

Repealed by Act 27 1948

ORDINANCE No. I of 1943.

An Ordinance to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy.

(Published in the Gazette of India Extraordinary, dated the 9th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy ;

26 Geo. 5, c. 2; **N**OW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Enemy Agents Ordinance, 1943. Short title, extent and commencement.
(2) It extends to the whole of British India and applies also—

(a) to British subjects and servants of the Crown in any part of India,

(b) to British subjects who are domiciled in any part of India wherever they may be, and

(c) to persons on board any ship or aircraft registered in British India.

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "enemy" means any State at war with His Majesty ;

(b) "enemy agent" means a person, not operating as a member of an enemy armed force, who is employed by, or works for, or acts on instructions received from, the enemy.

3. Whoever

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Price anna 1 or 1½d.

Penalty
aiding
enemy.

for
the

3. Whoever is an enemy agent, or, with intent to aid the enemy, does, or attempts or conspires with any other person to do, any act which is designed or likely to give assistance to the naval, military or air operations of the enemy or to impede the naval, military or air operations of His Majesty's Forces or to endanger life, shall be punishable with death.

Offences triable
under this
Ordinance.

4. (1) Any offence punishable under section 3 committed at any time after the 2nd day of September, 1939, whether committed before or after the commencement of this Ordinance, shall be triable under the provisions of this Ordinance.

(2) Where a person is charged before a Special Judge with an offence punishable under section 3, he may be charged with and tried at the same trial for any other offence with which he might, under the Code of Criminal Procedure, 1898, be charged at one trial, and the procedure of this Ordinance shall apply to the trial of any such other offence. V of 1898.

Appointment
and jurisdiction
of Special
Judges.

5. (1) For the trial of offences punishable under section 3, the Central Government may appoint as Special Judges, having jurisdiction throughout British India, any persons who have acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1898. V of 1898

(2) A Special Judge shall try any offence punishable under section 3 which the Central Government by general or special order in writing directs to be tried by him, and may hold his sittings for the trial of any case in any place fixed by the Central Government.

Transfer of
cases from one
Special Judge
to another.

6. (1) The Central Government may, at any stage of the proceedings before a Special Judge, transfer the case to another Special Judge.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, when a case is transferred under sub-section (1), the Special Judge to whom the case is transferred shall not be bound to re-summon or re-hear the witnesses or any of them unless he is satisfied that such a course is necessary in the interests of justice. V of 1898.

Procedure of
Special Judges.

7. (1) A Special Judge may take cognisance of an offence without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898, for the trial of warrant cases by Magistrates : V of 1898.

Provided

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is in his opinion necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1) the provisions of the Code of Criminal Procedure, 1898, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

V of 1898.

8. A Special Judge may pass any sentence authorised by law. Sentences by Special Judges.

9. If in any proceedings before a Special Judge— Review of convictions.

(a) a person convicted is sentenced to death, or to transportation for life, or

(b) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person appointed in this behalf by the Central Government, which person shall be chosen from the Judges of a High Court in British India, and the decision of that person shall be final.

10. If, as respects any proceedings before a Special Judge or before a Judge reviewing under section 9 the proceedings of a Special Judge, the Special Judge or reviewing Judge, as the case may be, is satisfied that it is expedient in the interests of the public safety or the defence of British India so to do, such Judge may give directions that throughout or during any part of the proceedings such persons or classes of persons as the Judge may determine shall be excluded. Hearing of proceedings in camera.

11. (1) In any proceedings before a Special Judge, and in proceedings before a Judge reviewing under section 9 the proceedings of a Special Judge when the reviewing Judge grants permission in this behalf, a person accused of an offence triable under this Ordinance may of right be defended by a pleader, but such pleader shall be a person whose name is entered in a list prepared in this behalf by the Central Government or who is otherwise approved by the Central Government. Limitation on appearance of pleaders.

(2) A Special

(2) A Special Judge, or a Judge reviewing under section 9 the proceedings of a Special Judge, may appoint a pleader whose name is entered in the list referred to in sub-section (1) or who is otherwise approved by the Central Government to defend at any stage of the proceedings a person accused of an offence triable under this Ordinance who has not himself engaged a pleader.

(3) A Special Judge shall not be required to grant an adjournment for the purpose of securing the attendance of a pleader, if in the opinion of the Special Judge such adjournment would cause unreasonable delay in the disposal of the case.

Special rule of evidence.

12. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Special Judge, if such person is dead or cannot be found or is incapable of giving evidence.

I of 1872.

Special rule of procedure.

13. (1) When any accused in a trial before a Special Judge has by his voluntary act rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing, made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no finding, sentence or order passed in a trial before a Special Judge shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

V of 1893.

14. Notwithstanding

V of 1898. 14. Notwithstanding the provisions of the Code of Criminal Procedure, 1898, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence made or passed by a Special Judge or a reviewing Judge under this Ordinance and, save as provided in this Ordinance, no Court shall have authority to revise such order or sentence or to transfer any case from the Court of a Special Judge, or to make any order under section 491 of the Code of Criminal Procedure, 1898, or have any jurisdiction of any kind in respect of any proceedings under this Ordinance. ^{Exclusion of interference of other Courts.}

V of 1898. 15. The provisions of the Code of Criminal Procedure, 1898, and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to all matters connected with, arising from, or consequent upon, a trial under this Ordinance. ^{Application of ordinary law.}

16. Any person who, without the previous authorisation of the Central Government, discloses or publishes any information with respect to any proceedings or with respect to any person proceeded against under this Ordinance, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. ^{Disclosure of information relating to proceedings under this Ordinance.}

17. The Central Government may make rules providing for any matter necessary to carry into effect the purposes of this Ordinance. ^{Power to make rules.}

LINLITHGOW,

Viceroy and Governor General,

Repealed by Ordinance 17 1946
ORDINANCE No. II o 1943.

An Ordinance further to amend the Essential Services
(Maintenance) Ordinance, 1941.

(Published in the Gazette of India Extraordinary, dated
the 9th January, 1943.)

XI of 1941; **W**HEREAS an emergency has arisen which makes
it necessary further to amend the Essential
Services (Maintenance) Ordinance, 1941, for the
purpose hereinafter appearing;

26 Geo 5, c. 2; Now, THEREFORE, in exercise of the powers
conferred by section 72 of the Government of India
Act, as set out in the Ninth Schedule to the
Government of India Act, 1935, the Governor General
is pleased to make and promulgate the following
Ordinance:—

1. (1) This Ordinance may be called the Essential Services (Maintenance) Amendment Ordinance, 1943. Short title and commencement.
(2) It shall come into force at once.

XI of 1941; 2. In sub-section (3) of section 7 of the Essential Services (Maintenance) Ordinance, 1941, for the word "person" the words "servant of the Crown" shall be substituted. Amendment of section 7, Ord. XI of 1941.

LINLITHGOW,
Viceroy and Governor General.

Repealed by Ordinance 1 of 1946.

ORDINANCE No. III of 1943.

An Ordinance further to amend the Penalties (Enhancement) Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 16th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Penalties (Enhancement) Ordinance, 1942, for the purposes herein after appearing ;

III of 1942.

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

26 Geo. 5, c. 2.

1. (1) This Ordinance may be called the Penalties (Enhancement) Amendment Ordinance, 1943.

Short title and commencement.

(2) It shall come into force at once.

III of 1942.

2. In section 2 of the Penalties (Enhancement) Ordinance, 1942 (hereinafter referred to as the said Ordinance), for the word and figures " 3 to 7 " the word, figures and letter " 3 to 7A " shall be substituted, and after the word and figure " section 7 " the words, figure and letter " or section 7A " shall be inserted.

Amendment of section 2, Ord. III of 1942.

3. After section 7 of the said Ordinance, the following sections shall be inserted, namely :—

Insertion of new sections 7A and 7B in Ord. III of 1942.

VI of 1908.

" 7A. Whoever commits an offence punishable under section 3 or section 4 or section 5 of the Explosive Substances Act, 1908, may, in lieu of any punishment to which he is liable under the said Act, be punished with death, or with whipping, or with whipping in addition to any punishment to which he is liable under the said Act.

Punishment for offences under sections 3, 4 and 5 of Act VI of 1908.

XLV of 1860.

7B. Whoever attempts to commit, or abets, or attempts to abet, or does any act preparatory to the commission of, any offence referred to in section 3, 4, 6, 7 or 7A shall, notwithstanding anything contained in the Indian Penal Code, be punishable with the punishment provided for the commission of the offence."

Punishment for attempts to commit, and abetment of, offences.

LINLITHGOW,

Viceroy and Governor General.

Price anna 1 or 1½d.

GIPD—S1—1887 LD—15.2.43—1,700.

ORDINANCE No. IV of 1943.

An Ordinance to establish the validity of certain appointments as Income-tax Officer of, and certain proceedings under the Indian Income-tax Act, 1922, taken by, persons designated as Assistant Income-tax Officers.

(Published in the Gazette of India Extraordinary, dated the 16th January, 1943.)

XI of 1922.

WHEREAS an emergency has arisen which makes it necessary to establish the validity of certain appointments as Income-tax Officer of, and certain proceedings under the Indian Income-tax Act, 1922, taken by, persons designated as Assistant Income-tax Officers ;

26 Geo. 5, c. 2.

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Income-tax Proceedings Validity Ordinance, 1943.

Short title and commencement.

(2) It shall come into force at once.

XI of 1922.

2. Where, whether before or after the commencement of this Ordinance, any person designated as an Assistant Income-tax Officer has been appointed to be or to discharge the functions of an Income-tax Officer for any of the purposes of the Indian Income-tax Act, 1922, and where, whether before or after the commencement of this Ordinance, a person designated as an Assistant Income-tax Officer, appointed to be or to discharge the functions of an Income-tax Officer, has given or served any notice or taken any action whatsoever under the said Act for the purpose of or in connection with the making of an assessment under the said Act, such person shall be deemed to be and always to have been validly appointed as an Income-tax Officer for the purposes of the said Act, and no act purporting to have been done by such person as an Income-tax Officer, and no notice purporting to have been given or served by such person as an Income-tax Officer shall be called in question merely on the ground of any irregularity or defect in the manner of his appointment as an Income-tax Officer.

Validity of appointments as Income-tax Officer of Assistant Income-tax Officers and of proceedings taken by them.

LINLITHGOW,

Viceroy and Governor General.

Price anna 1 or 1½d.

GIPD—S1—1888 LD—15-2-43—1,700.

Repealed by Ordinance 17/1946

ORDINANCE No. V OF 1943.

An Ordinance further to amend the Collective Fines Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 20th January, 1943.)

XX of 1942. WHEREAS an emergency has arisen which makes it necessary further to amend the Collective Fines Ordinance, 1942, for the purpose hereinafter appearing;

26 Geo. 5, c. 2. NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Collective Fines (Amendment) Ordinance, 1943. Short title and commencement.

(2) It shall come into force at once.

XX of 1942. 2. After section 3 of the Collective Fines Ordinance, 1942, the following section shall be added, namely:— Addition of section 4 to Ord. XX of 1942.

“4. No suit, prosecution or other legal proceeding whatsoever shall lie against any person for or in respect of anything which is in good faith done or intended to be done under this Ordinance.” Bar of legal proceedings.

LINLITHGOW,
Viceroy and Governor General.

Repealed by Act 2 of 1948

ORDINANCE No. VI of 1943.

An Ordinance to provide for the interpretation in enactments in force in British India of references to Indian Standard Time.

(Published in the Gazette of India Extraordinary, dated the 20th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the interpretation in enactments in force in British India of references to Indian Standard Time;

Now, **THEREFORE**, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Indian Standard Time (Interpretation of References) Ordinance, 1943. Short title and commencement.

(2) It shall come into force at once.

2. While any order of the Central Government is in force fixing Indian Standard Time by reference to Greenwich Mean Time as being in advance of Greenwich Mean Time by an interval other than five and one-half hours, any reference in any enactment in force in British India to Indian Standard Time shall, notwithstanding that such reference may define Indian Standard Time as being five and one-half hours in advance of Greenwich Mean Time, be interpreted as a reference to Indian Standard Time as fixed for the time being by the order of the Central Government. Interpretation of references to Indian Standard Time.

LINLITHGOW,

Viceroy and Governor General.

Price anna. 1 or 1½d.

GIPD—S1—1891 LD—15-2-43—1,700.

ORDINANCE No. VII OF 1943.

