grie- vous hurt	to him- self to a per- son	with in- tent to render	himself that per- son	unfit for service.
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In that—

At (place), on the (date), he, when sentry on No. post, guard, by discharging his rifle, intentionally blew off the fore and middle fingers of his right hand.

Article 60.

Both the following forms are to be used when a soldier is found in possession of stolen property, and it is not certain that he committed the theft.

Firstly.

1. Disgraceful conduct in	committing thefts, the property of	Government. an officer. a soldier. a person in the service. a military mess. a military band. a person serving with a person attached to	the army.
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In that—

At (place), on the (date), he committed theft in respect of the following property of Government (or of rank, name, and regiment, or of the regimental

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

mess, &c.,) namely (specify the articles and their value.)

Secondly.

2	Disgraceful conduct in	dishon- estly receiving, retaining,	knowing having reason to be- lieve	it to be stolen, the pro- perty of	Government an officer. a soldier. a person in the service of a military mess a military band. a person serving with the army. attached to
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In that—

At (place), on the (date), he dishonestly received (or retained), the following property of Government (or of rank, name, regiment, &c.,) knowing (or having reason to believe) the same to have been stolen, viz. (specify the articles and their value.)

Article 61. •

The two following forms are to be employed when it is not certain whether the offender dishonestly misappropriated or dishonestly retained property entrusted to him for a purpose not provided for in Articles 54 and 55.

Firstly.

1.	Disgraceful conduct in	dishonestly misappropriating dishonestly converting to his own use	Government property entrusted to him for a purpose not provided for in Articles 54 and 55
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In that—

At (place), on the (date), he dishonestly misappropriated (or converted to his own use), the following property of Government entrusted to him for (specify the purpose, it must not be on the public account or

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

for any military purpose), viz. (specify the property and the value.)

Secondly:

2	Disgrace- ful con- duct in	dishonestly retaining dishonestly receiving	Government property entrusted to him for a purpose not provi- ded for in Articles 64 and 65	knowing it to have been having rea- son to be- lieve it to have been	dishonestly misappro- priated. dishonestly converted.
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In that—

At (place), on the (date), he dishonestly received (or retained), the following property of Government knowing (or having reason to believe) the same to have been dishonestly misappropriated (or converted), viz. (specify the property and the value.)

Article 62.

1	Disgrace- ful con- duct in	obtaining attempting to obtain	for him- self for a per- son	a pension an allow- ance an advan- tage a privilege	by a state- ment	which he knows to be false, which he has reason to be- lieve to be false, which he does not know to be true.
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In that—

At (place), on the (date), he attempted to obtain for (person) a pension, by stating that the said (person) was the legitimate son (or daughter) of which statement he knew to be false.

Or—

2	Disgrace- ful con- duct in	obtaining attempting to obtain	for him- self for a per- son	a pension an allow- ance an ad- vantage a privi- lege	by mak- ing by mak- ing	a false entry in a } book. ro- cord	by making a document containing a false statement. by omitting to make a true entry. by omitting to make a document containing a true statement.
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Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In that—

At (place), on the (date), he attempted to obtain for (person) an allowance, to wit, good-conduct pay by altering the date of the last entry in the defaulter sheet of the said (person) from (one date) to (another date).

Article 63.

Dis- grace- ful con- duct in	know- ingly ful- fill- ing a false omit- ting refus- ing	return of report of through design through culpable neglect	to make return of to send a report of	the num- ber the state money arms ammuni- tion clothing equip- ments stores (other property)	of the men under his in his charge belong- ing to	command.
						charge.
						the men com- under his mand. charge.
						the Government a person in a person attached to
						the army.

In that—

At (place), on the (date), he, when in command of the detachment of his regiment, when called upon to furnish a return of the ammunition in charge of the said detachment, shewed that he had rounds, well knowing such number was false.

Article 64.

Such disgraceful conduct as is men- tioned in Indian Articles of War, 64.	with intent to defraud.	to a person.
	with intent to cause wrongful gain	
	with intent to cause wrongful loss	

In that—

At (place), on the (date), he, when employed as an assistant in the regimental recruits' mess, with intent to defraud, added inferior rice to a bag of good rice, belonging to the stores of the said recruits' mess.

Note.—This is a case of wrongful gain to the offender and wrongful loss to the Members of the recruits' mess.

Illustrations of Charge Sheets.

CHARGE SHEETS -(Continued.)

Article 65.*

1. Disgraceful conduct of a soldier
an indecent kind
an unnatural

In that—

At (place), on the (date), he committed an indecent assault upon (name) by (here state the act).

Or

2. Disgraceful conduct in attempting to commit an offence of a soldier an indecent kind and doing an act towards its commission
an unnatural

In that—

- At (place), on the (date), he attempted to commit an indecent assault upon (name) by (here state the act done towards the commission of the offence).

Article 67.

- When duly summoned to attend as a witness before a court-martial intentionally omitting to attend, prevailing, refusing to answer, he sworn make affirmation, which he had been duly produced warned and deliver called upon up to refusing to produce a book or document

In that—

- On the (date), he, when duly summoned to attend as a witness before a court-martial, assembled at (place), intentionally omitted to attend by leaving the station without sufficient cause.

* Rape and unnatural offences should be tried by Civil Power

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued).

Article 68.

Intentionally offering an insult	an interruption	to a court-martial whilst
Intentionally causing	a disturbance	sitting.
Using a menacing disrespectful	word sign gesture	in the presence of a court martial whilst sitting
Being insulted violently		

In that—

At (place,) on the (date), he intentionally caused an interruption to a Court-martial whilst sitting in the Court-martial Room, Fort Saint George, by (here state the interruption caused).

Unspecified offences.

Article 70.

(a) An offence not punishable with death, and not specified in the Indian Articles of War, 7 to 80, both inclusive, prejudicial to good order and military discipline.

In that—

At (place), on the (date), he set fire to the hut of (rank, name, regiment) situated in the lines of the said regiment.

Or

(b) A neglect to obey garrison
regimental
{other} orders prejudicial to good order
and military discipline.

In that—

At (place), on the (date), he, after being duly warned by Havildar to parade the Regimental Defaulters at 5 P.M. on that day, neglected to do so.

This form of charge is only applicable when wilful disobedience is not imputed.

Or

At (place), on the (date), when found in possession of a watch which had been stolen from (or lost by)

Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

person, in direct disobedience of para. 857, Army Regulations, India, Vol. II, Discipline, neglected, to report to his superior Officer that he had the same in his possession.

Or for

Writing an anonymous letter to a superior.

(c) An act prejudicial to good order and military discipline.

In that—

At (place), on the (date), he wrote and sent to (rank, name, regiment), his superior Officer, an anonymous letter, which letter contained the following passage (to be set out in words— if no particular passage can be selected, the whole letter should be set out).

Or for

Irregular conduct on guard.

In that—

At (place), on the (date), when in command of the guard, irregularly permitted Private (number, name, regiment) to relieve Private of the same (or some other) regiment, as sentry over No. post, without being present at the relief.

Or for a sentry.

In that—

At (place), on the (date), when on the guard, irregularly relieved Private (number, name, regiment), as sentry over No. post without being regularly posted at such relief by a non-commissioned officer of the guard.

 Illustrations of Charge Sheets.

CHARGE SHEETS—(Continued.)

In these cases the relieved sentry should be first tried for quitting his post without being regularly relieved (Article 50).

Or for clandestinely entering the house of another.

In that—

At (place), on the (date), he clandestinely entered the house of during his absence.

Or for creating a disturbance.

In that—

At (place), on the (date), he created a disturbance in the lines of his regiment (or other place) by (state particulars).

Or for borrowing money.

At (place), on the (date), in direct disobedience of para. 858, Army Regulations, India, Vol. II, Discipline, he borrowed, Rs. As. P. from (rank, name, regiment).

Or for quitting lines when a defaulter.

In that—

At (place), on the (date), when a defaulter under confinement to lines he quitted the line limits.

Or for markers in butts falsifying registers.

In that—

At (place), on the (date), he, when marker of the target practice of (section, company, regiment), wilfully entered a bull's-eye in favour of (rank, name, regiment,) well knowing such entry to be false.

(d) An omission prejudicial to good order and military discipline.

Illustrations of Charge Sheets.

CLEARING SHEETS--(Continued.)

In that—

At (place), on the (date), he, when master of the target practice register of (section, company, regiment) through culpable carelessness neglected to enter a bull's-eye (or as the case may be) in favour of (rank, name, regiment).

Article 71.

Abetment.

In that—

At (place), on the (date), he instigated one (person) to (here enter the offence proposed by him, although it may not have been committed), and thereby abetted the said (person) to commit (here state the offence by its designation only).

Article 171.

