

THE INDIAN ARTICLES OF WAR AMENDMENT ACT, 1894.

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THE SCHEDULE.

ACT NO. XII OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 12th October, 1894.)

An Act to amend the Articles of War for the Government of Her Majesty's Indian Forces.

WHEREAS it is expedient to amend the Articles of War for the Government of Her Majesty's Indian Forces; It is hereby enacted as follows:

1. (1) This Act may be called the Indian Articles of War Amendment Act, 1894; and

Title and
commence-
ment.

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

V of 1869.

2. Part I, clause (c), of the Indian Articles of War (hereinafter called "the said Articles"), is hereby repealed.

Repeal of
clause (c) of
Part I of
Indian Arti-
cles of War.

3. For Part I, clause (d), of the said Articles the following shall be substituted, namely:

Substitution
of new clause
for clause (d)
of Part I.

"(d).—*Application of Articles.*

"These Articles shall apply to all—

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

(Section 4.)

(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:

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."

44 & 45
Vict., c. 1

Substitution
of new clause
for clause
(e) of Part I.

4. For Part I, clause (e), of the said Articles the following shall be substituted, namely:

"(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:

(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

(Section 4.)

(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 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

(Section 4.)

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:

(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

(Sections 5-6.)

XLV of
1860.

(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."

5. For Part I, clause (f), of the said Articles the following shall be substituted, namely:

Substitution
of new clause
for clause (f)
of Part I.

"(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."

6. For Part II, Title I, of the said Articles the following shall be substituted, namely:

Substitution
of new title
for Title I of
Part II.

"TITLE I.—ENROLMENT, ATTESTATION, DISMISSAL
AND DISCHARGE.

"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.

Enrolment
and attest-
ation.

(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 en-
rolment.

(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

Mode of
attestation.

questions,

(Section 6.)

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 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.

Treatment of enrolment and attestation as of same effect in certain cases.

(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.

Rank and subordination.

"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, 44 & 45 V o. 58.

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

(3) Any

(Section 6.)

(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.

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

Dismissal
and discharge
of commis-
sioned officers.

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

"Article 4.—(1) Every person subject to these Articles,

Dismissal
and discharge
of other per-
sons.

(Section 6.)

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.

Attested person dismissed or discharged and re-enlisting or making false answer at his attestation.

“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 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 discharged.

“Article 6.—Every attested person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English

(Sections 7-11.)

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."

7. In article 7, sentence I, of the said Articles, the words "in any regiment, corps, detachment or guard" are hereby repealed. Repeal of portion of article 7.

8. For the third sentence of the last-mentioned article the following shall be substituted, namely : Substitution of new sentence for third sentence of same article.

"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."

9. In article 8 of the said Articles, for the words "under any circumstances in which the superior officer is distinguishable as such in any manner" the words "knowing or having reason to believe him to be such" shall be substituted. Amendment of article 8.

10. For articles 10 and 11 of the said Articles the following shall be substituted, namely : Substitution of new articles for articles 10 and 11.

"Desertion.

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

"Re-enlistment without having been discharged.

"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 "

11. For the last paragraph of article 24 of the said Articles the following shall be substituted, namely : Amendment of article 24.

"Whenever any person is convicted of an offence specified in article 7 and punishable with death under this

this article, all his property, moveable and immoveable, shall be forfeited to the Government."

Substitution
of new
articles for
articles 25
and 26.

12. For articles 25 and 26 of the said Articles the following shall be substituted, namely:

"Unbecoming behaviour."

"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—

"Intoxication on duty."

"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"

Substitution
of new
article for
article 31.

13. For article 31 of the said Articles the following shall be substituted, namely:

"Failure to rejoin."

"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"

Substitution
of new
article for
article 39.

14. For article 39 of the said Articles the following shall be substituted, namely:

"Impeding Provost-marshal."

"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"

Amendment
of article 40.

15. In article 40 of the said Articles the words
"enrolled

(Sections 16-17.)

"enrolled or" shall be inserted between the word "person" and the word "attested."

16. For article 47 of the said Articles the following shall be substituted, namely :

Substitution
of new article
for article 47.

" Making away with regimental necessities.

" 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 necessities, 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 "

17. For article 57 of the said Articles the following shall be substituted, namely :

Substitution
of new
article for
article 57.

" 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

any or all of the penalties which such court is competent to inflict."