Rep. ord. 19-1946

An Ordinance further to amend the Civil Pioneer Force Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 27th January, 1943)

WHEREAS an emergency has arisen which makes it necessary to correct an error occurring in the Civil Pioneer Force Ordinance, 1942 (X of 1942);

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India

Civil Pioneer Force. [ORD. VII OF 1943.]

of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Civil Pioneer Force (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 17, Ordinance X of 1942.*—In sub-section (5) of section 17 of the Civil Pioneer Force Ordinance, 1942 (X of 1942), for the words and figures “the Code of Civil Procedure, 1908” (V of 1908), the words and figures “the Code of Criminal Procedure, 1898” (V of 1898), shall be substituted.

LINLITHGOW.

Repealed by Ordinance 1 of 1946

ORDINANCE No. VIII of 1943.

An Ordinance further to amend the War Risks (Goods) Insurance Ordinance, 1940.

(Published in the Gazette of India Extraordinary, dated the 27th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940), for the purposes hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the War Risks (Goods) Insurance (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 3, Ordinance IX of 1940.*—In section 3 of the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940), hereinafter referred to as the said Ordinance).—

(a) in clauses (a) and (b) of sub-section (1), the words “or in that part of the territory of the State of Cochin which lies within the port limits of the Port of Cochin and the municipal limits of the Municipal Committees of Ernakulam and Muttancheri” shall be omitted;

(b) in sub-section (2), the words, brackets and figure “or in that part of the territory of the State of Cochin referred to in sub-section (1)” shall be omitted.

3. *Amendment of section 5, Ordinance IX of 1940.*—In sub-section (1A) of section 5 of the said Ordinance,—

(a) the words, brackets and figures “or in that part of the territory of the State of Cochin referred to in sub-section (1) of section 3”, where they occur in sub-clause (i) and sub-clause (ii) of clause (b) and in clause (c), shall be omitted;

(b) in clause (c), for the words “being shipped out of India” the words “such export” shall be substituted; and

(c) after clause (c) the following clause shall be added, namely:—

“(d) to the undertaking by the Central Government, in relation to any person carrying on business in British India as a seller of goods, of the liability of insuring such a person against war risks in respect of goods imported into British India through any port on the Continent of India, while such goods are situated at such port or are in transit from such port to a place in British India.”

4. *Insertion of new section 7A in Ordinance IX of 1940.*—After section 7 of the said Ordinance, the following section shall be inserted, namely:—

“7A. *Recovery of premiums unpaid.*—(1) Without prejudice to the provisions of sub-section (2) of section 7, where any person has failed to insure as, or to

the full

the full amount, required by this Ordinance, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded. The amount so determined shall be payable by such person and shall be recoverable from him as an arrear of land-revenue and shall be a first charge on the property in respect of which the default was made.

(2) A person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final."

5. *Amendment of section 9, Ordinance IX of 1940.*—In sub-section (1) of section 9 of the said Ordinance, after the words "set out in the Schedule," the following words and figures shall be inserted, namely:—

"or ordered to be paid under section 545 of the Code of Criminal Procedure, 1898 (V of 1898), in any prosecution under this Ordinance,".

6. *Amendment of section 10, Ordinance IX of 1940.*—In sub-section (1) of section 10 of the said Ordinance, for the words "any person has insured any goods against war risks, and, if so, for what value" the words "the requirements of this Ordinance have been complied with" shall be substituted.

7. *Amendment of section 11, Ordinance IX of 1940.*—Section 11 of the said Ordinance shall be renumbered as sub-section (1) of that section and the following sub-sections shall be added, namely:—

"(2) In any other case the Central Government may, at its discretion, order a refund to be made of any sum paid or purporting to have been paid as premium in respect of any policy issued or purporting to have been issued under this Ordinance.

(3) On and after the 1st day of October, 1940, no suit shall be maintainable in any civil Court against the Central Government or a person acting as agent of the Central Government under section 6 for the refund of money paid or purporting to have been paid as premium in respect of any policy issued or purporting to have been issued under this Ordinance."

8. *Amendment of section 14, Ordinance IX of 1940.*—In sub-section (2) of section 14 of the said Ordinance, after clause (d) the following clause shall be inserted, namely:—

"(dd) the procedure in making determinations and in presenting appeals from determinations made under section 7A;".

LINLITHGOW,
Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. IX of 1943.

An Ordinance further to amend the War Risks (Factories) Insurance Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 27th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), for the purposes hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the War Risks (Factories) Insurance (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 2, Ordinance XII of 1942.*—In section 2 of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), (hereinafter referred to as the said Ordinance),—

(a) to clause (a) the words “and boundary walls” shall be added;

(b) for clause (i) the following clause shall be substituted, namely:—

“(i) “property insurable under this Ordinance” means, in relation to any factory, the factory buildings and, except where they are for the time being goods insurable under the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940), all plant and machinery in the factory, all materials in the factory for use in the production or transmission of motive power, or in the maintenance of plant and machinery, or in the construction or reconstruction or maintenance of factory buildings, and such other plant, machinery or materials as may be prescribed;”

3. *Amendment of section 3, Ordinance XII of 1942.*—In section 3 of the said Ordinance,—

(a) in sub-section (4), for clause (b) the following clause shall be substituted, namely:—

“(b) that in respect of each claim the insured shall bear twenty per cent. of the loss or damage, or such other amount as may be fixed, with reference to the insurable value of the property insurable, in accordance with the prescribed scale, whichever is the greater;”

(b) in sub-section (5),—

(i) for clause (a) the following clause shall be substituted, namely:—

“(a) for undertaking in relation to works in course of construction which, when completed, will become factories, and such plant and machinery appertaining to such works as may be prescribed, the same liabilities as are undertaken by the Scheme in relation to factories;”

(ii) for clause (c) the following clause shall be substituted, namely:—

“(c) that payments due under a policy of insurance issued at any time on or after the 29th day of May, 1942, under the Scheme may be postponed to any time before the expiry of one year from the date of the termination of the present hostilities, or, subject to payment of interest at the rate of two per cent. per annum from the expiry of the said year, to any later date;”

(c) in

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Price anna 1 or 1½d.

(c) in sub-section (6), after clause (c) the following clause shall be added, namely:—

“(d) works in course of construction (whether construction was begun before or after the inauguration of the Scheme) which, when completed, will become factories, and subsequent additions to such works.”

4. *Amendment of section 5, Ordinance XII of 1942.*—In section 5 of the said Ordinance,—

(a) in sub-section (1),—

(i) after the words “becoming a factory” the following shall be inserted, namely:—

“or property becoming property insurable under this Ordinance”;

(ii) after the words “become a factory” the following shall be inserted, namely:—

“or the property becomes insurable under this Ordinance”;

(b) to sub-section (4) the following words shall be added, namely:—

“and such punishment shall be without prejudice to any other penalty or liability incurred in consequence of such contravention or failure”;

(c) after sub-section (4), the following sub-section shall be added, namely:—

“(5) Where any offence under sub-section (4) is tried by a Presidency-magistrate or a Magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), the Magistrate trying the offence may pass any sentence authorised by that sub-section.”

5. *Amendment of section 7, Ordinance XII of 1942.*—In sub-section (1) of section 7 of the said Ordinance, after the word “Schedule,” the words and figures “or by way of expenses or compensation awarded by a Court, under section 545 of the Code of Criminal Procedure, 1898 (V of 1898), out of any fine imposed under this Ordinance,” shall be inserted.

6. *Amendment of section 8, Ordinance XII of 1942.*—For sub-section (1) of section 8 of the said Ordinance the following sub-section shall be substituted, namely:—

“(1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether or not the owner or occupier of any property required to be insured under this Ordinance has taken out a policy of insurance as required by this Ordinance in respect of such property, or for the purpose of investigating the insurable value of any property insured, or required to be insured, or proposed for insurance under this Ordinance, or for the purpose of estimating the damage suffered by any property insured under this Ordinance,—

(a) require the owner or occupier of the property, or any person carrying on in British India the business of fire insurance in respect of the property, to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time enter any premises comprising or containing the property, inspect such premises or property, and require any person found on such premises, whom he believes to be in possession of information relevant to his investigation, to furnish to him such information as he may reasonably think necessary.”

7. *Substitution*—

OF 1943.]

War Risks (Factories) Insurance.

7. *Substitution of new section for section 10, Ordinance XII of 1942.*—For section 10 of the said Ordinance the following shall be substituted, namely:—

“10. *Recovery of premiums unpaid.*—(1) Without prejudice to the provisions of sub-section (4) of section 5, where any person has failed to insure as, or to the full amount, required by this Ordinance, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2).

(2) Any instalment of premium due on a policy of insurance issued under the Scheme, and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land-revenue and shall be a first charge on the property in respect of which the default was made.

(3) A person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final.”

8. *Addition of new sub-section to section 13, Ordinance XII of 1942.*—Section 13 of the said Ordinance shall be renumbered as sub-section (1) of that section and the following sub-section shall be added, namely:—

“(2) On and after the 29th day of May, 1942, no suit shall be maintainable in any civil Court against the Central Government, or a person acting as its agent under section 4, for the refund of any money paid or purporting to have been paid as premium on a policy of insurance taken out or purporting to have been taken out under this Ordinance”.

9. *Amendment of section 14, Ordinance XII of 1942.*—(1) Section 14 of the said Ordinance shall be renumbered as sub-section (1) of that section and in the section as so renumbered for the words beginning with “from the provisions of section 5” and ending with the end of the section the following words shall be substituted, namely:—

“from the provisions of this Ordinance requiring such factories or premises to be insured or to continue to be insured under this Ordinance; but such exemption shall not prejudice the infliction of any penalty or the accrual of any liability incurred before the date on which the exemption takes effect”.

(2) To the said section as so re-numbered by the foregoing sub-section the following sub-section shall be added, namely:—

“(2) In granting any exemption under this section the Central Government may direct that the exemption shall take effect or be deemed to have taken effect on a specified date after or before the date of the notification.”

10. *Amendment of section 15, Ordinance XII of 1942.*—In sub-section (2) of section 15 of the said Ordinance,—

(a) in clause (b) for the word “properly” the word “property” shall be substituted;

(b) after clause (f) the following clause shall be added, namely:—

“(g) prescribe the procedure in making determinations and in presenting appeals from determinations made under section 10.”

11. *Amendment of section 16, Ordinance XII of 1942.*—In section 16 of the said Ordinance,—

(a) for

(a) for clause (a) of sub-section (1) the following clause shall be substituted, namely:—

(a) the plant and machinery, whether above or below ground, appertaining to mines as defined in the Indian Mines Act, 1923 (IV of 1923), buildings appertaining to mines and within a radius of two miles from the mine excavation and, in relation to such plant, machinery and buildings, such materials above ground as would, if the mine were a factory, be included in the term "property insurable under this Ordinance";

(b) in sub-section (2), for the words "to the manager of a mine for the purposes of the Indian Mines Act, 1923" the following shall be substituted, namely:—

"to the agent of a mine as defined in that Act; and in interpreting this Ordinance as applied by notification under any of the clauses of sub-section (1) "property insurable under this Ordinance" shall be interpreted as meaning all property to which the Scheme is by the said notification declared to apply".

12. Addition of new section 18 to Ordinance XII of 1942.—After section 17 of the said Ordinance the following section shall be added, namely:—

"18. Refund of insurance premiums.—The Central Government may, in any case in which it thinks fit, allow a refund to be made of any sum paid by way of premium on a policy of insurance issued or purporting to have been issued under this Ordinance."

LINLITHGOW,

Viceroy and Governor General.

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ord. X 1943. Repealed by Ordinance 17/1946
WHEREAS an emergency has arisen which makes it necessary further to amend the Special Criminal Courts Ordinance, 1942 (II of 1942), for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Special Criminal Courts (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 13, Ord. II of 1942.*—In sub-section (1) of section 13 of the Special Criminal Courts Ordinance, 1942 (II of 1942), (hereinafter referred to as the said Ordinance), after the words “in the area” the following words shall be inserted, namely:—

“or, where there is more than one Special Judge having jurisdiction in the area, to such one of them as may be appointed to hear appeals under this sub-section by the Sessions Judge of the sessions division within which the area is situated,”.

3. *Amendment of section 25A Ord. II of 1942.*—In section 25A of the said Ordinance,—

(a) in sub-section (1), for the words “within that area” the words “within that sessions division” shall be substituted;

(b) sub-section (3) shall be re-numbered as sub-section (4), and the following sub-section shall be inserted as sub-section (3), namely:—

“(3) The Provincial Government, at any stage of the proceedings, may transfer a case from a Special Judge appointed for one area to a Special Judge

whose Court is situated in one district to a Special Magistrate whose Court is situated in a different district.” ;

(c) in sub-section (4), as re-numbered by the foregoing clause, after the word, brackets and figure “sub-section (2)” the words, brackets and figure “or sub-section (3)” shall be inserted.