- (a) In a place beyond British India committing an offence against the Penal Code, that is to say (enter offence as described in the appropriate section of the Code.)
- (b) When on active Service in British India

In that—

He, at (some place not in British India, e.g., Bangalore, Secunderabad, Travancore, &c.,) in the territories of His Highness the Raja of , on or about the (date) committed murder by causing the death of one (person), and thereby committed an offence punishable under section 302 of the Indian Penal Code and within the cognizance of a General Court-martial.

Illustrations of Charge Sheets.

CHARGE SHEETS—(Concluded.)

Article 178.

		murder. culpable homicide	
		voluntari- ly caus- ing	hurt grievous hurt
(a) Within British (b) Beyond India	committing, attempting to commit, abetting the com- mission of		by dangerous weap- ons or means. poison, intoxi- cating drugs, stupifying drugs, with in- tent to commit an offence, to extort proper- ty, to con- strain to an illegal act, to extort confes- sion, to com- pensation of property, to deter public servant from his duty, on provocation
		voluntari- ly caus- ing	hurt, grievous hurt
			by means of person subject to military law.

Rules for a Summary Court-martial.

APPENDIX III.

RULES FOR CONDUCTING A SUMMARY COURT-MARTIAL UNDER THE INDIAN ARTICLES OF WAR.

By whom
to be held.
Art. 98.

1. A Summary Court-martial may be held by—
 (a) the European commissioned officer, being a combatant officer, who is in actual command for the time being of any corps or department of Her Majesty's Indian Forces, or of any detachment of those Forces ; or
 (b) the Commanding Officer of any British corps or detachment to which native *combatant* details, subject to the Indian Articles of War, are attached ; or
 (c) by an officer authorized by the officer commanding a division, district, brigade or station to hold a Summary Court-martial for the trial of a member of an Army Hospital Corps, when the alleged offender belongs to the command of the officer authorizing such trial :

Provided that if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer commanding not less than a corps.

Constitu-
tion of
court, Art.
98 (2).

Art. 102
(4).

2. The Commanding Officer holding a Summary Court-martial alone constitutes the Court : but it must be attended by two other Commissioned Officers either European or native and by an interpreter ; but when no other competent interpreter is available, the officer holding the trial, or one of the officers attending, may, after taking the oath prescribed for the interpreter, perform the duty.

Oaths to be
taken.

3. On the assembly of the Court, the interpreter first makes oath in the following form :—

Interpre-
ter's oath.
Art. 108.

" I * * * do swear that I will faithfully interpret and translate the proceedings of this Court :

Rules for a Summary Court-Martial.

and that I will not divulge the sentence until it shall have been published by authority : so help me God."

The interpreter then administers to the Commanding Officer holding the trial the following oath :—

"I * * * do swear 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 : so help me God."

Commanding Officer's oath.
Art. 109.

In cases where affirmation is permitted instead of oath, the above forms will severally begin :—

"I * * * solemnly affirm in the presence of Almighty God, that," &c., and the concluding words "so help me God" will be omitted.

The officers attending the Court are not as such to be sworn or affirmed. Art 93 (2).

4. All persons subject to the Indian Articles of War are liable to trial and punishment by Summary Court-martial, except—

Persons amenable to summary trial.
Art. 93.

- (a) Commissioned officers,
- (b) Medical subordinates,
- (c) Warrant officers,
- (d) Persons not liable to be tried by Courts composed of native officers, but if any person claims to belong to a class to which the Army Act is, and the Indian Articles of War are not, applicable, the burden of proving that he belongs to that class shall lie upon him.

In the case of Christians, such as drummers and bandsmen, difficulties may occasionally be experienced in determining whether they are liable to trial by Summary Court-martial.

The following note should prove useful and lessen the chance of a mistake being made, which would render the trial null and void.

Any person who is for the time being triable and punishable under Military Law as a native of India,

Rules for a Summary Court-Martial.

as defined in section 190 (22) of the Army Act, is, as such, liable to trial by Summary Court-martial.

A "European British subject" is defined in section 4 of the Indian Code of Criminal Procedure, as follows:—

"(1) Any subject of Her Majesty born, naturalized, or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American, or Australian colonies or possessions of Her Majesty, or in the colony of New Zealand, or in the colony of the Cape of Good Hope or Natal.

"(2) Any child or grandchild of any such person by legitimate descent."

Such a person would not be liable to trial by Summary Court-martial.

Not only must legitimacy, but nationality, be proved to establish status under clause 2 above.

The plea of being a European British subject may be admitted by the officer holding the trial, if he be satisfied, from the appearance of the prisoner and the circumstances brought forward, that the plea is true; but if the officer holding the trial is not so satisfied, the plea, if persisted in, must be substantiated by sufficient evidence.

Unless the officer holding the trial has reason to believe that a person before him is not a European British subject, the officer shall ask such person whether he is such a subject or not. If he does not claim to be dealt with as a European British subject, he shall be held to have relinquished his right.

Art. 93(4). No person can be tried by Summary Court-martial unless he is under the command of the officer holding the trial, except in the case of a member of an Army Hospital Corps.

Charge. 5. The charge must in all cases disclose an offence under the Indian Articles of War.

Whenever the offence is specially provided for in an Article, the charge should be framed under, and

Rules for a Summary Court-Martial.

in the wording of, that Article, and never, under these circumstances, under Article 70 as conduct to the prejudice of good order and military discipline.

A Summary Court-martial may try any offence Art. 21. punishable under the Indian Articles of War; but it must be remembered that offences under Articles 7 to 23, and disgraceful offences under Articles 54 to 65 (both inclusive) and offences under Article 171, as well as offences against the Commanding Officer, are not to be tried by Summary Court-martial without the sanction of superior authority, whenever circumstances admit of such sanction being obtained.

The authority for such trial is to be recorded at the foot of the charge under the signature of the staff officer of the division, district, brigade, or station. When such sanction is not thus recorded, the officer holding the trial must report his reasons for proceeding on his own authority.

6. The religion of each native witness—Hindoo, Evidence
Musalman, Sikh—must be entered. Art. III.

A Hindoo witness makes the following affirmation: Hindoo

“Main (enter name) dharm ki rú se Parmeshwar affirmation.
Bhugwan ko jái, mán ko báchá kartá hun ki main
jo bát kahungá so sachhi kahungá, aur bin chhipáye
kisi bát ko sab sach kahungá, aur siwái sach ke, kuchh
aur na kahungá.”

A Mahomedan witness is affirmed as under:—

“Main (enter name) imán ki rú se Háik Tá ála Mahoma-
khuddá ko házi aur názir ján ko íkrár kartá hun ki dan affir-
main jo bát kahungá so sachhi kahungá, aur bin mation.
chhipáye kisi bát ko sab sach kahungá, aur siwái sach
ke, kuchh aur na kahungá.”

A Sikh witness takes the following oath:—

“Main (enter name) Guru Granth Sahib ji ki Sikh oath
kasm khatá hun ki bát jo main kahun, so sachhi
kahungá; aur bina lagáo thore bahut ko, sab sach
kahungá; aur siwái sach ke, kuchh aur na kahungá;
aur jo main jhuth kahun, to Guru Granth Sahib
mujh par áfat délon.”

Rules for a Summary Court-Martial.

Christian
oath.

A Christian witness takes the following oath:—
 “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 where affirmation is permitted instead of oath:—
 “I * * * solemnly affirm in the presence of
 Almighty God that,” &c., omitting the words “so help
 me God.”

7. The evidence must be recorded in the first
 person. The prisoner must be given the option of
 cross-examining each witness for the prosecution,
 and this must appear on the record : and after such
 cross-examination the evidence as recorded should be
 read over to the witness.

If the prisoner declines to cross-examine, this must
 be recorded.

Sentence,
Art. 95 (1).

8. The sentences awardable by a Summary Court-
 martial held by the Commanding Officer of a corps
 or department are—

(1) Imprisonment with or without hard labour,
 and with or without solitary confinement, for a term
 not exceeding one year :

or

(2) Dismissal from the service :

or

(3) Degradation :

or

(4) Loss of standing :

or

(5) Reduction to a lower grade or to the ranks :

or

(6) Corporal punishment not exceeding fifty lashes :

or

(7) Forfeiture of additional pay, good-conduct pay
 and claim to pension :

or

(8) Forfeiture of arrears of pay and allowances :

or

(9) Stoppages.

Rules for a Summary Court-Martial.

A non-commissioned officer sentenced to any of the Art. 131. punishments specified in the second paragraph of Article 132 shall be deemed to be reduced to the ranks.

No two of the foregoing punishments can be awarded conjointly, except in the following cases :—

(a) Dismissal from the service may accompany Art. 131. any other sentence.

(b) On conviction of any offence a Summary Arts. 135 Court-martial *may*, in addition to any one and 95. of the punishments above noted, also sentence the offender to forfeit all advantages as to additional pay and claim to pension on discharge, which might otherwise have accrued from the length or nature of his service, or to forfeit all such advantages absolutely whether it has accrued from former service or may accrue from future service, or to forfeit service for the purpose of promotion, increased pay or pension, or any other prescribed purpose, or to forfeit any military decoration or reward.