Amendment of article 65. 18. In article 65 of the said Articles the word "other" shall be omitted.

Substitution of new article for article 66. 19. For article 66 of the said Articles the following shall be substituted, namely:

"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."

Amendment of article 69. 20. In article 69 of the said Articles, for the words "such punishments as" to the end, the words "any or all of the punishments, other than death or transportation, which the court-martial is competent to award" shall be substituted.

Substitution of new article for article 71. 21. For article 71 of the said Articles the following shall be substituted, namely:

"Abetment."

*"Article 71.—*Every person who abets, within 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."

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Substitution of new article for article 72. Courts-martial and the kinds thereof. 22. For article 72 of the said Articles the following shall be substituted, namely:

*"Article 72.—*For the purposes of these Articles, 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. | |

23. For

23. For articles 73 and 74 of the said Articles the following shall be substituted, namely:

Substitution
of new arti-
cles for
articles 73
and 74.

" Ordinary Courts-martial.

" Article 73.—(1) The following authorities shall have power to convcee general or district courts-martial, namely :

Power to
convene
ordinary
courts-mar-
tial.

(a) the Commander-in-Chief in India,

(b) the general officer of the Command,

(c) any officer empowered in that behalf by war-
rant 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, reserva-
tions, exceptions and conditions as the Commander-
in-Chief in India or the general officer of the Com-
mand 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 design-
ation 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.

*" 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."

Composition
of general
courts-mar-
tial.

24. Articles 75, 77, 78 and 79 of the said Articles are hereby repealed.

Repeal of
articles 75,
77, 78 and
79.

25. In article 76 of the said Articles, for the words "reduction to the ranks" the words "re-
duction

Amendment
of article 76.

duction to a lower grade or to the ranks" shall be substituted.

Substitution
of new arti-
cles for arti-
cles 80 and
81.

Composition
of district
court-martial.

26. For articles 80 and 81 of the said Articles the following shall be substituted, namely :

" *Article 80.*—A district court-martial shall consist of not less than five 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 three officers.

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

Amendment
of article 82.

27. In article 82 of the said Articles the words "or garrison" and the words "other than mutiny" shall be omitted.

Further
amendment
of same arti-
cle.

28. In the last-mentioned article, for the words "one year" the words "two years" and for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be respectively substituted.

Insertion of
new article
after article
82.

29. After article 82 of the said Articles the following article shall be inserted, namely :

Convening
order to state
if larger
number of
officers 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."

Substitution
of new arti-
cles for arti-
cles 83, 84
and 85.

30. For articles 83, 84 and 85 of the said Articles the following shall be substituted, namely :

Appointment
of regimental
court-martial.

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

(Section 31.)

department or detachment thereof or by any 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."

31. For articles 86 to 89 (both inclusive) of the said Articles the following shall be substituted, namely :

Substitution of new articles for articles 86 to 89. Native and British officers when to be nominated.

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

(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 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

(Section 31.)

(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 superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate.

President.

“Article 88.—(1) At every court-martial the 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

(Section 31.)

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.

Finding and sentence invalid without confirmation.

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

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

- (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 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 73, 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.

"Article

(Section 32.)

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."

Substitution of new articles for articles 90 to 97.

32. For articles 90 to 97 (both inclusive) of the said Articles the following shall be substituted, namely :

"Extraordinary Courts-martial.

Convening of summary 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;
- (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.

Composition of summary general courts-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.

(2) Such

(Section 32.)

(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-martial.

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

Convening and constitution of, and persons triable by, a summary court-martial.

(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 ;

(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

(Section 32.)

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 tri-
able by a
summary
court-mar-
tial.

"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.

Powers of a
summary
court-mar-
tial.

"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.

(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.

Finding and
sentence of a
summary
court-mar-
tial.

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

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

(Sections 33-35.)

"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."

Transmission of proceedings of summary courts-martial.

33. For Article 100 of the said Articles the following shall be substituted, namely:

Substitution of new article for article 100.

"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.

Arrest or confinement of accused.

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

34. Article 101 of the said Articles is hereby repealed.

Repeal of article 101.

35. For article 102 of the said Articles the following shall be substituted, namely:

Substitution of new article for article 102.

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

Interpreter.

(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

(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.

(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."

Substitution
of new
articles for
article 103.