4. *Insertion of new section 25B in Ord. II of 1942.*—After section 25A of the said Ordinance the following section shall be inserted, namely :—

Transfer of appeals.—“ 25B. (1) The Provincial Government may transfer any appeal preferred under sub-section (1) of section 13 to a Special Judge from that Special Judge either to the Court of Session having jurisdiction in the area for which that Special Judge is appointed or to a Special Judge having jurisdiction in that or in a different area, and may transfer any appeal so preferred to a Court of Session from that Court of Session either to another Court of Session or to a Special Judge appointed for an area either within or outside the sessions division in which that Court of Session is situated, and the Court of Session to which or the Special Judge to whom any appeal is so transferred shall have jurisdiction to dispose of the appeal as if it were an appeal lying to such Court or Judge.

(2) The Chief Presidency Magistrate in a Presidency-town may transfer any appeal preferred to him under sub-section (1) of section 19 from himself to any Presidency Magistrate of the first class, and the District Magistrate of a district may transfer any appeal so preferred to the Special Magistrate or other Magistrate appointed by him to hear the appeal under that sub-section from that Magistrate to another Special Magistrate or Magistrate of the first class, and the Magistrate to whom any appeal is so transferred shall have jurisdiction to dispose of the appeal as if it were an appeal lying to him under that sub-section.”

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946
ORDINANCE No. XI OF 1943.

An Ordinance further to amend the Indian Navy (Discipline) Act, 1934.
(Published in the Gazette of India Extraordinary, dated the 3rd February, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), for the purpose hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

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Indian Navy (Discipline) Amendment.

[ORD. XI OF 1943.]

1. *Short and commencement.*—(1) This Ordinance may be called the Indian Navy (Discipline) Amendment Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 53, Naval Discipline Act, as set forth in the First Schedule to Act XXXIV of 1934.*—In clause (7) of section 53 of the Naval Discipline Act, as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934 (29 & 30 Vict., c. 109, XXXIV of 1934), for the words “may be inflicted for any term” the words “shall, except as provided in section 45, be limited to a term” shall be substituted.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946
ORDINANCE No. XII OF 1943.

An Ordinance to provide temporarily for the exercise of the powers and functions vested in the Governor of the Reserve Bank of India.

Published in the Gazette of India Extraordinary, dated the 22nd February, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide temporarily for the exercise of the powers and functions vested in the Governor of the Reserve Bank of India;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Reserve Bank of India (Governor's Powers and Functions) Ordinance, 1943.

(2) It
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[ORD. XII OF 1943.] *Reserve Bank of India (Governor's Powers and Functions).*

(2) It shall come into force at once.

2. *Powers and functions of Governor of Reserve Bank of India to be exercisable by Deputy Governor of the Bank.*—From the time at which a vacancy occurred in the post of Governor of the Reserve Bank of India and until a new Governor is appointed, any power or function which the Governor of the Reserve Bank of India is authorised or required to exercise by or under the Reserve Bank of India Act, 1934 (II of 1934), or by or under any other law for the time being in force may be lawfully exercised by Chintaman Dwarkanath Deshmukh, Esquire, Deputy Governor of the Reserve Bank of India, or any person who officiates for or succeeds him in that post.

LINLITHGOW.
Viceroy and Governor General

An Ordinance to secure the continuance in employment of certain persons employed in connection with the maintenance, working and management of telephonic communications in British India. *Ord. XIII of 1943*

(Published in the Gazette of India Extraordinary, dated the 16th March, 1943.)

WHEREAS an emergency has arisen which makes it necessary to secure the continuance in employment of certain persons employed in connection with the maintenance, working and management of telephonic communications in British India;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Essential Services (Telephone Employees) Ordinance, 1943.

(2) It

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Repealed by Act-2 of 1948

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Prohibition of abandonment of certain employments.*—Any person engaged in employment under the Bengal Telephone Corporation, Limited, the Bombay Telephone Company, Limited, or the Madras Telephone Company, Limited, on the 31st day of March, 1943, shall, unless the Central Government has before that date intimated that his services will not be required, be deemed to have been taken into employment under the Crown immediately before the 1st day of April, 1943, and thereupon the provisions of the Essential Services (Maintenance) Ordinance, 1941 (XI of 1941), with respect to employment under the Crown shall apply to such person.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. XIV OF 1943.

An Ordinance further to amend the Defence of India Act, 1939.

(Published in the Gazette of India Extraordinary, dated the 27th April, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose hereinafter appearing :

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Defence of India (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. Substitution of new clause for clause (x) of section 2 (2), Act XXXV of 1939.—For clause (x) of sub-section (2) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), the following clause shall be substituted, and shall be deemed always to have been substituted, namely :—

“(x) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain as the case may be suspects,

Defence of India (Amendment).

[ORD. XIV OF 1943.]

on grounds appearing to such authority to be reasonable, of being of hostile origin, or of having acted, acting, being about to act, or being likely to act in a manner prejudicial to the public safety or interest, the defence of British India, the maintenance of public order, His Majesty's relations with foreign powers or Indian States, the maintenance of peaceful conditions in tribal areas or the efficient prosecution of the war, or with respect to whom such authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner, the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do or abstain from doing any thing; ”.

3. *Validity of orders made under rule 26, Defence of India Rules.*—For the removal of doubts it is hereby enacted that no order heretofore made against any person under rule 26 of the Defence of India Rules shall be deemed to be invalid or shall be called in question on the ground merely that the said rule purported to confer powers in excess of the powers that might at the time the said rule was made be lawfully conferred by a rule made or deemed to have been made under section 2 of the Defence of India Act, 1939.

LINLITHGOW.

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946
ORDINANCE No. XV of 1943.

An Ordinance to amend the Enemy Agents Ordinance, 1943.

(Published in the Gazette of India Extraordinary, dated the 1st May, 1943.)

WHEREAS an emergency has arisen which makes it necessary to amend the Enemy Agents Ordinance, 1943 (I of 1943), for the purpose hereinafter appearing:

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Enemy Agents (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. Amendment of section 9, Ordinance I of 1943.—Section 9 of the Enemy Agents Ordinance, 1943 (I of 1943), shall be renumbered as sub-section (1) of that section, and the following sub-sections shall be added, namely:—

Enemy Agents (Amendment).

[ORD. XV OF 1943.]

"(2) Where any proceedings are so submitted for review, whether such submission was made before or is made after the commencement of the Enemy Agents (Amendment) Ordinance, 1943 (XV of 1943), the Judge reviewing the proceedings may, and shall be deemed always to have been empowered to, exercise in his discretion any of the powers exercisable under section 439 of the Code of Criminal Procedure, 1898 (V of 1898), by a High Court in the case of any proceeding to which the said section 439 refers.

(3) The person appointed under sub-section (1) to review the proceedings of a Special Judge may call for and examine the record of any proceedings before the Special Judge for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of the Special Judge, and may exercise in the case of proceedings the record of which has been so called for any of the powers which would have been exercisable by him in the case of such proceedings had they been submitted to him for review under sub-section (1)."

LINLITHGOW,

Viceroy and Governor General.

Sections 3, 4 and 5 Repealed by Ordinance 1 of 1946

ORDINANCE No. XVI OF 1943

An Ordinance to make certain provisions in connection with the tax on excess profits

(Published in the Gazette of India Extraordinary, dated the 17th May, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions in connection with the tax on excess profits;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Excess Profits Tax Ordinance, 1943.

(2) It extends to the whole of British India.

• (3) It shall come into force at once.

2. Deposits in connection with payments of excess profits tax.—(1) When excess profits tax charged under the provisions of the Excess Profits Tax Act, 1940 (XV of 1940), in respect of any chargeable accounting period ending after the 31st day of December, 1942, becomes payable under that Act after assessment made under section 14 of that Act, the person liable to pay such excess profits tax shall deposit with the Central Government, before such date as may be specified in a notice in this behalf in such form as may be prescribed by rules made under sub-section (5) issued to him by the Excess Profits Tax Officer, a further sum equal to one-fifth of the amount of the said excess profits tax; and the provisions of section 10 of the Indian Finance Act, 1942 (XII of 1942), shall, save in so far as they are inconsistent with this section, apply in respect of such deposits as they apply in respect of the voluntary deposits for which provision is made in the said section 10.

(2) The provisions of sub-section (1) of section 10 of the Indian Finance Act, 1942 (XII of 1942), in so far as they enable the making of voluntary deposits, shall cease to have effect except in relation to excess profits tax charged in respect of a chargeable accounting period ending on the 31st day of December, 1942, or earlier.

(3) Any further sum such as is referred to in sub-section (1) deposited in accordance with that sub-section shall be repaid by the Central Government within twelve months of the date of termination of the present hostilities or within twenty-four months of the date on which the deposit was made, whichever is later.

(4) The provisions of law applicable to the payment and recovery of excess profits tax contained in sections 45 and 46 [except sub-sections (1) and (1A) thereof] of the Indian Income-tax Act, 1922 (XI of 1922), as applied by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940), shall apply to the payment and recovery of the deposits required by sub-section (1) of this section as if the notice referred to in sub-section (1) of this section were a notice of demand under section 29 of the Indian Income-tax Act, 1922 (XI of 1922), and as if a default in making payment of such deposit were a default in making payment of excess profits tax.

(5) The power to make rules for carrying out the purposes of section 10 of the Indian Finance Act, 1942 (XII of 1942), conferred by sub-section (3) of that

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section shall include a power to make rules for carrying out the purposes of this section.

* 3. **Insertion of new section 14A in Act XV of 1940.**—After section 14 of the Excess Profits Tax Act, 1940 (XV of 1940), the following section shall be inserted namely:—

"14A. Power to make provisional assessments.—(1) The Excess Profits Tax Officer, before proceeding to make an assessment (in this section referred to as the regular assessment) under section 14, may, at any time after the expiry of the period specified in the notice issued under sub-section (1) of section 13 as that within which the return therein referred to is to be furnished, and whether the return has or has not been furnished, proceed to make in summary manner a provisional assessment of the amount by which the profits of the chargeable accounting period exceed the standard profits, and the amount of excess profits tax payable thereon.

(2) Before making such provisional assessment the Excess Profits Tax Officer shall give notice in the prescribed form to the person on whom assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Excess Profits Tax Officer at any time within fourteen days of receipt of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of one month from the date of service of the notice referred to in sub-section (2), or earlier if the assessee agrees to the proposed assessment, the Excess Profits Tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of assessment to the assessee:

Provided that assent to the amount of the assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) In making any such provisional assessment the Excess Profits Tax Officer shall make allowances for any deficiencies of profits for previous chargeable accounting periods which are under the provisions of section 7 to be set off against the excess profits of the chargeable accounting period in respect of which the assessment is being made:

Provided that where such deficiencies of profits have not been determined under sub-section (1) of section 14 the Excess Profits Tax Officer shall estimate the amount thereof to the best of his judgment.

(5) There shall be no right of appeal against a provisional assessment made under this section, and it shall, until a regular assessment is made in due course under section 14, determine the amount of excess profits tax due from the assessee.

(6) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to exceed the amount determined as payable by the provisional assessment, it shall be reduced by the amount determined as payable by the provisional assessment.

(7) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to be less than that determined as payable by the provisional assessment, any excess of tax paid as a result of the provisional assessment shall be refunded to the assessee together with interest at 5 per cent. per annum calculated from the date of payment of such excess tax to the date of the order of refund, both days inclusive."

OF 1943.]

Excess Profits Tax.

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4. Amendment of rule 12, Schedule I, Act XV of 1940.—In the First Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), to rule 12 the following sub-rule shall be added, namely:—

“(3) In relation to chargeable accounting periods ending after the 31st day of December, 1942, the Central Government may make rules for determining the extent to which deductions shall be allowed in respect of bonuses or commissions paid.”

5. Amendment of rule 3, Schedule II, Act XV of 1940.—In the Second Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), rule 3 shall be re-numbered as sub-rule (1) of rule 3 and—

(a) in the rule as so re-numbered after the words “any moneys” the words “or as regards any chargeable accounting period ending after the 31st day of

3. Repealed by ordinance 1 of 1946.

December, 1942, any trading stock or stock of raw materials" shall be inserted;

(b) the following shall be added as sub-rule (2), namely:—

“(2) The Central Government may make rules defining for the purposes of this rule the principles to be followed in leaving out of account trading stock and stocks of raw materials.”

LINLITHGOW,

Viceroy and Governor General.

An Ordinance to provide for the exercise of powers of command over forces of the Royal Indian Navy by Viceroy's commissioned officers when seconded or posted thereto.