(c) On a conviction of any offence, when the Art. 137. offender is sentenced to—

(1) Dismissal from the service; or

(2) A sentence involving dismissal from the Art. 137. service; he *may* further be sentenced to forfeit all or any arrears of pay and allowances or other public money due to him at the time of his dismissal, or to such portion thereof as may be required to make good any proved loss or damage arising out of his offence.

(d) On a conviction of any offence, when the Art. 138 offender is not dismissed the service, or his sentence does not involve such dismissal, he *may*, in addition to any other punishment, be sentenced to be put under

Rules for a Summary Court-Martial.

stoppages, but only in cases where, and to such extent as loss or damage has been proved in evidence to have arisen out of his offence.

Art. 139. Such stoppages are not to exceed one half of the offender's monthly pay and allowances, and are not to extend beyond one year.

9. A Summary Court-martial held by an officer other than a Commanding Officer of a corps or department can award the punishments enumerated in the preceding paragraph, the only difference being that imprisonment is limited in this case to six months.

Art. 155. 10. A sentence of imprisonment with hard labour exceeding three calendar months involves the dismissal of the prisoner, and his being struck off the rolls of the regiment.

The fact of the prisoner being struck off the rolls of the regiment is to be recorded in the subsidiary order only, and never in the sentence.

11. Particular attention must be paid to the following observations regarding sentences of imprisonment, as it is in these that mistakes are most frequently likely to occur :

Art. 151. (a) A sentence of imprisonment with hard labour, not exceeding three months, may now be directed to be undergone in military custody.

(b) If it is desired to retain a man in the service, and the sentence is one of hard labour imprisonment, the sentence *must not* exceed three months, and the commanding officer holding the trial *must* direct that the sentence is to be undergone in military, that is, regimental, custody.

This direction must be recorded in the sentence, and not in the subsidiary order. Failing any such direction, the man must be sent to a civil jail to undergo his sentence.

Rules for a Summary Court-Martial.

Long periods of *simple* imprisonment, to be carried out in regimental custody, are obviously undesirable punishments.

(c) As imprisonment in a civil jail involves intercourse with convicts and men of the worst character, it is not considered advisable that any native soldier who has been an inmate of a civil jail should be allowed to rejoin his regiment.

(d) It will therefore be necessary, when sentencing a man to imprisonment with hard labour, *and* it is intended that he should not rejoin his regiment, for the Commanding Officer holding the trial to pass a sentence exceeding three months, or when the sentence is for a shorter period than three months, to include in the sentence a specific award of dismissal from the service, in addition to the award of imprisonment with hard labour. Art. 131.

(e) Whenever a sentence of imprisonment with hard labour is passed in accordance with these rules, and the man is not to undergo his imprisonment in military custody, it must be recorded in the subsidiary order on the proceedings that the prisoner is to be made over with the prescribed warrant of commitment to the officer in charge of the civil jail, and that his name is struck off the strength of the regiment from that date (i.e., date of signing proceedings).

12. A sentence of forfeiture of good-conduct pay Art. 165. alone should not be awarded. Standing by itself, and not being in addition to any other punishment, except as provided in Article 136, it is legal, but inoperative, because good-conduct pay necessarily ceases upon conviction by any court-martial.

13. The printed form of proceedings of a Summary Court-martial (I. A. Form 161) should always when

Rules for a Summary Court-Martial.

- possible be used; but failing this, a form of proceedings has been appended, and must be adhered to.
- Art. 93 (3). The proceedings are to be worded in the English language on foolscap paper, and the pages numbered; and a medical certificate must be attached.
- Art. 113. 14. Separate trials must be separately recorded, each being complete in itself: in such case, the Commanding Officer, interpreter, and each witness must be sworn or affirmed afresh.
- Arts. 63 (8) and 97. 15. The proceedings must be signed by the officer holding the trial and by the officers in attendance, and must be forwarded without delay to the Judge Advocate of the circle: but the sentence may, except when the officer holding it has less than 5 years' service, be forthwith put into execution.
- Art. 96. 16. At all trials by Summary Court-martial, the forms of charges given in Appendix 12 of Army Regulations, India, Volume II, are, as nearly as possible, to be strictly adhered to.

PROCEEDINGS OF A SUMMARY COURT-MARTIAL.

Proceedings of a Summary Court-martial, hold
at _____ on _____ the _____ day of _____
18 __, by _____ A. B., Commanding the
_____, under the 93rd Indian Articles of
War, for the trial of all such prisoners as he may duly
have brought before him.

Present :

A. B. Commanding the _____

Attending the trial,

C. D. _____, Regiment _____

E. F. _____, Regiment _____

Rules for a Summary Court-Martial.

Interpreter.

G. H., Regiment.....
 The officers assemble at (house of meeting) and the trial commences at... .. o'clock in the.....noon.

T. J., ...Regiment..... is brought in ("called in" if a non-commissioned officer).

The Interpreter is duly sworn.

The Commanding Officer is duly sworn.

All witnesses are directed to withdraw from the Court.

The charge is read, translated, and explained to Charge. the prisoner, and entered as follows:—

(Enter heading and body in accordance with the forms given in A. R. I., Vol. II, Appendix 12, and illustration of a complete charge sheet at foot of page 337. When sanction for trial by Summary Court-martial has been given by superior authority, for form of minute at foot of charge, see A. R. I., Vol. II, para. 428.)

Arrangement.

Q. By the Commanding Officer.—How say you, T. J., are you guilty, or not guilty, of the charge preferred against you?

A... ..

Prosecution.

M. N., ...

Regiment(creed*) is called in and makes 1st witness. solemn affirmation (or is duly sworn).

Examined by the Commanding Officer.

Q.....

A.....

Cross-examined by the prisoner.

Q.....

A.....

* Religion to be recorded. (Hindu, Musulman, Sikh). Sikh should be sworn.

Rules for a Summary Court-Martial.

Re-examined by the Commanding Officer.

Q.....

A.....

The prisoner declines to cross-examine the witness.

The evidence is read over to the witness.

The witness withdraws.

O. P.

2nd wit-
ness.

Regiment(oath), is called in and makes
solemn affirmation (or is duly sworn).

(In the same way as with the first witness.)

Do you intend to call any witnesses in your
defence?

Yes.....

Defence.

Defence. The prisoner L. J....., ... Regiment
being called upon to allege anything he may have
to say in answer to the charge, states as follows:—

or,
1st witness. Q. R....., ... Regiment.....
(oath), is called in and makes solemn affirmation (or
is duly sworn).

Examined by the prisoner.

Q.....

A.....

Cross-examined by the Commanding Officer.

Q.....

A.....

Re-examined by the prisoner.

Q.....

A.....

The witness withdraws.

2nd wit-
ness.

(In the same way as with the 1st witness.)

Reply.
1st witness
for prosecu-
tion
recalled.

Reply.

K. L..... Regiment....., is called in, and
questioned on his former affirmation (or oath).

Rules for a Summary Court-Martial.

Examined by the Commanding Officer.

Q.
A.

Cross-examined by the prisoner.

Q.
A.

Re-examined by the Commanding Officer.

Q.
A.

The witness withdraws.

Verdict of the Commanding Officer.

I am of opinion, on the evidence before me, that Finding.
I. J., ... Regiment, is guilty of the
charge preferred against him.

(Or "Not guilty, and I acquit him of the charge
preferred against him.")

Minutes by the Commanding Officer.

I am aware, from the Regimental Records, that Previous
the prisoner, I. J., has previously been convicted. Convic-
ed by Court-martial. See Certificate A annexed. tions.

(Or "....has not been convicted before.")

I am further aware that, previous to this trial, his General
general character has been ; that he has been character,
in the service—years and—months; and that his age age and
is about—years. service.

Sentence of the Commanding Officer.

Taking all these matters into consideration, I now Sentence.
sentence the prisoner, I. J. to

(To be signed) A. B., —, —,
Commanding—Regiment—.

The trial is
closed at —
o'clock—at

(Date)

(To be signed) C. D., —, —,
—Regt., —, —,
Attending the Trial.

(To be signed) E. F., —, —,
—Regt., —, —,
Attending the Trial.

Rules for a Summary Court-Martial.

ORDER BY THE COMMANDING OFFICER.

Forms of Subsidiary Order.

1. On a sentence of imprisonment with hard labour exceeding three months—

“The prisoner is to be made over with the prescribed warrant of commitment to the officer in charge of the nearest jail for the purpose of undergoing his imprisonment: and his name is to be struck off the strength of the regiment from this date.”

2. On a sentence of corporal punishment—

“The corporal punishment will be carried out at (state place and date) in the presence of the — and the Medical Officer, and will be inflicted with the regulation cut on the bare back.”

3. On the sentence of the dismissal from the service—

“The prisoner's name will be struck off the strength of his regiment (battery, corps, or detachment) from this date.”