36. For article 103 of the said Articles the following shall be substituted, namely :

Dissolution
of courts.

" *Article 103.*—(1) When a court-martial after the commencement of the trial is reduced below 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.

Power to
clear court.

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

Power to
view place.

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

Amendment
of article
104.

37. In article 104 of the said Articles the words "general court martial appointed under an Order in Council, or of any other" and the words and figures "under article 96 or 97" shall be omitted.

Amendment
of article
107.

38. In Article 107 of the said Articles, for the words "courts-martial, other than courts-martial appointed under an Order in Council, or summary" the word "ordinary" shall be substituted.

39. After

39. After article 108 of the said Articles the following article shall be inserted, namely :

Insertion of new article after article 108.

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

Affirmation or oath of interpreter.

40. Article 114 of the said Articles is hereby repealed.

Repeal of article 114

41. For article 116 of the said Articles the following shall be substituted, namely :

Substitution of new article for article 116.

"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.

Conviction of one offence permissible on charge of another.

(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."

42. For article 117 of the said Articles the following shall be substituted, namely :

Substitution of new article for article 117.

"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,

Evidence of previous convictions and general character.

and

(Section 43.)

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.

(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 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 evi-
dence.

"Article 117A.—Subject to the provisions of the last foregoing article, the Indian Evidence Act, 1872, I of 18 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."

Substitution
of new
articles for
articles 119
and 120.

43. For articles 119 and 120 of the said Articles the following shall be substituted, namely :

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

(Section 44.)

sion was passed, unless any of those officers shall be unavoidably absent.

(3) 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."

44. For articles 122 to 124 (both inclusive) of the said Articles the following shall be substituted, namely:

Substitution of new articles for articles 122 to 124.

"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.

Summoning witnesses and production of documents.

(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.

I of 1872.

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

(Section 44.)

(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.

Contempts 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.

Privileges of
persons
attending
courts-
martial.

“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.

(2) If any such person is arrested under any such process,

process, he may be discharged by order of the court-martial."

45. Articles 125 to 129 (both inclusive) of the said Articles are hereby repealed.

Repeal of articles 125 to 129.

46. In article 130, clause (d), sentence 1, of the said Articles, for the words "one year" the words "two years" shall be substituted.

Amendment of article 130.

47. For article 131 of the said Articles the following shall be substituted, namely :

Substitution of new article for article 131.

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

Dismissal.

48. In article 132 of the said Articles, after the word "reduced" the words "to a lower grade or" shall be inserted.

Insertion of words in article 132.

49. For articles 133 to 137 (both inclusive) of the said Articles the following shall be substituted, namely :

Substitution of new articles for articles 133 to 137.

"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 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.

Solitary confinement.

"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-commissioned officers 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

Forfeiture of pay and pension.

forfeit

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.

Stoppage of
good-conduct
pay on
conviction.

"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.

Forfeiture of
arrears of
pay.

"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,—

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

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

Amendment
of article 138.

50. The first paragraph of article 138 of the said Articles, and the word "and" at the beginning of the second paragraph of the same article, are hereby repealed.

Amendment
of article 139.

51. In Article 139 of the said Articles, for the words "in the case of an officer, two-thirds, or in the case of any other person, one-half of his" the words "one-half of the offender's" shall be substituted.

Repeal of
articles 142
to 149.

52. Articles 142 to 149 (both inclusive) of the said Articles are hereby repealed.

Amendment
of articles
150 and 151.

53. In articles 150 and 151 of the said Articles,
after

after the words "the offender shall" the words "as soon as may be convenient" shall be inserted, and for the words "the nearest jail" the words "a jail" shall be substituted.

54. To the last-named article the following proviso shall be added, namely :

Addition to article 151.

" 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."

55. To article 152 of the said Articles the words "Subject to the control of the Commander-in-Chief in India" shall be prefixed; and for the words "the Commander-in-Chief of a Presidency" the following words shall be substituted, namely: "the general officer of the Command."

Amendment of article 152.

56. To the second paragraph of the last-mentioned article the words "Subject as aforesaid" shall be prefixed, and in the same paragraph for the words "any Presidency" the words "a Command" shall be substituted.

Further amendment of same article.

57. In article 155 of the said Articles, after the words "from the date of such sentence" the words "or, if an appeal be preferred against such sentence and fail, from the date of the disposal of such appeal," shall be inserted.