Ordinance XVII of 1943

(Published in the Gazette of India Extraordinary, dated the 20th May, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the exercise of powers of command over forces of the Royal Indian Navy by Viceroy's commissioned officers when seconded or posted thereto;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Royal Indian Navy (Powers of Command) Ordinance, 1943.

(2) It shall come into force at once.

Repealed by Act-2 of 1948

Price anna 1 or 1½d.

Repealed by Act 36 of 1957
ORDINANCE No. XVIII of 1943.

An Ordinance to indemnify servants of the Crown and other persons in respect of acts done under martial law, and to provide for certain other matters in connection with the administration of martial law.

(Published in the Gazette of India Extraordinary, dated the 31st May, 1943.)

Whereas an emergency has arisen which makes it necessary to indemnify servants of the Crown and other persons in respect of acts done under martial law, and to provide for certain other matters in connection with the administration of martial law:

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (25 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Martial Law (Indemnity) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance—

(a) "martial law area" means—

(i) with reference to the martial law period beginning on the 1st day of June, 1942, and ending on the 31st day of May, 1943, the area bounded—

(a) on the east by the eastern boundary of the Province of Sind and of the Khairpur State from the river Indus at Kashmir to the Jodhpur-Bikaner Railway and including that Railway;

(ii) on the south by the Jodhpur-Bikaner Railway and the North-Western Railway, and including those Railways, from the eastern boundary of the Province of Sind to the river Indus at Kotri;

(iii) on the west by the river Indus from Kotri to Kashmir, including that river; and

(b) with reference to the martial law period beginning on the 29th day of July, 1942, and ending on the 31st day of May, 1943, the aforesaid area together with the area bounded—

(i) on the east by the river Indus from Rohri to Kotri;

(ii) on the south by a line running due west from the Indus at Kotri so as to include the municipal area of Kotri, to a point five miles therefrom;

(iii) on the west by a line running from the westernmost point of the aforesaid southern boundary parallel to and five miles distant from the North-Western Railway line passing from Kotri through Larkhana and Sukkur to Habibkhot;

(iv) on the north by a line running from Habibkhot to Rohri.

(2) "martial law period" means with reference to the area described in sub-clause (a) of the foregoing definition the period beginning on the 1st day of June, 1942, and ending on the 31st day of May, 1943, and with reference to the area described in sub-clause (b) of the foregoing definition the period beginning on the 29th day of July, 1942, and ending on the 31st day of May, 1943.

3. *Indemnity of servants of the Crown and other persons for certain acts.*—(1) No suit, prosecution or other legal proceeding shall lie in any court against any servant of the Crown for or on account of or in respect of any act ordered or done by him or purporting to have been ordered or done by him in the martial law area during the martial law period for the purpose of maintaining or restoring order or of carrying into effect any regulation, order or direction issued by any authority responsible for the administration of martial law in the said area to which he was subordinate; and no suit, prosecution or other legal proceeding shall lie in any court against any other person for or on account of or in respect of any act done or purporting to have been done by him under any order of a servant of the Crown given for any such purpose as aforesaid:

Provided that the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

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(2) For the purposes of this section it shall be conclusive proof that an act was done under an order of a servant of the Crown given for one of the aforesaid purposes if the Central Government, in the case of an officer employed in connection with the affairs of the Central Government, or the Provincial Government, in the case of an officer employed in connection with the affairs of a Provincial Government, so certifies; and an act shall be deemed to have been done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby unless the contrary is proved.

4. *Sanction necessary for institution of certain legal proceedings.*—Without prejudice to the operation of any other provision of law for the time being in force requiring any sanction for the institution of legal proceedings, no suit, prosecution or other legal proceeding such as is referred to in section 3 shall be instituted in any court on an allegation that the act complained of was not done in good faith or was not done in a reasonable belief that it was necessary for the purpose intended to be served thereby except with the previous sanction—

(a) where the act complained of was ordered or done by a servant of the Crown employed in connection with the affairs of the Central Government, of the Central Government, and

(b) where the act complained of was ordered or done by a servant of the Crown employed in connection with the affairs of the Provincial Government, of the Provincial Government.

5. *Confirmation of orders for seizure or destruction of property.*—Where in the course of operations conducted in the martial law area during the martial law period property whether movable or immovable has been seized, confiscated, destroyed or damaged by or under the directions of a servant of the Crown acting under martial law, such seizure, confiscation, destruction or damage shall be deemed to have been lawfully ordered and authorised, and no claim shall be maintainable in any court in respect of any such property for the restoration thereof or for compensation for any loss sustained in consequence of the seizure, confiscation, destruction or damage thereof.

6. *Validity of sentences passed by martial law courts.*—All sentences passed during the martial law period by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully passed, and all sentences executed according to the tenor thereof shall be deemed to have been lawfully executed.

7. *Confirmation and continuance of martial law sentences of confinement.*—Every person confined under and by virtue of a sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall continue liable to confinement until the sentence, reduced by remissions, if any, earned under the rules applicable to the serving of such sentence, is served or until he is released by order of the Central Government.

(2) The provisions of Chapter XXIX of the Code of Criminal Procedure, 1898 (V of 1898), shall not apply to any sentence or confinement referred to in this section.

8. *Application of sections 6 and 7 to certain trials under martial law.*—The provisions of sections 6 and 7 apply to sentences passed during the martial law period by a court or other authority constituted or appointed under martial law notwithstanding that such court or authority held the whole or a part of its sittings outside the martial law area, or notwithstanding that the offence or a part of the offences for which the accused person was tried and convicted was committed before the beginning of the martial law period.

9. *Saving.*—Nothing in this Ordinance shall prevent the institution of proceedings by or on behalf of Government against any person in respect of any matter whatsoever.

LINLITHGOW,
Viceroy and Governor General.

ORDINANCE No. XIX OF 1943.

Repealed by Act 36 of 1957

An Ordinance to repeal the Special Criminal Courts Ordinance, 1942, and to provide for certain matters in connection with such repeal.

(Published in the Gazette of India Extraordinary, dated the 5th June, 1943.)

WHEREAS an emergency has arisen which makes it necessary to repeal the Special Criminal Courts Ordinance, 1942 (II of 1942), and to provide for certain matters in connection with such repeal;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Special Criminal Courts (Repeal) Ordinance, 1943.

(2) It shall come into force at once.

2. *Repeal of Ordinance II of 1942.*—The Special Criminal Courts Ordinance, 1942 (hereinafter referred to as the said Ordinance) is hereby repealed.

3. *Confirmation and continuance, subject to appeal, of sentences.*—(1) Any sentence passed by a Special Judge, a Special Magistrate or a Summary Court in exercise of jurisdiction conferred or purporting to have been conferred by or under the said Ordinance shall have effect, and subject to the succeeding provisions of this section, shall continue to have effect, as if the trial at which it was passed had been held in accordance with the Code of Criminal Procedure, 1898 (V of 1898), by a Sessions Judge, an Assistant Sessions Judge or a Magistrate of the first class respectively, exercising competent jurisdiction under the said Code.

(2) Notwithstanding anything contained in any other law, any such sentence as is referred to in sub-section (1) shall, whether or not the proceedings in which the sentence was passed were submitted for review under section 8, and whether or not the sentence was the subject of an appeal under section 13 or section 19, of the said Ordinance, be subject to such rights of appeal as would have accrued, and to such powers of revision as would have been exercisable under the said Code if the sentence had at a trial so held been passed on the date of the commencement of this Ordinance.

(3) Where any such sentence as aforesaid has been altered in the course of review or on appeal under the said Ordinance, the sentence as so altered shall for the purposes of this section be deemed to have been passed by the Court which passed the original sentence.

4. *Disposal of pending cases.*—Where the trial of any case pending before a Court constituted under the said Ordinance has not concluded before the date of the commencement of this Ordinance, the proceedings of such Court in the case shall be void; and the case shall be deemed to be transferred, in a Presidency-town to the Chief Presidency Magistrate, or elsewhere to the Sub-Divisional Magistrate, who may either—

- (i) inquire into or try the case himself, or
- (ii) transfer the case for inquiry or trial to any Magistrate subordinate to him,—

in accordance with the Code of Criminal Procedure, 1898 (V of 1898).

5. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie in any Court against any servant of the Crown for or on account of or in respect of any sentence passed or any act ordered or done by him whether in exercise of any jurisdiction or power conferred or purporting to have been conferred on him by or under the said Ordinance, or in carrying out any sentence passed by any Court in exercise of any such jurisdiction as aforesaid.

LINLITHGOW

Viceroy and Governor General.

Repealed by Act- 40 of 1949
ORDINANCE No. XX OF 1943.

An Ordinance temporarily to limit the rate at which dividend on the share capital of the Reserve Bank of India may be paid by the Bank to shareholders.

(Published in the Gazette of India Extraordinary, dated the 30th June, 1943.)

WHEREAS an emergency has arisen which makes it necessary temporarily to limit the rate at which dividend on the share capital of the Reserve Bank of India may be paid by the Bank to shareholders ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Reserve Bank of India (Limitation of Dividend) Ordinance, 1943.

Reserve Bank of India (Limitation of Dividend).

[ORD. XX OF 1943.]

(2) It shall come into force at once.

2. *Limitation of dividend.*—Notwithstanding the provisions of section 47 of the Reserve Bank of India Act, 1934 (II of 1934) and of the Fourth Schedule to that Act, the aggregate of the rates at which payment of the cumulative dividend and the additional dividend payable to shareholders of the Bank under the said provisions is made shall not, so long as this Ordinance remains in force, exceed four per cent. per annum on the share capital of the Bank; and the balance of the surplus of the net annual profits of the Bank shall be paid to the Central Government.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Act- 2 of 1948

ORDINANCE No. XXI OF 1943.

An Ordinance to provide for the maintenance and control of foreigners required to reside in parole centres.

(Published in the Gazette of India Extraordinary, dated the 2nd July, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the maintenance and control of foreigners required to reside in parole centres;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Parole Centres Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

Price anna 1 or 1½d.

[ORD. XXI OF 1943.]

Parole Centres.

2. *Maintenance and control of foreigners in parole centres.*—Any foreigner in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 of the Foreigners Act, 1940 (II of 1940), requiring him to reside in a place set apart for the residence under supervision of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

3. *Application of Act II of 1940 not barred.*—The provisions of this Ordinance shall be in addition to, and not in derogation of, the provisions of the Foreigners Act, 1940.

LINLITHGOW,

Viceroy and Governor General.

ORDINANCE No. XXII of 1943.

An Ordinance to constitute a special police force for the investigation of certain offences committed in connection with Departments of the Central Government, with power to investigate such offences wherever committed in British India, and to provide for the superintendence and administration of the said force.

(Published in the Gazette of India Extraordinary, dated the 12th July, 1943.)

WHEREAS an emergency has arisen which makes it necessary to constitute a special police force for the investigation of certain offences committed in connection with Departments of the Central Government, with power to investigate such offences wherever committed in British India ; and to provide for the superintendence and administration of the said force ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Special Police Establishment (War Department) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Constitution and powers of Special Police Establishment (War Department).*—(1) The Central Government may constitute a police force to be called the Special Police Establishment (War Department) to exercise throughout British India the powers and jurisdiction exercisable in a Province by members of the police force of the Province.

Repealed by Act-2 of 1948
1

(2) Subject to any orders which the Central Government may make in this behalf, members of the said Police Establishment shall have throughout British India, in relation to the investigation of offences made over to them for investigation under this Ordinance and to the arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of a Province have in connection with the investigation of offences committed in the Province.

(3) Any member of the said Police Establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise anywhere in British India any of the powers of the officer-in-charge of a police station in the area in which he is for the time being, and when so exercising any such powers shall, subject to any such order as aforesaid, be deemed to be an officer-in-charge of a police station, discharging the functions of such an officer within the limits of his station.

3. *Offences to be investigated by Special Police Establishment.*—The Central Government may by general or special order specify the offences or classes of offences committed in connection with Departments of the Central Government which are to be investigated by the Special Police Establishment (War Department), or may direct any particular offence committed in connection with a Department of the Central Government to be so investigated.

4. *Superintendence and administration of Special Police Establishment.*—(1) The superintendence of the Special Police Establishment (War Department) shall vest in the Central Government.

(2) The administration of the Special Police Establishment (War Department) shall vest in an officer appointed in this behalf by the Central Government, who shall exercise in respect of the said Police Establishment such of the powers exercisable by an Inspector General of Police in respect of the police force in a Province as the Central Government may specify in this behalf.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. XXIII OF 1943.