4. On a sentence of loss of standing—

“The name of the prisoner will be transposed in the list of his rank and will stand next below that of — (or will bear date the — day of — 189 —).”

FORM OF WARRANT OF COMMITMENT.

To

The Magistrate,
or other officer in charge of the jail,

at.....

Whereas at a Summary Court-martial, held at.....
on the .. day of .. 18... (Name) (Rank),
..... of the..... Regiment of....., was
convicted of (the offence to be briefly stated here, as “desertion,” “theft,” “receiving stolen goods,” “fraud,” “disobedience of lawful command,” or as the case may be).

Rules for a Summary Court-Martial.

And whereas the said... .. Court-martial, on the.... day of....., 18... .., passed the following sentence upon the said (*Name*); that is to say :—

(Sentence to be entered in full, but without signature.)

Now these are to require and authorize you to receive the said (*Name*) into your custody, and inflict upon him the said sentence of imprisonment with hard labour, for..... .. reckoned from the day on which the said sentence was passed

Given under my hand at, this the..... .. day of....., 18.....

To be signed by the Commanding Officer of the Regiment, when a Summary Court-martial has been held by him.

Forms of Attestation

c

APPENDIX IV.

G. G. O. Milly. Dept., No. 568, dated Simla 31st May 1895

JUDICIAL.

INDIAN ARTICLES OF WAR.

1. In exercise of the powers conferred by Article 1, clause (1) of the Indian Articles of War (Act V of 1869), as amended by Act XII of 1891, the Governor-General in Council is pleased to declare that the following classes of persons shall respectively be "both enrolled and attested" and "enrolled only," viz. :—

Persons to be both enrolled and attested.

Hospital Assistants.

Hospital Attendants of the Army Hospital Corps

Warrant Officers.

Soldiers.

Native drivers of Horse, Field and Mountain Batteries.

Bullock-drivers and Mahouts of Heavy Batteries.

Salutries of all Mountain Batteries.

Shoeing-smiths of Native Mountain Batteries.

Muleteers of Mountain Batteries.

Fort Armament lascars.

Store Lascars of Artillery.

Lascars employed in arsenals and depôts.

Lascars of the Corps of Sub-marine Mining Lascars.

Persons to be enrolled only.

Guides of the Bombay Guide Corps.

Lascars and artificers employed in Ordnance Factories.

Bullock-drivers of Horse and Field Batteries.

Salutries of other than Mountain Batteries.

Shoeing-smiths or Nalbands of other than Native Mountain Batteries.

Forms of Attestation.

Tent lascars serving with Batteries of Artillery, Regiments of British and Native Cavalry and Infantry, and Corps of Sappers and Miners.

Smiths, carpenters, saddlers, mochies, filemen, firemen, and hammormen serving with Batteries of Artillery.

Smiths, carpenters, filemen, firemen, and hammormen serving with the Bengal Sappers and Miners.

Smiths, carpenters, and hammormen serving with Madras (Native) Cavalry.

Syces of British Cavalry and Artillery and Madras (Native) Cavalry.

Pakhalis and Bhistis.

Commissariat-Transport Establishment	{	Mahouts and coolies of the elephant establishment.
		Drivers of the bullock establishment including those with Siege Trains.
		Muleteers of the mule (or pony) establishment.
		Surwans of the camel establishment.
		Salutries and shoeing-smiths of the Veterinary establishment.
		Bearers of the Ambulance establishment.
		Transport artificers, namely, blacksmiths, saddlers, and camel-saddle (palan) makers, carpenters, hammormen, and bellowmen.

11. In exercise of the powers conferred by Article 190 of the Indian Articles of War and with reference to Part II, Article I, clauses 2 and 3 of the same Articles, the Governor-General in Council is pleased to make the following rules, namely:

- (1) Enrolment shall be effected by entering the name of the person consenting to be enrolled in a Long Roll (India Army Form 250) to be maintained in every Corps and Department of Her Majesty's Indian Forces for this purpose.
- (2) The officer before whom a person to be attested shall be taken shall be the Commanding Officer of the Corps or Department in which such is about to be enrolled as defined by the said Articles of War, or some Magistrate.
- (3) The forms of attestation to be used are hereto annexed.

Forms of Attestation.

T. A. F. 126.

FORMS OF ATTESTATION.

ATTESTATION DOCUMENT FOR—

SOLDIERS.

SALUTRIES OF MOUNTAIN BATTERIES.

SHOEING SMITHS OF NATIVE MOUNTAIN BATTERIES.

NATIVE DRIVERS OF HORSE, FIELD AND MOUNTAIN BATTERIES.

BULLOCK DRIVERS AND MAHOUTS OF HEAVY BATTERIES.

ATTESTATION OF

No..... Name..... Corps.....
Enrolled at..... on the.....
With effect from.....

Questions to be put to the Recruit before Enrolment.

1. What is your name? 1
2. What is your father's name? 2
3. What is your Village, Pergunnah and District? 3 { Village.....
Pergunnah
District
4. What is your Age? 4 Years

You are hereby warned that if after attestation it is found that you have given a wilfully false answer to any of the following questions, you will be liable to a punishment of such imprisonment as a Court-martial may think fit to award.

5. What is your caste? 5.....
6. Have you ever been sentenced to imprisonment by the Civil Power? 6.....
7. Do you now belong to Her Majesty's Indian Forces, or to the Indian Reserve? If so, to what Corps? 7.....

Forms of Attestation

- *8. Have you ever served in
Her Majesty's Indian
Forces, or in the Indian
Reserve? If so, state
which and cause of dis-
charge. } 8
9. Have you ever been dis-
charged from any part of
Her Majesty's Indian
Forces by Court-martial? } 9
10. Have you truly stated the
whole, if any, of your pre-
vious Service? } 10
11. Are you willing to serve
upon the following condi-
tions in the..... } 11

(a) For general service, whether within the territories
under the Indian Government or beyond them.

In time of peace, after having served for three years, on
making application for your discharge through the Command-
ing Officer of your company (troop or battery), it will be
granted to you in two months from the date of application,
provided it does not cause the vacancies in the company
(troop or battery) to exceed ten, in which case you must re-
main until that objection be removed, or waived by com-
petent authority; but in time of war you have no claim to
a discharge, and you must remain and do your duty until the
necessity of retaining you in the service shall cease. In the
event of your re-enlisting you have no claim to reckon your
previous service to discharge.

If you have enlisted as a sepoy musician—trumpeter
—drummer—fifer—bugler—artificer or engine driver, or shall
hereafter elect to serve in any of the above classes, you shall

* If so, the Recruit is to be asked the particulars of his former Ser-
vice, and to produce, if possible, his Parchment Certificate of Dis-
charge and Certificate of Character, which should be returned to him
conspicuously endorsed in red ink as follows, *viz.*—(Name)
..... re-enlisted in the (Regiment)
..... on the (Date)

Forms of Attestation.

be liable to be held to serve for ten years unless by transfer to the ranks, or otherwise you become entitled to claim your discharge under the regulations.

(b) If you are enlisted for one battalion of a regiment of infantry or group of linked battalions, you are liable to serve in any other of the battalions which may at any time be linked with the battalion with which you are serving, and will be transferred thereto, if required, whenever the Government of India may consider it necessary to make preparations for active service.

(c) If you are enlisted for the artillery you will be liable to be posted or transferred to any battery within the group for which you may enlist as circumstances may require.

I,....., do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagements made.

Signature of Recruit.....

Signature of Witness.....

OATH TO BE TAKEN BY RECRUIT ON ATTESTATION.

I,.....do*..... that I will be faithful and bear true Allegiance to Her Majesty, Her Heirs, and Successors, and that I will, as in duty bound, honestly and faithfully serve in Her Majesty's Indian Forces and go wherever I may be ordered, by land or sea, and that I will observe and obey all commands of any officer set over me, even to the peril of my life.

Signature of Recruit.....

Signature of Witness.....

CERTIFICATE OF MAGISTRATE OR ATTESTING OFFICER.

The Recruit abovenamed was cautioned by me that if he made any false answer to any of the above questions he would be liable to be punished as provided in the Indian Articles of War.

* Solemnly affirm—(if a Sikh) swear.

Forms of Attestation.

The above questions were then read to the Recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and the said Recruit has made and signed the declaration and oath before me at.....on the..... day of.....189 .

Signature of the Magistrate or Attesting Officer.

L. A. F. 427.

ATTESTATION DOCUMENT OF SUB-HOSPITAL ASSISTANT.

*Attestation Document of Sub-Hospital Assistant.....
....., Subordinate Medical Department.*

I, ...
(name and caste in full)
son of.....
(name of father)
inhabitant of.....
(village, pergunnah and district)

.....do*.....that I engage to serve Her Majesty's Government for a period of seven years in the class of Hospital Assistant for employment in both the Military and Civil Departments; that I will be faithful to Her Majesty, Her Heirs, and Successors, and that I will go wherever I am ordered, by land or by sea, and will obey all commands of the officers set over me, even to the peril of my life; and I hereby further engage, if I voluntarily seek my discharge before the expiry of that period, to refund all and any money which I may have drawn from Government in the form of pay or allowance of any sort.