Insertion of new words in article 155.

58. To the last-mentioned article the following shall be added, namely :

Addition to same article.

" 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."

59. Articles 156 to 159 (both inclusive) of the said Articles are hereby repealed.

Repeal of articles 156 to 159.

60. For

Substitution
of new article
for article
160.

Pardons and
remissions.

60. For article 160 of the said Articles the following shall be substituted, namely :

“ *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.”

Amendment
of article
161.

61. In article 161 of the said Articles the words “or to the Government of Fort St. George, or to the Government of Bombay,” shall be repealed ; and for the words “Commander-in Chief of any Presidency or of the officer commanding any force not attached to a Presidency” the following words shall be substituted, namely : “Commander-in-Chief in India or the

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

62. After article 161 of the said Articles the following shall be inserted, namely:

Addition of new article after article 161.

"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."

63. For article 162 of the said Articles the following shall be substituted, namely:

Substitution of new article for article 162.

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

Enquiry on absence of person subject to Articles.

clothing or necessities; 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."

Amendment
of article
163.

64. For the last paragraph of article 163 of the said Articles the following shall be substituted, namely:

"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."

Substitution
of new
article for
article 164.

65. For article 164 of the said Articles the following shall be substituted, namely:

Reduction to
lower grade
or ranks.

"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,

brigade, shall respectively have power to reduce to a lower grade or to the ranks any non-commissioned officer under his command."

66. In article 165 of the said Articles, for the words "No such minor punishment shall be awarded by a court-martial," to the end of the article, the following shall be substituted, namely:—

Amendment
of article
165.

"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."

67. In article 166 of the said Articles, the words "the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government" shall be omitted.

Amendment
of article
166.

68. In article 168 of the said Articles, for the words "the Commander-in-Chief of the Presidency" the words "the Commander-in-Chief in India or the general officer of the Command" shall be substituted.

Amendment
of article
168.

69. In the second paragraph of article 169 of the said Articles, for the words "warrant officer" the words "non-commissioned officer" shall be substituted.

Amendment
of article
169.

70. The second and third paragraphs of article 170 of the said Articles are hereby repealed.

Repeal of
part of
article 170.

71. For articles 171 to 175 (both inclusive) of the said Articles the following shall be substituted, namely:

Substitution
of new
articles for
articles 171
to 175.

"Civil

(Section 71.)

"Civil offences.

Military
jurisdiction
with respect
to 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 there-with 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 :

- (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 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 these 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 XLV of

(Section 72.)

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.

"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.

Jurisdiction
over certain
offences.

"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."

72. For articles 176 to 179 (both inclusive) of the said Articles the following shall be substituted, namely :

Substitution
of new
articles for
articles 176
to 179.

"TITLE VI.—PROPERTY OF DECEASED PERSONS AND
DESERTERS.

"Article 176.—The following rules are enacted
respecting

Property of
deceased
persons,

(Section 72.)

deserters and lunatics.

respecting the disposal of the property of every person who belongs to a class subject to these Articles who dies, is killed in the field or deserts:—

(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 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

(Section 72.)

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.

“*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 thousand rupees, and if the prescribed officer thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to 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.

Disposal of certain property without production of probate, etc.

“*Article 178.*—A person shall be deemed to have deserted within the meaning of article 176 who 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.

Meaning of desertion in article 176.

“*Article 179.*—The provisions of the last-mentioned article shall, so far as they can be made applicable, apply in the case of a person subject to these Articles becoming insane, such allowance being made for his support as is authorised by the Military Lunatics Act, 1877.”

Application of Article 176 to lunatics.

XI of 1877.

73. For

(Section 73.)

Substitution
of new Part
for Part III.

73. For Part III of the said Articles the following shall be substituted, namely :

“ 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 person 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 or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Application
of the last
two
foregoing

“ *Article 183.*—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged

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. 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 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.

Article 185.

K

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.

Apprehen-
sion of mili-
tary offend-
ers.

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.

Presumption
as to signa-
tures.

Article 187.—In any proceeding under these Articles, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom
and

(Section 73.)

and in which it purports to have been signed, until the contrary is shown.

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

Saving of authority of Commander-in-Chief in India.

"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.

Power to make rules.

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

- (a) the assembly and procedure of courts of enquiry ;

(b) the

(Section 74.)