An Ordinance further to amend the Civil Pioneer Force Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 15th July, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Civil Pioneer Force Ordinance, 1942 (X of 1942), for the purpose hereinafter appearing ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—This Ordinance may be called the Civil Pioneer Force (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. Amendment of section 5, Ordinance X of 1942.—In section 5 of the Civil Pioneer Force Ordinance, 1942 (X of 1942),—

(a) for clause (1) of sub-section (1), the following shall be substituted, namely :—

“(i) commissioned officers—

(a) Controllers,

(b) Commandants Grade I,

(c) Commandants,

(d) Captains,

(e) Lieutenants,

(f) Second Lieutenants :

Provided that no Controller or Commandant Grade I shall be appointed for the unit or units constituted for any Province unless the Central Government has, by notification in the official Gazette, directed that such appointment shall be made.”;

(b) after sub-section (3), the following sub-sections shall be added, namely :—

“(4) The Provincial Government may authorise a Commandant Grade I to exercise, in respect of any unit or units or part of a unit or units placed under his control by the Provincial Government, the powers vested by or under this Ordinance in a Commandant; and thereupon the Commandant Grade I shall be deemed to be a Commandant for all the purposes of this Ordinance in respect of each such unit or part, and the Commandant of each such unit or part shall be subject to the orders and control of the Commandant Grade I in all matters respecting the unit or part.

(5) The Provincial Government may vest a Controller with any of the powers which under sub-section (4) it may authorise a Commandant Grade I to exercise, and may also, with the previous approval of the Central Government, delegate to a Controller any of the powers vested in the Provincial Government by this Ordinance or the rules and regulations made thereunder, except the power to discharge or dismiss commissioned officers, to reduce commissioned officers from one class of commissioned rank to another and to order forfeiture of service by a commissioned officer.”

LINLITHGOW,

Viceroy and Governor General.

Repealed by Act 2 of 1948
ORDINANCE No. XXIV OF 1943.

An Ordinance to make certain provisions relating to the discipline of seamen.

(Published in the Gazette of India Extraordinary, dated the 15th July, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions relating to the discipline of seamen ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Discipline of Seamen Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance—

(a) “ authorised officer ” means any one of the following, namely :—

the master of a ship, any mate of a ship, any person having the management of a ship, any police officer not below the rank of Sub-Inspector, any commissioned officer in His Majesty's forces, and any Shipping Master within the meaning of section 6 of the Indian Merchant Shipping Act, 1923 (XXI of 1923) ;

(b) “ ship to which this Ordinance applies ” means—

(i) any ship belonging to His Majesty, or any ship, whether British or foreign, chartered or requisitioned by or on behalf of His Majesty, or any ship registered in British India under the provisions of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) ;

(ii) any ship in respect of which there is for the time being in force a pass granted in pursuance of section 23 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) ;

(iii) any ship in respect of which there is for the time being in force a licence granted in pursuance of an order made under rule 65 of the Defence of India Rules.

3. *Absence without leave, desertion and failure to join ship.*—(1) Whoever being lawfully engaged to serve on board any ship to which this Ordinance applies—

- (a) neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship, or
- (b) deserts or is absent without leave from his ship, or
- (c) is absent without leave from his duty at any time

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to the amount of two months' pay, or with both.

(2) Nothing in this section shall be taken to prejudice the provisions of section 221 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) or section 100 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), relating to forfeiture of effects or wages for desertion or absence without leave.

4. *Drunkenness when joining or whilst on board ship.*—Whoever being lawfully engaged to serve on board any ship to which this Ordinance applies joins his ship, or is, whilst on board his ship, in a state of drunkenness so that the performance of his duties or the navigation of the ship is thereby impeded shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to the amount of one month's pay, or with both.

5. *Conveyance of deserter on board ship.*—(1) Where an authorised officer has reason to believe that any person has, in British India, contravened the provisions of section 3, that person may be conveyed on board his ship by or under the direction of that officer.

(2) This section shall, in relation to ships to which this Ordinance applies, have effect in the case of a British ship in substitution for the provisions of section 222 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) or sub-sections (1) to (4) of section 101 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), as the case may be.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. XXV OF 1943.

An Ordinance to make provision for the insurance of inland vessels against war risks and to make certain amendments in the War Risks (Factories) Insurance Ordinance, 1942, and the War Risks (Goods) Insurance Ordinance, 1940.

(Published in the Gazette of India Extraordinary, dated the 17th July, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make provision for the insurance of inland vessels against war risks and to make certain amendments in the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), and the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940);

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the War Risks (Inland Vessels) Insurance Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "inland vessel" means a vessel not ordinarily plying outside the limits of the territorial waters surrounding British India;

(b) "vessel" means a vessel the value of which including the hull, machinery and fittings but excluding cargo, fuel and stores carried for the use of the crew, as ascertained for the purpose of insurance under the War Risks (Factories) Insurance Scheme, exceeds one thousand rupees, propelled wholly or in part by steam, electrical or mechanical power, or adapted for towing by a vessel so propelled, and includes any such vessel while used as a place of habitation or for storage of goods but does not include a vessel of the type commonly called country craft.

3. *Insurance of inland vessels.*—(1) Subject to the provisions of this Ordinance the provisions of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), and of the War Risks (Factories) Insurance Scheme made thereunder shall extend and shall so far as they are applicable apply in the same manner as they apply to the insurance of property insurable under the said Ordinance in relation to a factory, to the insurance against war risks of inland vessels (including the hull, machinery and fittings thereof, fuel carried therein, and stores carried therein for the use of the crew), the property of any trading corporation or body of Port Trustees or Commissioners specified in this behalf by the Central Government, where such vessels, fuel and stores are not for the time being plant or materials insurable in relation to a factory under the said Ordinance and Scheme, or goods insurable under the War Risks (Goods) Insurance Scheme made under the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940).

(2) In the application of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), and the War Risks (Factories) Insurance Scheme made thereunder to the insurance of inland vessels—

(a) the obligation imposed by sub-section (1) of section 5 of the said Ordinance on the owner of a factory shall, in the case of a trading corporation or body of Port

Trustees or Commissioners whose inland vessels are insurable under the said Ordinance and Scheme, be an obligation imposed on the trading corporation or Port Trustees or Commissioners to take out, by such date as may be specified in this behalf by the Central Government by notification in the official Gazette, a policy of insurance against war risks issued in accordance with the Scheme whereby it is insured in respect of all inland vessels (including fuel carried by them and stores carried by them for the use of the crew) owned by it for a sum not less than the insurable value of such vessels, fuel and stores; and this obligation shall in the case of a trading corporation incorporated outside British India rest upon the manager of the principal place of business in British India of the corporation;

(b) the prohibition contained in sub-section (1) of section 6 of the said Ordinance shall after the commencement of this Ordinance be deemed to include a prohibition of carrying on the business of insuring inland vessels in British India against war risks for insurance against which provision is made under the said Scheme;

(c) sub-section (2) of section 3 of the said Ordinance shall be interpreted as authorising the Scheme to provide for the undertaking by the Central Government of its liabilities in relation to the insurance of inland vessels as from a date anterior to the commencement of this Ordinance;

(d) nothing in the said Ordinance shall prevent the fixing of a rate of premium under or the prescription of a period for policies issued in connection with the insurance of inland vessels different from any rate fixed under or any periods prescribed for policies issued in connection with the insurance of property appertaining to a factory.

4. *Amendment of section 15, Ordinance XII of 1942.*—In clause (b) of sub-section (2) of section 15 of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), for the words “and machinery”, in both places where they occur, the words “machinery and materials” shall be substituted.

5. *Amendment of section 16, Ordinance XII of 1942.*—In sub-section (2) of section 16 of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), after the word “notification”, where it occurs for the second and third time, the words “or order” shall be inserted.

6. *Amendment of the Schedule to Ordinance XII of 1942.*—In the Schedule to War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), after Item the following item shall be added, namely:—

“14. The Shillong Administered Areas.”

7. *Amendment of the Schedule to Ordinance IX of 1940.*—In the Schedule to the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940), after Item 13, the following item shall be added, namely:—

“14. The Shillong Administered Areas.”

LINLITHGOW,

Viceroy and Governor General

Repealed by Ordinance I of 1946
ORDINANCE No. XXVI of 1943.

An Ordinance to amend the Special Criminal Courts (Repeal) Ordinance, 1943.

(Published in the Gazette of India Extraordinary, dated the 17th July, 1943.)

WHEREAS an emergency has arisen which makes it necessary to amend the Special Criminal Courts (Repeal) Ordinance, 1943 (XIX of 1943), for the purposes hereinafter appearing :

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Special Criminal Courts (Repeal) Amendment Ordinance, 1943.

(2) It shall come into force at once.

2. Amendment of section 3, Ordinance XIX of 1943.—In section 3 of the Special Criminal Courts (Repeal) Ordinance, 1943 (XIX of 1943) (hereinafter referred to as the said Ordinance),—

(a) to sub-section (1) the following proviso shall be added, namely :—

“ Provided that in respect of any such sentence as aforesaid passed in a Presidency-town, the reference in this sub-section to Courts established under the said Code shall be construed as a reference to the Court in the Presidency-town competent in law to have passed the sentence.” ;

Price anna 1 or 1½d.

Special Criminal Courts (Repeal) Amendment.

[ORD. XXVI OF 1943.]

(b) to sub-section (2) the following shall be added, namely :—

“ or in respect of a sentence passed in a Presidency-town, on the date of the commencement of the Special Criminal Courts (Repeal) Amendment Ordinance, 1943 (XXVI of 1943) :

Provided that in respect of any such sentence as aforesaid passed in a Presidency-town, which sentence would, if it had been passed in a sessions division outside the Presidency-town, have had effect as if passed by a Sessions Judge or an Assistant Sessions Judge, the convicted person shall have a right of appeal to the High Court in the same manner as if the Court competent in law to have passed the sentence had been the Court of Session in a sessions division outside the Presidency-town.”

3. *Amendment of section 4, Ordinance XIX of 1943.*—In section 4 of the said Ordinance after the words “ Sub-Divisional Magistrate ” the words “ if there is one, or if there is not, to the District Magistrate ” shall be inserted.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. XXVII OF 1943.

An Ordinance further to amend the National Service (Technical Personnel) Ordinance, 1940.

(Published in the Gazette of India Extraordinary, dated the 17th July, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the National Service (Technical Personnel) Ordinance, 1940 (II of 1940), for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Gen. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the National Service (Technical Personnel) Amendment Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 3, Ordinance II of 1940.*—In section 3 of the National Service (Technical Personnel) Ordinance, 1940 (II of 1940) (hereinafter referred to as the said Ordinance), for the word “eighteen” the word “seventeen” shall be substituted.

3. *Amendment of section 7, Ordinance II of 1940.*—In sub-section (1) of section 7 of the said Ordinance,—

(a) in clause (a), the words “other than a notified factory or a training establishment” shall be omitted ;

(b) in clause (b),—

(i) after the word “direct”, the word “any” shall be inserted ;

(ii) the words “who are either unemployed or are not already employed in a notified factory, training establishment or technical post under the Crown,” shall be omitted ;

(c) for clause (c) the following shall be substituted, namely :—

“(c) transfer technical personnel engaged in employment in the national service from one form or place of employment in such service to another within the limits of the jurisdiction, or to another form or place of employment in any factory or technical post under the Crown in any part of British India,”.

4. *Amendment of section 11, Ordinance II of 1940.*—In section 11 of the said Ordinance,—

(a) in sub-section (1),—

(i) after the words “was employed”, the words “otherwise than in a probationary or temporary capacity,” shall be inserted ;

(ii) in the proviso, after the words “Provided that”, the words “if the employer refuses to reinstate such person, or denies his liability to reinstate such person or” shall be inserted ;

(b) after sub-section (2) the following sub-section shall be added, namely :—

“(3) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually released for or taken into employment in the national service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination of the employment takes place after the issue of an order of requirement by the Tribunal or the Central Government for the release of such person for employment in the national service or after the issue of a direction to such person under clause (d) of sub-section (1) of section 7.”

5. *Amendment of section 12, Ordinance II of 1940.*—After sub-section (4) of section 12 of the said Ordinance, the following sub-section shall be inserted, namely :—

“(4A) At any meeting of a Special Tribunal, the Chairman and any other member of the Special Tribunal shall constitute a quorum.”