Two Witnesses' signatures.

STATION.....

Date.....189 . } *Signature of Sub-Hospital Assistant.*

* Solemnly affirm—(if a Sikh) swear.

Forms of Attestation.

Attested before me this day of
18.....

Signature of Attesting Officer.

L. A. F. 428.

ATTESTATION DOCUMENT OF A RECRUIT FOR THE ARMY
HOSPITAL CORPS.

*Attestation Document of..... a recruit
for the.....class of the Army Hospital Corps.*

I,....., son of.....
(name and caste in full) (name of father)
inhabitant of
(village, pergunnah and district)

do*.....
that I will serve in Her Majesty's Indian Forces as a Hos-
pital Attendant of the class, and
with troops or departments of either the British or the Indian
Army as directed, until I attain the age of fifty-five years, or
until I am lawfully released from the service.

I further* that I will be
faithful to Her Majesty, Her Heirs, and Successors, and that
I will go wherever I am ordered, by land or by sea, and will
obey all commands of the officers set over me, even to the
peril of my life.

Signature, seal, or mark of the recruit.

Signature or seals of two witnesses.

STATION.....
Date..... 189 ..

* Solemnly affirm--(if a Sikh) swear.

Forms of Attestation.

Attested before me this.....day of.....
one thousand, eight hundred and ninety.....

.....
Attesting Officer.

I. A. F. 429.

ATTESTATION DOCUMENT FOR MULETEERS OF MOUNTAIN
BATTERIES.

*Attestation document of.....a recruit
for the appointment of muleteer of Mountain Batteries.*

I, ..., son of.....
(name and caste in full) (name of father)
inhabitant of
(village, pergunnah, and district)

do*.....
that I will serve in Her Majesty's Indian Forces as a muleteer
of Mountain Batteries and with troops of either the British or
the Indian Army, as directed, until I attain the age of fifty-
five years, or until I am lawfully released from the service.

I further*... that I will be faithful
to Her Majesty, Her Heirs, and Successors, and that I will go
wherever I am ordered, by land or by sea, and will obey all
commands of the officers set over me, even to the peril of my
life.

.....
Signature, seal, or mark of the recruit.

.....
Signatures or seals of two witnesses.

STATION..... }
Date.....189 . }

Attested before me this... day of.....
one thousand, eight hundred and ninety.....

.....
Attesting Officer.

* Solemnly affirm--(if a Sikh) swear.

Forms of Attestation.

1. A. Form 430.

ATTESTATION DOCUMENT FOR { Fort Armament Lascars,
Store Lascars of Artillery.

*Attestation document of.....a recruit
for the appointment of†.....*

I,....., son of.....
(name and caste in full) (name of father)
inhabitant of.....
(Village, pargannah, and district)

do *.....
that I will serve in Her Majesty's Indian Forces as a†.....
.....
.....until I attain the age of fifty-five years,
or until I am lawfully released from the service.

I further*.....that I will be faithful
to Her Majesty, Her Heirs, and Successors, and that I will
go wherever I am ordered, by land or by sea, and will obey all
commands of the officers set over me, even to the peril of my
life.

.....
Signature, seal, or mark of the recruit.

.....
Signatures or seals of two witnesses.

STATION..... }
Date.....189 . }

Attested before me this day of
one thousand, eight hundred and ninety.....

.....
Attesting Officer.

* Solemnly affirm--(if a Sikh) swear.

† Here enter "Fort Armament Lascar" or "Store Lascar."

Forms of Attestation.

I. A. Form 431.

ATTESTATION DOCUMENT FOR LASOARS OF THE ORDNANCE
DEPARTMENT.

..... { ARSENAL.
..... { DEPOT.

*Attestation of (Name)
(Caste) entertained as a Lasoar in the Ordnance
Department on the 189 .*

*Questions by the Ordnance Officer and Answers given by the
Candidate.*

Q.—What is your name?

A.—.....

Q.—What is your village and country?

A.—.....

Q.—What are the names of your parents?

A.—.....

Q.—What is your age?

A.—.....

Q.—Have you ever before been in the service of Govern-
ment?

A.—.....

Q.—Are you willing to be attested to service in the Ord-
nance Department until legally discharged?

A.—.....

DECLARATION OF CANDIDATES.

I, ..., do solemnly and sincerely declare to
the best of my knowledge and belief that the answers to the
above questions are true.

*Signature of Candidate**Signature of Witness present*

Forms of Attestation.

AFFIRMATION OR OATH MADE BY CANDIDATE.

I, ..., do solemnly* that I will be faithful to Her Majesty the Queen, Her Heirs,^a and Successors; that I will serve in the Ordnance Department until legally discharged; that I will go wherever I am ordered, by land or sea, and will obey all commands of any officer set over me, even to the peril of my life.

Signature of Candidate

Signature of Witness present

Certificate of Magistrate or Attesting Officer.

The recruit abovenamed was cautioned by me that if he made any false answer to any of the above questions he would be liable to be punished as provided in the Indian Articles of War. The above questions were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and that the said recruit has made and signed the declaration and oath before me at on this day of 189

Signature of Magistrate or Attesting Officer.

N. B.—When oath is made by those professing the Christian Religion, instead of the affirmation, it shall commence—

I, ..., do swear that I will be faithful to Her Majesty, the Queen-Empress, 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. So help me God.

* Solemnly affirm—(If a Sikh) swear.

Forms of Attestation.

I. A. Form 432.

ATTESTATION DOCUMENT FOR LASCARS OF THE CORPS OF SUBMARINE MINING LASCARS.

*Attestation of.....Caste.....entertained as a
Lascar in the Corps of Submarine Mining Lascars on the
.....189 .*

Questions by the Officer in charge of Sub-marine Mining Defences and Answers given by the Candidate.

Q.—What is your name?

A.—.....

Q.—What is your village and country?

A.—.....

Q.—What are the names of your parents?

A.—.....

Q.—What is your age?

A.—.....

Q.—Have you ever before been in the service of Govern-
ment?

A.—.....

Q.—Are you willing to be attested to service in the
Corps of Sub-marine Mining Lascars until legally discharged?

A.—.....

DECLARATION OF CANDIDATE.

I, ..., do solemnly and sincerely declare to
the best of my knowledge and belief that the answers to the
above questions are true.

Signature of Candidate.....

Signature of Witness present

AFFIRMATION OR OATH MADE BY CANDIDATE.

I, ..., do solemnly affirm* that I will
be faithful to Her Majesty the Queen, Her Heirs, and Suc-

* Solemnly affirm—(if a Sikh) swear.

Forms of Attestation.

cessors; that I will serve in the Corps of Submarine Mining
Lascars until legally discharged; that I will go wherever I
am ordered, by land or sea, and will obey all commands of
any officer set over me, even to the peril of my life.

Signature of Candidate

Signature of Witness present

CERTIFICATE OF MAGISTRATE OR ATTESTING OFFICER.

The recruit abovenamed was cautioned by me that if he
made any false answer to any of the above questions he would
be liable to be punished as provided in the Indian Articles of
War. The above questions were then read to the recruit in
my presence.

I have taken care that he understands each question, and
that his answer to each question has been duly entered as
replied to, and that the said recruit has made and signed the
declaration and oath before me at on this
..... day of 189 . .

.....

Signature of Magistrate or Attesting Officer.

N.B.—When oath is made by those professing the Christian reli-
gion, instead of the affirmation, it shall commence—

I, ... do swear 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. So help me God.

Indian and English Evidence and Military Law.

APPENDIX V.

ARTICLES OF WAR.

ARMY ACT.

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| <p>1. Came into operation June 1st, 1869, and remain in operation until repealed. I. A. W., Part I (b).</p> | <p>Kept in force by Annual Army Act. Sec. 2, A.A.</p> |
| <p>2. Any attested person holding rank of N.-C. O. or below, who has been dismissed or discharged the service and subsequently re-enters without stating the fact of his dismissal, may be dismissed the service by C. O. of regiment with which he is serving. Art. 5.</p> | <p>No attested person can be dismissed the service by O. C. regiment, except in case of the Household Cavalry. Must be tried by C.M.</p> |
| <p>3. Any person convicted of an offence specified in Art. 7 and punishable with death, forfeits all property to Government. Arts. 24, 76.</p> | <p>No such forfeiture takes place under the Army Act. A prisoner cannot touch his property if under sentence of death. Administrator may be appointed to take charge of it. Manual, ch. 7, para. 17.</p> |
| <p>4. There are five different kinds of Courts-martial. Art. 72.</p> | <p>There are four different kinds of Courts-martial. Secs. 47, 48, 49, 55.</p> |

Indian and English Evidence and Military Law.