- (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. X of 18

Powers to apply Articles to certain forces under the Government of India.

"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.

(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."

Addition of Second Appendix to Articles.

74. After the Appendix to the said Articles the Second Appendix set out in the Schedule to this Act shall be added.

THE SCHEDULE.

(The Schedule.)

THE SCHEDULE.

(See section 74.)

THE SECOND APPENDIX.

(See article 91.)

FORM FOR ASSEMBLY AND PROCEEDINGS OF SUMMARY GENERAL COURT-MARTIAL.

Proceedings.

* At _____, this _____ day of _____ 18 . * State the place

WHEREAS it appears to me that the persons named in the annexed schedule, and being subject to military law, have committed the offences in the said schedule mentioned, and I, the undersigned, an officer now in command of _____ on active service, am of opinion that it is not practicable, having due regard to the public service, to convene an ordinary Court-Martial to try such offences († or to delay the trial for reference to a superior qualified officer), I hereby convene a Summary General Court-Martial to try the said persons, and to consist of--

A.—Order convening the Court.

† Omit, except where convening officer is not a Commanding Officer and is below rank of Field Officer.

PRESIDENT:

Rank.	Name.	Regiment.
.....

MEMBERS,

Rank.	Name.	Regiment.
.....
.....
.....

I certify that the above Court assembled on the _____ day of _____ and duly tried the persons named in the said schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that schedule.

B.—Certificate of President as to Proceedings.

Signed this _____ day of _____ 18 .

C.....D.....

President of the Court-Martial.

I have

C.—Confirma-
tion.

I have dealt with the findings and sentences in the manner stated in the last column of the above schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences; and I am of opinion, with reference to the sentences of summary punishment mentioned in the schedule, that imprisonment cannot, with due regard to the public service, be carried into execution (*and I am of opinion that it is not practicable, having due regard to the public service, to delay the cases for confirmation by any superior qualified authority).

* Omit, except where under rules it is ordinarily the duty of the confirming officer to reserve the case.

Signed this day of 18 .

E.....F.....,

*Field (or General) Officer in the Force (or Commanding).*D.—Confirma-
tion of reserve
sentences.

I have dealt with the reserved findings and sentences in the manner stated in the last column of the schedule, and, subject to what I have there stated, I hereby confirm the said reserved findings and sentences.

Signed this day of 18 .

G.....H.....,

*General (Field) Officer in the Force.*E.—Confirma-
tion of sentence
of death or
penal servitude.

Subject to what I have stated in the last column of the schedule, I hereby confirm the (finding and) sentence of death in the case of († and in the case of and of transportation in the case of † the above sentences of death I am of opinion that by reason of † it is not practicable, having due regard to the public service, to delay the case for confirmation by any qualified officer superior to myself).

† Omit, where confirmed by officer in chief Command. † State, according to the circumstances, the nature of the country, or the great distance, or the operations of the enemy.

Signed this day of 18 .

J.....K.....,

General (Field) Officer in Chief Command of the Forces.

(The Schedule.)

Schedule.

Date 18 . No. _____

Name of alleged Offender.*	Offence charged.	Plea.	Finding and, if convicted, sentence.†	How dealt with by confirming officer.
1	2	3	4	5
Ram Bux (Bun-niah).	Offence against person of inhabitant of country.	Guilty	Guilty. H. L. imprisonment for—	Confirmed. I remit— E.....F.....
262, Sepoy J h u n d a Singh, 167th Regiment.	Breaking into house in search of plunder.	Not guilty.	Guilty. Two months' H. L. imprisonment.	Not confirmed. E.....F.....
564, Sowar Hossein Khan, 16th Regiment.	Drunk on post	Not guilty.	Guilty. Death. Recommended to mercy.	Reserved, or confirmed, but commuted to H. L. imprisonment for— E.....F..... Confirmed, but commuted to— year's transportation. J.....K.....
Person accompanying force (name unknown), white jacket and trousers, scar on right cheek.	Impeding provost-marshal.	Not guilty.	Not guilty.	
Sepoy in uniform of 67th Regiment (name unknown).	Offence against property of inhabitant of country.	Not guilty.	Guilty. H. L. imprisonment for—	Reserved. E.....F..... Confirmed. G.....H.....
P. Q. Convening Officer.			C. D. President.	

* If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.
† Recommendation to mercy to be inserted in this column.