6. *Amendment of section 13, Ordinance II of 1940.*—In section 13 of the said Ordinance,—

(a) in sub-section (2A), the word “suspend” shall be omitted ;

(b) for sub-section (3) the following shall be substituted, namely :—

“(3) Subject to prescribed rules, no owner or manager of an industrial undertaking (including a notified factory) which has been required to post notices on its premises under sub-section (1) shall discharge or dismiss any person included in the definition of technical personnel unless he has previously obtained the permission in writing of the Tribunal, and, if any such owner or manager releases or removes from one industrial undertaking (including a notified factory) to another any such person, he shall give notice in writing of such release or removal to the Tribunal within such period as may be prescribed :

Provided that it shall not be necessary for the owner or manager of an industrial undertaking (including a notified factory) to obtain such permission to discharge or dismiss a person included in the definition of technical personnel if such person—

(a) was engaged on probation but has not been confirmed ;

(b) was engaged for a period specified in his written agreement of service, if that period has expired ;

(c) was engaged for the completion of a piece of work the nature of which was specified in writing at the time of his engagement and which has been completed ;

(d) is certified by a registered medical practitioner to be physically unfit for the work or class of work in which he is engaged ;

(e) has, in the opinion of the employer, been guilty of gross insubordination, habitual absence from work or any serious misconduct or has been convicted of any criminal offence ; or

(f) is the subject of an adverse police report ;

but in all such cases the owner or manager concerned shall give notice in writing to the Tribunal of the discharge or dismissal and the reasons therefor within twenty-four hours of the discharge or dismissal.” ;

(c) after sub-section (3) as thus substituted, the following sub-section shall be inserted, namely :—

“(3A) In considering applications for the grant of permission under sub-section (2) or sub-section (3) the Tribunal shall be guided solely by the consideration whether in its opinion the services of the person who wishes to leave his employment or training or whom the employer proposes to discharge or dismiss, as the case may be, can be employed most effectively in connection with work of national importance in his existing employment or training.” ;

(d) after sub-section (4), the following sub-section and *Explanation* shall be added, namely :—

“(5) Nothing in this section shall affect the terms of any valid contract regulating the termination of employment of any person included within the definition of technical personnel, entered into between such person and his employer.

Explanation.—In this section—

(1) the word ‘discharge’ includes the trade term ‘lay off’ or temporary discharge for insufficiency of work, and

(2) the term ‘technical personnel’ includes all technical personnel whether paid on a monthly, weekly, daily or any other basis.”

[ORD. XXVII OF 1943.]

National Service (Technical Personnel) Amendment.

7. *Amendment of section 14, Ordinance II of 1940.*—In section 14 of the said Ordinance,—

(a) in sub-section (1), for the words and figures “provisions of section 13”, the following words, figures and brackets shall be substituted, namely :—
“provisions of sub-section (2) of section 7, sub-section (5) of section 10 and section 13” ;

(b) after sub-section (1) the following sub-sections shall be inserted, namely :—
“(1A) No Court shall take cognisance of any offence punishable under this Ordinance, except with the previous sanction in writing,—

(c) in the case of failure to comply with any summons, requirement, direction or order of a Tribunal, a Special Tribunal or the Central Government, of the Tribunal, the Special Tribunal or the Central Government whose summons, requirement, direction or order has not been complied with ;

National Service (Technical Personnel) Amendment.

[ORD. XXVII OF 1943.]

(b) in the case of contravention of the provisions of sub-section (5) of section 10, of the Central Government ; and

(c) in any other case, of the Tribunal within the limits of whose jurisdiction the offence was committed.

(1B) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under this Ordinance shall be cognisable."

LINLITHGOW,

Viceroy and Governor General.

Repealed by Act 2 of 1948

ORDINANCE No. XXVIII OF 1943.

An Ordinance to exempt the members in British India of establishments and forces of certain foreign Powers allied with His Majesty and of certain foreign Authorities from payment of taxes imposed by local authorities.

Published in the Gazette of India Extraordinary, dated the 4th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary to exempt the members in British India of establishments and forces of certain foreign Powers allied with His Majesty and of certain foreign Authorities from payment of taxes imposed by local authorities ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Allied Forces (Exemption from Local Taxation) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. Interpretation.—In this Ordinance—

(a) "Power to which this Ordinance applies" means a foreign Power allied with His Majesty to which the Allied Forces Ordinance 1942 (LVI of 1942), is for the time being applicable ;

(b) "Authority to which this Ordinance applies" means a foreign Authority recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty's forces to which the Allied Forces Ordinance, 1942 (LVI of 1942), is for the time being applicable.

3. *Exemption from taxes imposed by local authorities.*—(1) Notwithstanding anything contained in any enactment for the time being in force, no tax imposed by a Municipal Committee, Cantonment Board or any other local authority whatever shall, except as provided in this Ordinance, be payable by any establishment or naval, military or air force maintained in British India by a Power or Authority to which this Ordinance applies in respect of—

- (a) any immovable property in the possession or occupation of, or
- (b) any goods the property of, or consigned or under transport for ultimate delivery to, or
- (c) any animal, bicycle, motor bicycle, motor car, vessel, vehicle, aircraft or apparatus maintained by and for the purposes of,

such establishment or force.

(2) Notwithstanding anything contained in any enactment for the time being in force, no such tax as aforesaid shall, except as provided in this Ordinance, be payable by any member of an establishment or force maintained in British India by a Power or Authority to which this Ordinance applies in respect of any building occupied by him, or in respect of any horse, bicycle, motor bicycle, motor car or other means of conveyance maintained by him in his capacity as a member of such establishment or force and under authority from a person exercising authority in such establishment or force, or by way of a tax on persons or a requirement to take out a licence for practising a profession, trade or calling.

(3) Nothing in this section shall be deemed to exempt any person from payment of any tax imposed or of that part of any tax which is imposed to cover the cost of specific services rendered to that person by the local authority imposing the tax.

4. *Decision of questions arising under this Ordinance.*—If any question arises whether, or as to the extent to which, any tax is payable as having been imposed to cover the cost of specific services rendered by the local authority imposing the tax or whether in the particular circumstances of any case a particular tax is payable, the decision of the Central Government thereon shall be conclusive.

LINLITHGOW,

Viceroy and Governor General

Repealed by Act 36 of 1957
ORDINANCE No. XXIX OF 1943.

Ordinance to provide for the more speedy trial and more effective punishment of certain offences punishable under the Indian Penal Code.

Published in the Gazette of India Extraordinary, dated the 11th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the more speedy trial and more effective punishment of certain offences punishable under the Indian Penal Code (XLV of 1860) ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Criminal Law Amendment Ordinance, 1943.

(2) It extends to the whole of British India and applies also to British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall come into force at once.

2. Interpretation.—In this Ordinance “transport” includes the carriage whether of persons or property of any description by rail, road, air, sea or inland waters.

3. Constitution of Special Tribunals.—The Central Government may, by notification in the official Gazette, constitute for the purposes of this Ordinance two Special Tribunals, one to sit at Calcutta and the other at Lahore :

Provided that either such Special Tribunal may, if it is satisfied that it will tend to the general convenience of parties or witnesses in any particular case, sit for the trial of that case in a place other than Calcutta or Lahore.

4. Composition of Special Tribunals.—(1) A Special Tribunal constituted under this Ordinance shall consist of three members, of whom one shall be an officer of His Majesty's forces who is a barrister of England or Northern Ireland of at least five years standing or a member of the Faculty of Advocates in Scotland of at least five years standing.

(2) Of the other members each shall be a person who—

(a) is qualified under sub-section (3) of section 220 of the Government of India Act, 1935 (26 Geo. 5, c. 2), for appointment as a Judge of a High Court ; or

(b) has for a period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (V of 1898), of any one or more of the following, namely, Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Presidency Magistrate ;

and at least one shall have the qualification specified in clause (a).

(3) The Central Government shall appoint one of the members qualified under sub-section (2) to be the President of the Special Tribunal.

5. Cases triable by Special Tribunals.—(1) The Special Tribunals shall have jurisdiction to try the cases respectively allotted to them in the First Schedule in respect of such of the charges for offences specified in the Second Schedule as may be preferred against the several accused and any such case which is at the commencement of this Ordinance pending before any Court shall be deemed to be transferred from that Court to the Special Tribunal to which it is allotted.

(2) When trying any such case as aforesaid, a Special Tribunal may also try any offence not specified in the Second Schedule which is an offence with which the accused may, under the Code of Criminal Procedure, 1898 (V of 1898), be charged at the same trial.

6. *Procedure and powers of Special Tribunals.*—(1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial, and trying accused persons shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (V of 1898), for the trial of warrant cases by magistrates :

Provided that a Special Tribunal may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice :

Provided further that for the purposes of sub-section (1) of section 356 of the said Code the Tribunal may decide by which one, if any, of its members the evidence of any or all of the witnesses shall be taken down in writing, and where under the provisions of that sub-section the evidence of witnesses is taken down under the direction and superintendence of the Tribunal but not by a member thereof, the provisions of sub-section (3) of section 356 shall not apply.

(2) Save as provided in sub-section (1) the provisions of the Code of Criminal Procedure, 1898 (V of 1898), except the provisions of section 196A and of Chapter XXXIII, shall, so far as they are not inconsistent with this Ordinance, apply to proceedings of a Special Tribunal ; and for the purposes of the said provisions the Special Tribunal shall be deemed to be a Court of Session, trying cases without a jury, and a person conducting a prosecution before a Special Tribunal shall be deemed to be a Public Prosecutor.

(3) A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(4) In the event of any difference of opinion among the members of a Special Tribunal the opinion of the majority shall prevail.

(5) A Special Tribunal may pass any sentence authorised by law.

7. *Bar of appeals and certain other jurisdiction.*—There shall be no appeal from any order or sentence of a Special Tribunal, and no Court shall have authority to transfer any case from a Special Tribunal or to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), or, save as provided in section 8, have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.

8. *Revision.*—The High Court within the local limits of whose jurisdiction the offence charged in a case before a Special Tribunal is alleged to have taken place may, in relation to that case, exercise, so far as they may be applicable, all the powers conferred by Chapter XXXII of the Code of Criminal Procedure, 1898 (V of 1898), on the High Court, as if the Special Tribunal were a Court of Session situate within the local limits of that High Court's jurisdiction.

9. *Special rules of evidence.*—(1) When any person is charged before a Special Tribunal with an offence punishable under section 161 or section 165 of the Indian Penal Code (XLV of 1860), the fact that such person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that such person has, at or about the time of the offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the Special Tribunal as a relevant fact in deciding whether he is or is not guilty of the particular offence with which he is charged.

(2) Where in any trial before a Special Tribunal of an offence punishable under section 161 or section 165 of the Indian Penal Code (XLV of 1860) it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from a person or the agent of a person seeking to obtain facilities for transport or holding or seeking to obtain a contract from His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions, or the Central or a Provincial Government or a department of any such Government or a local authority, or from any person acting on behalf of any such Government or department or authority, it shall be presumed unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, the gratification or that valuable thing as the case may be, as a motive or reward such as is mentioned in section 161, or, as the case may be, without consideration or for consideration which he knows to be inadequate.

10. *Special provision regarding punishment of offences under section 161, Indian Penal Code.*—When any person charged before a Special Tribunal with an offence punishable under section 161 or section 165 of the Indian Penal Code (XLV of 1860) is found guilty of that offence, the Special Tribunal shall, notwithstanding anything contained in the said Code, whether or not it imposes a sentence of imprisonment, impose a sentence of fine which shall not be less in amount than the amount or value of any gratification or valuable thing found to have been accepted or obtained by the offender in contravention of the provisions of the said Code.

11. *Power to make rules.*—The Central Government may make rules providing

- (a) the times at which Special Tribunals may sit;
- (b) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.

THE FIRST SCHEDULE.

PART I.

Cases for trial by the Tribunal with headquarters at Calcutta.

Name of the accused person or persons.