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| <p>5. A C. M. may sentence to transportation, corporal punishment, degradation, and suspension from rank, pay and allowances for a stated period.</p> | <p>A C. M. cannot sentence to any of these punishments, sec. 14, except Warrant Officer, sec. 182. By sec. 133, a prisoner in a Military Prison may be sentenced to 25 lashes.</p> |
| <p>6. No person subject to these Articles shall be tried for any military offence after three years from date of offence, unless by reason of absence or of some manifest impediment, he could not be arrested within that period; in which case he is liable to trial within two years after the impediment has ceased. Art. 98.</p> | <p>The Army Act says nothing about any impediment. Sec. 161.</p> |
| <p>7. In every C. M., the Senior Officer sits as President, without any special appointment. Should he die or be unavoidably absent the next senior takes his place, and trial can proceed unless Court thereby reduced below the legal minimum. Art. 88.</p> | <p>The President is appointed by name. In his unavoidable absence, the Court must adjourn until a new President is appointed. Sec. 53 (2), R. P. 17 (D), and note.</p> |
| <p>8. Trials by C. M. may be carried out at any hour. Convening Officer fixes original assembly of Court. Art. 106.</p> | <p>C. M. sits between 6 A.M. and 6 P.M., but not on Sunday, Christmas Day or Good Friday. R. P. 63 and Q. R. VI, 102.</p> |

Indian and English Evidence and Military Law.

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| <p>9. When more trials than one are held by the same Court, the Court must be re-sworn each time. Art. 113.</p> | <p>A Court may be sworn to try any number of prisoners then before it. R. P. 70.</p> |
| <p>10. An absence of sixty days is presumptive evidence of desertion on any trial for desertion. Art. 178.</p> | <p>The essence of the crime of desertion is intention not to return. This must be clearly proved. Manual, ch. III, para. 13, sec. 72.</p> |
| <p>11. Proceedings of all Courts martial are signed by President and all the Members <i>vide</i> Form of Proceedings and Art. 93.</p> | <p>The President only signs and dates the proceedings of a C.M. R.P.49.</p> |
| <p>12. A prisoner may be sentenced to forfeiture of arrears of pay. Art. 137.</p> | <p>He cannot be so sentenced under the Army Act, but can be sentenced to forfeiture of deferred pay. Sec. 44, A.A.</p> |
| <p>13. Persons subject to these rules who have been acquitted or convicted by a C. M. or Court of Criminal Justice, cannot be again tried for the same offence by any Court whatsoever. But may be dismissed the service. Art. 180.</p> | <p>A man previously convicted by a C. M. or Civil Power or punished by C. O. cannot be tried again by C. M. for the same offence. But a man convicted by a C. M. may be tried again by a Civil Court. Secs. 46 and 162.</p> |
| <p>14. No decision of Ordinary C. M. shall be carried into effect until confirmed. Arts, 89, 92, 96.</p> | <p>The finding of not guilty is proclaimed in open Court. R. P. 44.</p> |

Indian and English Evidence and Military Law.

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| <p>15. A C. M. can, on revision, change the finding, take fresh evidence, and increase the sentence. Art. 120.</p> | <p>Under A. A. sentence cannot be increased, nor finding of acquittal reserved. A. A., sec. 51 (2).</p> |
| <p>16. Contempt of Court by a civil witness will be sent, under signature of the President, to the Court of a Magistrate who will deal with case as though committed in a Criminal Court. Art. 123.</p> | <p>A. A., sec. 180, empowers a C. M. to take similar proceedings against a person guilty of contempt as might be taken by any Civil Court in that part of India.</p> |
| <p>17. A Regimental Entry does not carry with it forfeiture of a G. C. B. This forfeiture is awarded as a separate punishment by C. O., and need not be accompanied by other punishment. Only one rate can be deducted for each offence.</p> | <p>A Regimental Entry which entails forfeiture of pay (e. g., imprisonment) deprives a man of a G. C. B., and C. O. can deprive of more than one badge for any offence. The award must be accompanied by R. E.</p> |
| <p>18. Conviction by C. M. carries with it, <i>ipso facto</i>, loss of all G. O. P. except N. O. O. reduced to ranks who forfeits one badge for one year from total due as private.</p> | <p>Conviction entails loss of one rate of G. O. P. only. Sentence of six months' imprisonment or forfeiture of service towards engagement, entail loss of all G. C. B.</p> |
| <p>19. No such provision. Art. 8.</p> | <p>Distinguishes between violence to a superior <i>when in execution of his office</i> and <i>not</i>. A. A., sec. 8.</p> |

Indian and English Evidence and Military Law.

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| <p>20. "Drunkenness" can only be tried as such when committed on duty. Otherwise, an officer under Art. 25, a sepoy under Art. 70.</p> | <p>Both officers and men are tried, if at all, for "drunkenness" under sec. 19.</p> |
| <p>21. No distinction; always liable to be punished with death. Arts. 10, 24.</p> | <p>Desertion on <i>active</i> service more serious than in peace. A. A., sec. 12.</p> |
| <p>22. Not so defined, but the crime is charged under Art. 14 or 5.</p> | <p>Fraudulent enlistment is recognised as a distinct crime. A. A., sec. 13.</p> |
| <p>23. President or Member being objected to by prisoner may reply and <i>then shall retire</i>. Their cases are decided by a majority of votes of remaining members. If two or more are objected to, the case of junior is disposed of first.</p> | <p>They <i>need not withdraw</i>, but they may not vote. One-third the votes disqualify a President and half the votes a Member. R. P. 25.</p> |
| <p>24. A President disqualified may be replaced by senior approved Member. Art. 107.</p> | <p>The Court must adjourn. R. P. 18.</p> |
| <p>25. The written reply of a Civil or Military Officer in service of Government duly signed by him, to a Court trying a man for desertion, may be received as evidence on oath. Art. 162.</p> | <p>No such provision.</p> |
| <p>26. President has no casting vote in finding or sentence. Art. 118.</p> | <p>President has casting vote in the sentence, A. A., sec. 53 (8).</p> |

Indian and English Evidence and Military Law.

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| <p>27. Evidence to Character may be either oral or documentary. Art. 117.</p> | <p>Must be the documentary record of the prisoner's previous military career R. P. 46.</p> |
| <p>28. Only Convening Officer and Judge-Advocate may summon civil witnesses. Art. 122.</p> | <p>The Convening Officer, Judge-Advocate, President, and, under certain circumstances, prisoner's, Commanding Officer can summon them. R. P. 78.</p> |
| <p>29. When a sentence of transportation or imprisonment is passed on an offender already under sentence for a limited term, the Court may award the fresh term to commence at expiration of current sentence, although the aggregate may exceed the limit awardable by such Court. Art. 140.</p> | <p>No such provision. A. A. 68.</p> |
| <p>30. Sentences are in years, calendar months and days.</p> | <p>Under six months in days; one and two years in years, and any other sentence in calendar months and days. Q. Reg. VI, 107.</p> |
| <p>31. Prisoners sentenced to over three months' imprisonment with hard labour are confined in Civil Jail and, <i>ipso facto</i>, discharged. Arts. 151, 155.</p> | <p>No such proviso. Prisoners are confined in a Military Prison.</p> |

Indian and English Evidence and Military Law.

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| <p>32. Prisoner of war shall on rejoining have his case enquired into by C. M. Art. 163.</p> | <p>Court of Enquiry is sufficient. Q. R. VI, 136.</p> |
| <p>33. Minor punishments, including summary awards affecting pay, may be prescribed by the Commander-in-Chief in India. Art. 165.</p> | <p>Sec. 46, A. A., details the summary punishments awardable by Commanding Officer. Other minor punishments detailed in the Q. R. do not affect pay. Q. R. VI, 47.</p> |
| <p>34. Corporal punishment may be administered by Provost-Marshal up to C. M. sentence. Art. 169.</p> | <p>No powers of punishment. A. A., 74.</p> |
| <p>35. A man may be tried for making a frivolous complaint. Art. 167.</p> | <p>No such authority.</p> |
| <p>36. Persons subject to Military Law who commit a civil offence in British India will ordinarily be handed over to the nearest Magistrate; if the offence is against a person <i>subject to military law</i> and one of those included in secs. 223 to 335, Penal Code, it can be tried by C. M. and punished as assigned in that Code.</p> | <p>Nearly all civil offences can be tried under sec. 41 of the A. A., but ordinarily if the offence be against a person in no way connected with troops it would be handed over to the Civil Power.</p> |

Indian and English Evidence and Military Law.

37. One-half of all public monies due to an officer or soldier may be deducted for a period of one year. Arts. 138, 139.

Deductions can only be made from *ordinary pay*, and there is no time limit, but a soldier must receive at least 1*l.* a day clear. A. A., sec. 138 (a).

INDIAN EVIDENCE ACT.