Name of the accused person or persons.		Offences punishable under the Indian Penal Code charged against the accused.
1. A. K. Mukherji, Military Contractor, 3, Sunny Park, Calcutta		Sections 161/116, I. P. C.
2. B. Kalicharan, Goods Clerk, Farukhabad, E. I. Railway.		Section 161, I. P. C.
3. Jamadar Sampurna Singh, R.I.A.S.C., Supply Depot, Hastings, Calcutta		Section 161, I. P. C.
4. S. R. Dewan, S. D. O., M. E. S., U. S. A. Works Division, Auckland Place, Calcutta		Section 161, I. P. C.
5. J. N. Mitter, Station Master, Rajbari Railway Station, B. & A. Railway		Section 161, I. P. C.
6. Lieutenant H. T. Huntley, Station Master, Jamalpur, E. I. Railway		Section 161, I. P. C.
7. Rama Nath Gupta, Station Master, Adamdighi, B. N. Railway		Section 161, I. P. C.
Lieutenant T. Everson, Carriage Foreman, E. I. Railway, Howrah		Section 161, I. P. C.
Tincoori Chatterji, Loader, Goods Shed, Sealdah, B. & A. Railway		Section 161, I. P. C.
(1) E. A. Greutur, Manager, Siemens		Section 120B read with section 420, I. P. C.
(2) S. Mitter		
(3) E. A. Dorsey		
(4) G. V. Dorsey		
(5) N. Basu		
(6) M. C. Mansukhani		
(7) E. Edwards		
(8) D. A. Basil		
(9) M. R. Sarcar		
(10) D. Mansukhani		
(11) A. E. Mercado (Junior)		
(12) S. N. Saighol		
Hassan Khan, Station Master, Niwar Railway Station, G. I. P. Railway, Jubbulpore		Section 161, I. P. C.
Haralal Bannerji, Trains and Wagons Clerk, D. T. S. Office, Nainpur, B. N. Railway		Section 161, I. P. C.
Sri Veerasamy Naidu, Station Master, Katpadi		Section 161, I. P. C.
B. Balnathan, Agent, Messrs. K. P. Ahmed Alladin and Co., Secunderabad		Sections 161/116, I. P. C.

PART II.

Cases for trial by the Tribunal with headquarters at Lahore.

Name of the accused person or persons.

Name of the accused person or persons.		Offences punishable under the Indian Penal Code charged against the accused
Mohd. Shafi, Assistant Transport Officer, Raja Sansi, District Amritsar		Sections 161/116, I. P. C.
Manga Parshad, Examiner, Ordnance Inspection Depot, Sialkot		Section 161, I. P. C.
Second-Lieutenant G. W. Watts, at present employed as an attached officer to the Garrison Engineer, Lahore Division		Section 420, I. P. C.
Dewan Chand, Chief Goods Clerk, Okara Railway Station, N. W. Railway		Section 161, I. P. C.

Name of the accused person or persons.

Offences punishable under
the Indian Penal Code
charged against the accused.

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|---|---|
| 5. Puran Singh, Station Master, Ahmadgarh (Malerkotla State) | Section 161, I. P. C. |
| 6. 2nd-Lieutenant G. W. Watts, at present employed as an attached officer to the Garrison Engineer, Lahore Division | Section 420, I. P. C. |
| 7. 2nd-Lieutenant G. W. Watts, at present employed as an attached officer to the Garrison Engineer, Lahore Division | Section 417, I. P. C. |
| 8. (1) Seth Chand Rattan Moondra, Director, Herman & Mohatta, Ltd., Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C.
(5) Section 161, I. P. C.
(6) Sections 161/109 read with section 34, I. P. C. |
| (2) K. J. Sapra, Engineer, Herman & Mohatta, Ltd., Karachi | |
| (3) Sajjan Mal, employee of Herman & Mohatta, Ltd., Karachi | |
| (4) Lila Dhar, employee of Govind Moti & Co., Karachi | |
| (5) Bhagwandas Bhagchand Hingorani, Contractor, Karachi | |
| (6) Agar Singh Shivji Darbar of Messrs. Govind Moti & Co., Karachi | |
| (7) Virji Mohan of Messrs. Govind Moti & Co., Karachi | |
| (8) Thakursi Moti of Messrs. Govind Moti & Co., Karachi | |
| (9) T. V. Israni, Assistant Garrison Engineer (M. E. S.), Malir | |
| (10) Vin D'Cruze, S. D. O. (M. E. S.) | |
| (11) D. J. Sadarangani, S. D. O. (M. E. S.) | |
| (12) Harrai Singh, ex-Overseer (M. E. S.) | |
| 9. (1) D. H. Daruwala, Contractor, Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C. |
| (2) Natwar Lal, formerly clerk of D. H. Daruwala, Contractor | |
| (3) T. V. Israni, Assistant Garrison Engineer (M. E. S.), Malir | |
| (4) Vin D'Cruze, S. D. O. (M. E. S.) | |
| (5) Kartar Singh, Overseer (M. E. S.) | |
| 10. (1) Seth Chand Rattan Moondra, Director, Herman & Mohatta Ltd., Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C.
(5) Section 161, I. P. C.
(6) Sections 161/109 with section 34, I. P. C. |
| (2) K. J. Sapra, Engineer, Herman & Mohatta, Ltd., Karachi | |
| (3) Sajjan Mal, employee of Herman & Mohatta, Ltd., Karachi | |
| (4) Lila Dhar, employee of Govind Moti & Co., Karachi | |
| (5) Agar Singh Shivji, Darbar of Messrs. Govind Moti & Co., Karachi | |
| (6) Virji Mohan of Messrs. Govind Moti & Co., Karachi | |
| (7) Thakursi Moti of Messrs. Govind Moti & Co., Karachi | |
| (8) T. V. Israni, Assistant Garrison Engineer (M. E. S.), Malir | |
| (9) K. J. Kavasji, S. D. O. (M. E. S.) | |
| (10) V. S. Arora, Overseer (M. E. S.) | |
| (11) Jagat Rai N. Wazirani, Overseer (M. E. S.) | |
| 11. (1) Agar Singh Shivji, Darbar of Messrs. Govind Moti & Co., Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C.
(5) Section 161, I. P. C.
(6) Sections 161/109 with section 34, I. P. C. |
| (2) Virji Mohan of Messrs. Govind Moti & Co., Karachi | |
| (3) Thakursi Moti of Messrs. Govind Moti & Co., Karachi | |
| (4) Lila Dhar, employee of Govind Moti & Co., Karachi | |
| (5) G. J. Daniel, S. D. O. (M. E. S.) | |
| (6) R. T. Jagtiani, Overseer (M. E. S.) | |
| 12. (1) Seth Girdhar Lal, Director, Herman & Mohatta, Ltd., Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C. |
| (2) Mulk Raj, Overseer, formerly employee of accused No. 1 | |
| (3) G. J. Daniel, S. D. O. (M. E. S.) | |
| (4) R. T. Jagtiani, Overseer (M. E. S.) | |
| 13. (1) Harbans Lal, Contractor, Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C. |
| (2) Gaja Dhar, Contractor, Karachi | |
| (3) G. J. Daniel, S. D. O. (M. E. S.) | |
| (4) R. T. Jagtiani, Overseer (M. E. S.) | |
| 14. (1) Girdhari Dass Sobhraj, Contractor, Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Sections 420/511, I. P. C. |
| (2) Murlidhar Sobhraj, Contractor, Karachi | |
| (3) Kundan Dass Dhanraj Mal, Contractor, Shikarpur (Sind) | |
| (4) G. J. Daniel, S. D. O. (M. E. S.) | |
| (5) R. T. Jagtiani, Overseer (M. E. S.) | |
| 15. (1) Cyrus F. Minwala, Contractor, Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420/109, I. P. C.
(4) Section 120B read with section 409, I. P. C. |
| (2) Dinshaw Minwala, formerly Manager, Hindustan Sanitary & Drainage Works, Karachi | |
| (3) G. J. Daniel, S. D. O. (M. E. S.) | |
| (4) Kodu Mal, Overseer (M. E. S.) | |

Name of the accused person or persons.

Offences punishable under
the Indian Penal Code
charged against the accused.

16. Anand Behari, Assistant Goods Clerk, Thompsonganj, E. I. Railway	Section 161, I. P. C.
17. Ram Parshad Nigam, Control Office, Jhansi	Section 161, I. P. C.
18. Shivkali Goswami, Chief Goods Clerk, Shahjahanpur, E. I. Railway	Section 161, I. P. C.
19. A. Jöbe, Assistant Station Master, formerly at Bhatinda, N. W. Railway	Section 161, I. P. C.
20. A. C. Stringer, Loco Foreman, Lahore	Section 161, I. P. C.

THE SECOND SCHEDULE.

[See section 5 (1).]

Offences triable by Special Tribunals.

1. An offence punishable under section 161 of the Indian Penal Code, when committed by a person being or expecting to be a public servant discharging duties in connection with the provision of facilities for transport to the public or the obtaining of services or goods for or the making or performance of contracts entered into with His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

2. An offence punishable under section 165 of the Indian Penal Code when committed by a person being a public servant such as is described in the preceding item.

3. An offence punishable under section 406 or section 409 of the Indian Penal Code, where the property in respect of which the offence is committed is property entrusted by His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

4. An offence punishable under section 417 or section 420 of the Indian Penal Code, where the person deceived is His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

5. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.

LINLITHGOW,
Viceroy and Governor General.

ORDINANCE No. XXX OF 1943.

to constitute in British India a force to be called the Military Nursing Services (India) as part of the armed forces of the Crown.

Published in the Gazette of India Extraordinary, dated the 15th September, 1943.

WHEREAS an emergency has arisen which makes it necessary to provide for the constitution in British India of a force to be called the Military Nursing Services (India) as a part of the armed forces of the Crown;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, application and commencement.*—(1) This Ordinance may be called the Military Nursing Services (India) Ordinance, 1943.

(2) It applies to British subjects in any part of India and to members of the Military Nursing Services (India) wherever they may be.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "prescribed" means prescribed by rules made under this Ordinance;

(b) "regulations" means regulations made under this Ordinance.

3. *Constitution of Military Nursing Services (India).*—(1) There shall be raised and maintained, in the manner hereinafter provided, as part of the armed forces of the Crown and for service with His Majesty's military forces an auxiliary force which shall be designated the Military Nursing Services (India).

(2) The Military Nursing Services (India) shall comprise two corps, namely, the Indian Military Nursing Service and the Army in India Nursing Service Reserve.

4. *Liability of service of members of Military Nursing Services (India).*—(1) The members of the Indian Military Nursing Service shall be liable for service only with the Indian Army Act, 1911 (VIII of 1911).

(2) The Army in India Nursing Service Reserve shall comprise two parts, one consisting of members who have engaged to serve and shall be liable to service only with the Indian Army Act (44 and 45 Vict., c. 58), the other consisting of members who have engaged to serve and shall be liable to service only with the Indian Army Act, 1911 (VIII of 1911).

5. *Members to be of commissioned rank.*—All members of the Military Nursing Services (India) shall be of commissioned rank and shall be appointed as officers of the Military Nursing Services (India) by the Central Government by notification in the official Gazette.

6. *Eligibility for appointment.*—(1) Any British subject or any subject of an allied State, if a woman and above the age of twenty-one, shall be eligible for appointment as an officer in the Military Nursing Services (India), and, if she satisfies the prescribed conditions, may be appointed thereto in the manner laid down in section 5.

Price anna 1 or 1½d.

1/2 Sales by No. 1948

1/2 Sales and omitted by No. 1950

2 [Chief of the Army Staff]

2 [Commander-in-Chief Indian Army]

Military Nursing Services (India).

[ORD. XXX OF 1943.]

(2) Every person so appointed shall be subject to this Ordinance and to the rules and regulations made thereunder.

2 [Chief of the Army Staff] 7. Dismissal from Military Nursing Services (India).—The Central Government, or an authority empowered by the Central Government in this behalf, or the Commander-in-Chief of His Majesty's Forces in India, may dismiss any officer from the Military Nursing Services (India). [Indian Military Nursing Service]

1 [Indian] 8. Liability to undergo training and perform duties.—Subject to the provisions of this Ordinance, a member of the Military Nursing Services (India) shall be bound to undergo such training and in such manner and to perform such duties in connection with His Majesty's military forces as may be laid down by regulations.

2 [Indian Military Nursing Services] 9. Application of Army Act and Indian Army Act, 1911, to members of Military Nursing Services (India).—(1) The provisions of the Indian Army Act, 1911 (VII of 1911) shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to members of the Indian Military Nursing Service and to those members of the Army in India Nursing Service Reserve who have engaged to serve with forces and persons subject to the Indian Army Act, 1911 (VIII of 1911) as they apply to Indian commissioned officers, unless they are clearly inapplicable to women.

1 [24] 2 [X] (2) The provisions of the Army Act (44 and 45 Vict., c. 58) shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to those members of the Army in India Nursing Service Reserve who have engaged to serve with forces and persons subject to the Army Act as they apply to officers of the regular forces, unless they are clearly inapplicable to women.

10. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, rules may be made under this section—

(a) providing for the medical examination of persons offering themselves for appointment in the Military Nursing Services (India);

(b) providing for any matter which under this Ordinance is to be or may be prescribed.

2 [Chief of the Army Staff] 2 [Commander-in-Chief Indian Army] 11. Power to make regulations.—The Commander-in-Chief of His Majesty's Forces in India may make regulations consistent with this Ordinance and the rules made thereunder, providing for all matters to be laid down by regulations, and generally for all details connected with the organisation, pay, allowances, duties, discipline, training, clothing, equipment and leave of members of the Military Nursing Services (India).