MANUAL MILITARY LAW, 1894.
CHAP. VI.

(1) Evidence is defined as "all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under enquiry." This allows of the Court admitting *hearsay* evidence and makes no distinction between direct and indirect evidence.

Paras. 41, 42, 46.—Draw a distinction between direct and indirect evidence and exclude "*Hearsay*."

(2.) It is only necessary for a man to believe himself to be seriously ill and in danger of death.

Para. 49.—Dying declarations are only admissible when made by persons who have *no hope* of recovery.

(3.) *Sec. 30.*—When persons are jointly arraigned, and a confession made by one prisoner affecting himself and some other prisoner is proved, the Court may consider such confession, both against the one who makes it and the other implicated.

Para. 84.—The evidence of persons jointly tried is not allowed to be used against each other.

 Indian and English Evidence and Military Law.

(4.) *Sec. 118.*—All persons are competent witnesses except those who cannot understand.

Para. 82.—All are competent except the person charged.

(5.) *Sec. 120.*—The husband or wife of any person against whom criminal proceedings are being taken is a competent witness.

Para. 84.—Husband and wife are, subject to three exceptions, not competent witnesses for or against each other.

Example.—A man is violently assaulted and robbed, and subsequently dies. Whilst in fear of death he makes a statement. Such statement in English law could only be received as evidence regarding the murder resulting from the assault, and that, provided the man at the time of making the declaration believed there was no hope of recovery. Under Indian Law his statement could be received both as regards the murder and also concerning the robbery.

Form of Proceedings of a Court-Martial.

APPENDIX VI.

Form of Proceedings of a Court-Martial other than a Summary Court-Martial held under the Indian Articles of War.

Proceedings of a Court-Martial held at.....on the.....day of.....18... [composed of European officers under the provisions of the 86th Indian Article of War], convened by order of..., commanding dated the.....day of.....18.....

PRESIDENT.

Rank.	Name.	Regiment.
.....		

MEMBERS.

.....		
.....		
.....		
.....		

JUDGE-ADVOCATE,

[or Superintending Officer].

.....

INTERPRETER.

At.....o'clock A.M. [or P.M.] the Court assembles.
Trial of....., who is brought a prisoner before the Court.

The Interpreter is duly sworn [or affirmed].

Form of Proceedings of a Court-Martial.

The orders convening and forming the Court are read, and.....[or copies thereof] are marked signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings.

.....appears as prosecutor, and takes his place in Court.

The names of the officers composing the Court are read over in the hearing of the prisoner, and they severally answer to their names.

Q.—Do you object to be tried by any of the officers whose names you have heard read over?

A.

VARIAION 1.

Challenging Officers.

A.—I object to.....

Q.—Do you object to any other officer?

(*This question to be repeated until all objections are ascertained.*)

A.

Q.—What is your objection to.....?

A.

The prisoner in support of his objection to..... requests permission to call.....

.....is called into Court, and questioned by the prisoner.

Q.

A.

....., the officer challenged, makes the following reply and withdraws.

The Court is closed to consider the objection.

Decision.—The Court disallows the objection.

The Court is re-opened, and the above decision is made known to the prisoner.

.....resumes his seat in Court, and the trial is proceeded with.

Decision.—The Court allows the objection and retires.

Question
by Pre-
sident
[or Judge-
Advocate,
or Superin-
tending
Officer] to
prisoner.

Form of Proceedings of a Court-Martial.

(If there is no waiting member to take the place of the officer who retires, the Court must adjourn.)

The Court adjourn for the purpose of a fresh officer being appointed.

Fresh Officer,....., takes his place as an officer of the Court.

(The option of challenge as above, must be allowed the prisoner in respect of each fresh officer.)

Re-assembly, On the.....day of.....18..., the Court re-assemble, and the order appointing.....to serve on the Court is read, marked.....and attached to the proceedings.

(The above procedure in respect of challenge must now be proceeded with as regards the fresh officer.)

Final composition of Court. The Court, after the foregoing proceedings, is constituted as follows:—

PRESIDENT.

Rank.	Name.	Regiment.
.....		

MEMBERS.

.....		
.....		
.....		
.....		

The President and Members are duly sworn [or affirmed].

The Judge-Advocate [or Superintending Officer] is duly sworn.

[Instruction (1).—All witnesses are now to leave the Court.]

CHARGE-SHEET.

Charge. The charge-sheet is laid before the Court, read, marked....., signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings.

Form of Proceedings of a Court-Martial.

The prisoner is arraigned upon each charge in the above-mentioned charge-sheet. Arraign-
ment,

Q.—Are you guilty or not guilty of the [first] charge against you, which you have heard read? Question to
prisoner.

A.

[Instruction (2).—Where there is more than one charge, the foregoing question will be asked after each charge is read, the number of the charge being stated.]

As the prisoner does not plead intelligibly [or refuses to plead, or does not plead guilty], the Court enter a plea of "not guilty." Refusal to
plead.

[Instruction (3).—A plea of "guilty" does not remove the necessity of evidence being adduced by the prosecutor sufficient to explain clearly the facts of the offence charged.]

[If the prosecutor makes an address.] The prosecutor reads the following address, which is marked, signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings. Prosecu-
tion.

The prosecutor proceeds to call witnesses.

..... being duly sworn [or affirmed] is examined by the prosecutor.

..... First wit-
ness for
prosecu-
tion.

Cross-examined by Prisoner.

.....

Re-examined by Prosecutor.

.....

.....

Examined by Judge-Advocate [or Superintending Officer.]

.....

.....

Examined by Court.

.....

.....

This evidence is read over to witness.

Witness withdraws.

Form of Proceedings of a Court-Martial.

VARIATION 2.

The prisoner declines to cross-examine this witness.

The Court, at the request of the prisoner, allow the cross-examination of this witness to be postponed.

The prisoner [or the prosecutor] objects to the question just put.

*Q. (by Court).—*State your objection.

A

The prosecutor [or prisoner] in reply states.....

The Judge-Advocate [or Superintending Officer] gives his opinion on the point of law involved, as follows:—

The Court is closed to consider their decision.

The Court is re-opened, and the decision is announced as follows:—

The witness, on his evidence being read over to him, makes the following explanation [or alteration].

Examined by the prosecutor [prisoner, Court, Judge-Advocate, or Superintending Officer] as to the above explanation [or alteration].

The prosecutor and prisoner respectively decline to examine the witness as to his explanation [or alteration].

Adjourn-
ment.

At.....o'clock P.M. [or A.M.] the Court adjourn until o'clock A.M. [or P.M.] on the.....day of..... 18.....

Second
day,
re-assembly.

At.....o'clock A.M. [or P.M.] on the.....day of..... 18....., the Court, composed of the same members as before, re-assemble pursuant to adjournment, and the Judge-Advocate [or Superintending Officer], prosecutor, and prisoner being present in Court, the trial is proceeded with.

VARIATION 3.

Re-assembly and adjournment. — At.....o'clock A.M. [or P.M.] on the..... day of..... 18....., the Court re-assemble pursuant to adjournment, and being absent, report the case to the Convening Officer, and adjourn until further orders [or the num-

Form of Proceedings of a Court-Martial.

ber of officers composing the Court being not less than the legal minimum, the trial is proceeded with].

Re-assembly and new Officer.—At.....o'clock A.M. [or P.M.] on the.... day of.....18....., the Court re-assemble pursuant to orders, and the orders for re-assembly and appointing.....in the place of..... are read, marked....., signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings. The Court being complete, and the Judge-Advocate [or Superintending Officer], prosecutor and prisoner being present in Court, the trial is proceeded with.

[To be conducted in the same way as in the case of the first witness.]

The examination of witnesses for the prosecution is closed.

Q. (to prisoner).—Do you intend to call witnesses other than as to character, in your defence?

A. No.

The prosecutor addresses the Court upon the evidence for the prosecution as follows: [or hands in an address which is read, translated, marked....., signed by the President (Judge-Advocate, or Superintending Officer), and attached to the proceedings.]

The prosecution is closed.

DEFENCE.

The prisoner being placed upon his defence calls the following witnesses to character:—

.....being duly sworn [or affirmed] is examined by the prisoner.

.....

.....

Cross-examined by Prosecutor.

.....

.....

Re-examined by Prisoner.

.....

.....

Second witness for prosecution. Close of examination of witnesses for prosecution.

Close of prosecution.

Defence. First witness to character.

Form of Proceedings of a Court-Martial.

Examined by Court.

.....

 His evidence is read over to witness.

[See Variation 2.]

Witness withdraws. a

VARIATION 4.

The Prosecutor declines to cross-examine this witness.

The prisoner hands in original testimonials and copies thereof. The copies are compared with the originals, marked....., signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings. The originals are returned to the prisoner.

Q. (to the prisoner).—Have you anything to say in your defence?

A.....

The prisoner in his defence says :—
 [or hands in a written address], which is read, translated, marked....., signed by the President (Judge-Advocate, or Superintending Officer), and attached to the proceedings.

The defence is closed.

Closes of
 defence.

[Instruction (4).—If the prisoner calls witnesses who are not as to character only, the following is to be the procedure.]

First witness for
 defence.

..... being duly sworn [or affirmed] is examined by the prisoner :—

.....

Cross-examined by Prosecutor.

.....

Form of Proceedings of a Court-Martial.

Re-examined by Prisoner.

.....

*Examined by Judge-Advocate [or Superintending
 Officer].*

.....

Examined by Court.

.....

His evidence is read to witness.

[See Variation 2.]

The witness withdraws.

•
 VARIATION 5.

The prosecutor declines to cross-examine this witness.

The prosecutor by leave of the Court calls witnesses in reply.

1st Witness in reply, ..., being duly sworn [or affirmed], is examined by the prosecutor.

.....

[Instruction (5).—Examination, cross-examination, and re-examination is to be conducted in the same manner as in the case of a witness for the prosecution.]

The prisoner makes the following address: [or ^{Closure of} hands in a written address], which is read (trans-^{defence.}lated), marked... .., signed by the President (Judge-Advocate, or Superintending Officer), and attached to the proceedings.

The prosecutor makes the following reply: [or hands in a written reply], which is read, marked, signed by the President (or Judge-Advocate, or Superintending Officer), and attached to the proceedings.

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VARIATION 6.

The prosecutor declines to make a reply.

Summing-up by Judge-Advocate [or Superintending Officer]. The Judge-Advocate [or Superintending Officer] reads his summing-up, which is orally translated, marked,....., and attached to the proceedings.

VARIATION 7.

The Court on the representation of the Judge-Advocate [or Superintending Officer] dispense with a summing-up.

The Court is closed to consider their finding.

VARIATION 8.

The Court is re-opened, and....., the.....witness for the....., is recalled, and examined by the Court of his former oath [or affirmation].

[Instruction (6).—The Court may permit the prisoner or prosecutor to cross-examine on the evidence now elicited.]

His evidence is read over to the witness.

[See Variation 2.]

The witness withdraws.

The Court is closed to consider their finding.

Finding.

FINDING.

Full acquittal.

(a) The Court find that the prisoner.....is not guilty of the charge [or charges].

Partial acquittal.

(b).....is not guilty of the.....charge [or charges], and is guilty of the.....charge [or charges].

Special finding.

(c).....is guilty of the charge with the exception of the words [or with the exception that.....].

Special finding.

(d).....is not guilty of desertion, but is guilty of absence without leave from the.....to....., being a period of days.

Insanity.

.....did the act [or acts, or said the words] as stated in the charge, but was at the

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time insane and not responsible for his actions [or words].

PROCEEDINGS AFTER CONVICTION.

The Court being re-opened, the prisoner is again brought before it..... is duly sworn [or affirmed].

Q.—What record have you to produce in proof of former convictions against the prisoner?

A.—I produce a statement certified under the hand of the officer having custody of the regimental [or departmental] records.

The statement is read, orally translated, marked..., signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings.

[or A.—There are no previous convictions]

Q.—Is the prisoner under any Court-martial sentence at the present time?

A.—.....

Q.—What is the prisoner's general character?

A.—.....

Q.—What is the prisoner's age, and date of admission into the service?

A.—.....

Q.—How long has the prisoner been in arrest [or confinement] for the conduct which has led up to his present trial?

Cross-examined by Prisoner.

[or The prisoner declines to cross-examine this witness.]

Examined by the Court.

His evidence is read over to the witness.

[See Variation 2.]

The witness withdraws.

The Court is closed to consider their sentence.

Court closed.

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Sentence.	SENTENCE.
	The Court sentence the prisoner.....
Death.	(a) to suffer death by being hanged by the neck until he be dead [or to suffer death by being shot to death];
Transportation for years.	(b) to suffer transportation for the term of.....years [or for life];
Imprisonment, hard labour, for months and solitary confinement.	(c) to be imprisoned with [or without] hard labour for.....years [months or days];
	(d) to be imprisoned for.....months [or days]..... days of the said imprisonment to be with solitary confinement, such solitary confinement not to exceed 14 days at a time. With intervals between the periods of solitary confinement of not less duration than such periods [the remainder of the said imprisonment to be with hard labour];
Dismissal.	(e) to be dismissed from the service;
Suspension (for officers, native doctors and warrant officers only).	(f) to be suspended from rank, pay and allowances, for a period of.....
Degradation (for native doctors and warrant officers only).	(g) to be degraded to the grade.....[or class] in his department;
Loss of standing (for officers, native doctors, warrant officers and non-commissioned officers).	(h) to be placed.....steps lower in the list of his rank;

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- (i) to be reduced to the ranks ; Reduction.
 (j) to suffer a corporal punishment of.....lashes ;
 (k) and in addition to forfeit all advantage as to his additional pay, and claim to pension on his discharge, in respect of past [and future] service ;
 (l) and in addition to forfeit all arrears of pay and allowances [or public money] due to him at the time of his dismissal ;
 (m) and in addition to forfeit out of the arrears of pay and allowances [or public money] due to him at the time of his dismissal, the sum of to make good..... ;
 (n) and in addition to be put under stoppages of pay, to the extent specified in Indian Article of War 139, until he shall have made good the sum of

Signed at.....this.....day of.....18.....
Interpreter, ...President,
Judge-Advocate { [or Superintending Officer.] } Members,

REVISION.

At.....on the.....day of.....18....., at..... Re-assembly.
 o'clock A.M. [or P.M.] the Court, composed of the same members, all being present, re-assembles by order of for the purpose of reconsidering its

The Judge-Advocate [or Superintending Officer] and Interpreter are present,

VARIATION 9.

.....being absent, a letter of explanation [or medical certificate] accounting for his absence is read, marked....., signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings

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The Court being composed of the legal minimum proceeds with revision.

[or The Court being now below the legal minimum reports to the Convening Officer and adjourns *sine die*.]

The order directing the re-assembly of the Court, and the letter [or memorandum] giving the reasons of the confirming officer for requiring a revision of the.....are read, marked, signed by the President [Judge-Advocate, or Superintending Officer], and attached to the proceedings.

The Court, having attentively considered the observations of the convening authority, respectfully adhere to their.....

(a) do now revoke their finding and sentence, and now find that the prisoner.....is.....

The Court now sentence the prisoner.....to.....

(b) do now revoke their sentence, and now sentence the prisoner.....to.....

Signed at.....this.....day of.....18.....

.....Interpreter. President.

.....Judge-Ad- { [or Superintend- }
vocate { ing Officer.] } Members.

RECOMMENDATION TO MERCY.

Recom-
mendation
to mercy.

[Instruction (7).—A recommendation to mercy, if voted by a majority, should follow the signatures to the sentence, and be signed by the President and Judge-Advocate [or Superintending Officer].

The Court by a majority.....[or unanimously] recommend the prisoner to mercy on the ground that.....

.....Judge-Ad- { [or Superintend- }
vocate { ing Officer.] } President.

CONFIRMATION.

Confirma-
tion.

(a) Confirmed. [I mitigate, remit, or commute the.....to.....]

(b) Not confirmed.

Form of Proceedings of a Court-Martial.

- (c) I confirm the finding ; the sentence is not confirmed.
- (d) I confirm the finding on the.....charge only, and I confirm the sentence.
- (e) I confirm the finding with the exception ; and the sentence is also confirmed as to.....
[or except as to.....or limiting.....].
- Signed at.....this.....day of.....18

.....
Major-General,
Commanding the.....Division.

•SUBSIDIARY ORDERS.

Subsidiary
orders.

- (a) The prisoner is to be released from arrest [or confinement], and to return to his duty [as].
- (b) The execution will be carried out in accordance with the instructions which will be communicated by the Adjutant-General (in India) to the [General] Officer Commanding at.....
- (c) The prisoner is to be struck off the strength of his regiment [or department] from the..... day of.....18.....[or this date], and is to be delivered over with the prescribed warrant of commitment to the officer in charge of the nearest jail.
- (d) The name of the prisoner is to be struck off the returns of his regiment [or department] from the date on which this order is communicated to him [or this date], and report of the same to be made to the Adjutant-General (in India).
- (e) The suspension will take effect from this date [or from the.....day of.....18.....]
- (f) The prisoner's name will be transferred to the top of the list of, and his rank [or class] therein will bear date the.....

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- (g) The prisoner's name will be transposed in the list of his rank and will stand next below that of.....
- (h) The punishment will be carried out in the presence of a medical officer [and regiment], and will be inflicted with the regulation cut on the bare back.
- (i) The prisoner having been sentenced to..... for disgraceful conduct, is dismissed the service with ignominy from this date [or from the... .. day of.....18.....]; [and will be made over with the prescribed warrant of commitment to the officer in charge of the nearest jail].

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