LINLITHGOW,

Viceroy and Governor General.

Repealed by Act 2 of 1948

ORDINANCE No. XXXI OF 1943.

An Ordinance to control the dismantling of factories.

(Published in the Gazette of India Extraordinary, dated the 15th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary to control the dismantling of factories ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Factories (Control of Dismantling) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “to dismantle” a factory means to remove from its position the machinery or part of the machinery of the factory, where by such removal the factory is rendered wholly or partly useless for its purpose ; but does not include any temporary removal of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs ;

(b) “factory” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), but includes also any premises which were at any time after the commencement of this Ordinance a factory as so defined ;

(c) “machinery” has the meaning assigned to that word in clause (k) of section 2 of the Factories Act, 1934 (XXV of 1934).

3. *Dismantling a factory.*—(1) No person shall, without the written permission of the Central Government or of an officer authorised in this behalf by the Central Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment which may extend to two years or with fine or with both.

4. *Offence by corporations.*—If the person contravening any of the provisions of sub-section (1) of section 3 is a company or other corporate body, every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Price anna 1 or 1½d.

5. Powers of entry, examination, taking evidence, etc.—(1) Subject to any rules made by the Central Government, any officer authorised in this behalf by that Government, may, if he has reason to believe that any person has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,—

- (a) enter with such assistants (if any), being persons in the service of the Crown as he thinks fit, any place ;
- (b) make such examination of the place and of any machinery, books or documents therein and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Ordinance ; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Ordinance :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

(2) Whoever wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or document in his custody or to comply with any demand for information, or knowingly or recklessly makes to such officer a statement false in a material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

6. Cognizance of offences.—No prosecution for any offence under this Ordinance shall be instituted except by or with the previous sanction of the Central Government or the officer authorised by the Central Government for the purposes of sub-section (1) of section 3.

7. Bar of legal proceedings.—No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done, or intended to be done, under this Ordinance.

8. Power to make rules.—(1) The Central Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

- (a) for the procedure for the grant of the permission referred to in sub-section (1) of section 3,
- (b) for an appeal against a refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer authorised in pursuance of that section, and
- (c) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance I 7 1946
ORDINANCE No. XXXII OF 1943.

An Ordinance further to amend the Special Criminal Courts (Repeal) Ordinance, 1943.

(Published in the Gazette of India Extraordinary, dated the 29th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Special Criminal Courts (Repeal) Ordinance, 1943 (XIX of 1943), for the purpose hereinafter appearing ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Special Criminal Courts (Repeal) Second Amendment Ordinance, 1943.

(2) It shall come into force at once.

Price anna 1 or 1½d.

2 *Special Criminal Courts (Repeal) Second Amendment.* [ORD. XXXII OF 1943.]
2. *Amendment of section 3, Ordinance XIX of 1943.*—To sub-section (2) of section 3 of the Special Criminal Courts (Repeal) Ordinance, 1943 (XIX of 1943), as amended by the Special Criminal Courts (Repeal) Amendment Ordinance, 1943 (XXVI of 1943), the following proviso shall be added, namely :—

“ Provided further that notwithstanding anything contained in section 418 of the Code of Criminal Procedure, 1898 (V of 1898), an appeal against any such sentence as aforesaid shall lie on a matter of fact as well as a matter of law.”

LINLITHGOW,
Viceroy and Governor General.

Repealed by Act 27-1948
ORDINANCE No. XXXIII OF 1943.

An Ordinance to make special provision for the punishment of the offence of unlawful possession of military stores.

(Published in the Gazette of India Extraordinary, dated the 11th October, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make special provision for the punishment of the offence of unlawful possession of military stores;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1 Short title, extent and commencement.—(1) This Ordinance may be called the Military Stores (Unlawful Possession) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

Price anna 1 or 1½d.

2. *Definition.*—In this Ordinance “military stores” includes any article intended for use in the equipment of or for supply to the naval, military or air forces of His Majesty or of any foreign Power allied with His Majesty.

3. *Unlawful possession of military stores.*—Whoever is found or is proved to have been in possession of any article of military stores shall, if the Court sees reasonable grounds for believing such article to be or to have been the property of His Majesty or of a foreign Power allied with His Majesty, as the case may be, unless he proves that the article came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years or with fine or with both.

LINLITHGOW,

Viceroy and Governor General.

Repealed by ordinance 1 of 1946

ORDINANCE No. XXXIV OF 1943.

An Ordinance to provide more effective punishment for certain subversive activities directed against the State or His Majesty's naval, military or air forces.

(Published in the Gazette of India Extraordinary, dated the 16th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide more effective punishment for certain subversive activities directed against the State or His Majesty's naval, military or air forces ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent, application and commencement.*—(1) This Ordinance may be called the Subversive Activities Ordinance, 1943.

(2) It extends to the whole of British India, and it applies also—

(a) to British subjects and servants of the Crown in any part of India ;

(b) to British subjects who are domiciled in any part of India wherever they may be ;

(c) in respect of the regulation and discipline of any naval, military or air force raised in British India, to members of, and persons attached to, employed with or following that force, wherever they may be ; and

(d) to, and to persons on, ships and aircraft registered in British India wherever they may be.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance—

(a) "document" includes gramophone records, sound tracks, and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

(b) "subversive act" means any act which is intended or is likely to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties by, members of His Majesty's naval, military or air forces, or to induce or influence any member of His Majesty's naval, military or air forces to fail in the performance of his duties as such, or to render any member of His Majesty's naval, military or air forces incapable of efficiently performing his duties as such.

Price anna 1 or 1½d.

(c) "subversive matter" means any matter, whether expressed in words spoken or written or in signs or visible representations or in any other manner whatsoever, which is intended or is likely to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties by, members of His Majesty's naval, military or air forces, or to induce or influence any member of His Majesty's naval, military or air forces to fail in the performance of his duties as such, or which is an incitement to the commission of a subversive act.

3. *Subversive acts and uttering, and making, publishing, etc., document containing subversive matter.*—Whoever—

(a) does any subversive act, or

(b) without lawful authority or excuse utters, or makes prints, publishes, distributes or spreads by any means whatsoever any document containing, any subversive matter,

shall be punishable with transportation for life or with imprisonment for a term which may extend to ten years and shall also be liable to fine.

4. *Possession of document containing subversive matter.*—(1) Whoever without lawful authority or excuse has in his possession any document containing any subversive matter shall be punishable with imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) Any person who, without lawful authority or excuse, has on any premises in his occupation or under his control any document containing any subversive matter shall, unless he proves that he did not know and had no reason to suspect that the said document contained any subversive matter, or that the said document was on such premises without his knowledge or against his consent, be deemed to have contravened this section.

5. *Enhancement of penalty for certain offences punishable under the Indian Penal Code.*—Whoever commits an offence punishable under section 121A or section 122 or section 123 or section 131 of the Indian Penal Code may, in lieu of any punishment to which he is liable under the said Code, be punished with death.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Act 2 of 1948
ORDINANCE No. XXXV OF 1943.

An Ordinance to provide for the prevention of hoarding and profiteering.

Published in the Gazette of India Extraordinary, dated the 16th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the prevention of hoarding and profiteering ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Hoarding and Profiteering Prevention Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. Interpretation.—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “article” includes any article or thing, except foodgrains, which has not, by notification in the official Gazette, been declared by the Central Government to be an article or thing to which this Ordinance does not apply ;

(b) “dealer” means a person carrying on the business of selling any article, whether wholesale or retail ;

(c) “Controller General” means the Controller General of Civil Supplies appointed by the Central Government and includes the Deputy Controller General or Assistant Controller General of Civil Supplies so appointed ;

(d) “inspector” means an inspector appointed for the purposes of this Ordinance by the Central or by the Provincial Government ;

(e) “producer” includes a manufacturer ;

(f) an article shall be deemed to be in the possession of a person—

(i) when it is held on behalf of that person by another person ;

(ii) notwithstanding that it is mortgaged to another person.

3. Fixing of maximum quantities which may be held or sold and maximum prices—

(1) The Central Government may, by notification in the official Gazette, fix in respect of any article—

(a) the maximum quantity which may at any one time be possessed by a dealer or producer ;

(b) the maximum quantity which may in any one transaction be sold to any person ;

(c) the maximum price or rate which may be charged by a dealer or producer.

(2) The quantities and prices or rates fixed in respect of any article under this section may be different in different localities.

4. Restrictions on possession and sale by dealers and producers where maximum is fixed under section 3.—No dealer or producer shall—

(a) have in his possession at any one time a quantity of any article exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 3 ;

(b) sell or offer for sale to any person in any one transaction a quantity of any article exceeding the maximum fixed by notification under clause (b) of sub-section (1) of section 3 ; or

(c) sell or offer for sale to any person any article for a price or at a rate exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 3.

Price anna 1 or 1½d.

5. *Restrictions on possession by dealers or producers where no maximum is fixed under section 3.*—Where no maximum has been fixed by notification under clause of sub-section (1) of section 3,—

(a) no dealer shall have in his possession at any one time a quantity of article exceeding one-quarter of the total quantity of that article held by him in the course of the year 1939, or as the case may be, exceeding the quantity which the Controller General or other officer empowered in this behalf by the Central or Provincial Government may intimate to him as the maximum quantity of that article which he may have in his possession at any one time; and

(b) no producer shall have in his possession at any one time a quantity of article exceeding one-quarter of his total production of that article during one of the three years 1940, 1941 and 1942 in which his production was greatest, or, as the case may be, exceeding the quantity which the Controller General or other officer empowered in this behalf by the Central or the Provincial Government may intimate to him as the maximum quantity of that article which he may have in his possession at any one time.

6. *Restriction on price where no maximum is fixed under section 3.*—(1) Where no maximum has been fixed by notification under clause (c) of sub-section (1) of section 3, no dealer or producer shall sell or offer for sale or otherwise dispose of an article for a consideration which is unreasonable.

(2) For the purposes of this section a consideration is unreasonable if, whether it is exclusively in money or not, it exceeds the amount represented by an addition of twenty per cent. or the addition allowed by normal trade practice whichever is less to—

(a) the cost landed of the article in the case of an imported article,

(b) the cost of production of the article in the case of an article which is not imported, or if as a condition of sale the purchaser is required to purchase at the same time any other article.

(3) The Controller General may, by order published in the official Gazette, vary in respect of any specified article or class of articles the figure of twenty per cent. referred to in sub-section (2), and if he does so that sub-section shall have effect accordingly.

7. *General limitation on quantity to be possessed at one time.*—(1) No person shall have in his possession at any one time a greater quantity of any article to which this section applies than the quantity necessary for the reasonable needs of him and his family for a period of three months or such longer period as may for special reasons in his particular circumstances be considered a reasonable period for which to make provision.

(2) For the purposes of sub-section (1), the expression “reasonable needs” includes the fulfilment of social or religious or other customary obligations.

(3) Nothing in this section shall apply to a dealer or producer in respect of an article sold by or produced by him.

(4) This section shall apply only to such articles as the Controller General may by order published in the official Gazette specify for the purpose.

8. *Duty to declare possession of excess stocks.*—Any person having in his possession a quantity of any article exceeding that permitted by or under this Ordinance shall forthwith report the fact to the Controller General or other officer empowered in this behalf by the Central or the Provincial Government, and shall take such action as the storage, distribution or disposal of the excess quantity as the Controller General or such officer may direct.

9. *Refusal to sell.*—No dealer or producer shall, unless previously authorised to do so by the Controller General or other officer empowered in this behalf by the Central or the Provincial Government, without sufficient cause refuse to sell to any person any article within the limits as to quantity imposed by this Ordinance.

Explanation.—The possibility or expectation of obtaining a higher price for an article at a later date shall not be deemed to be a sufficient cause for the purposes of this section.

III. Cash memorandum to be given of certain sales.—(1) Every dealer or producer when selling any article for cash shall, if the amount of the purchase is ten rupees or more, in all cases, and, if the amount of the purchase is less than ten rupees, when requested by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

(2) The Central Government may, by notification in the official Gazette, prescribe the particulars to be contained in any such cash memorandum.

(3) The Central Government or the Provincial Government may, by notification in the official Gazette, exempt specific areas, classes of dealers or producers, or commodities from the operation of this section.

IV. Marking of prices and exhibiting price list.—(1) The Controller General may direct any dealer or producer to mark articles exposed or intended for sale with the sale prices or to exhibit on his premises a price list of articles held by him for sale, and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

(2) No dealer shall destroy, efface or alter any label or mark affixed to an article and indicating the price marked by a producer.

V. Powers of Controller General, Inspectors, etc.—(1) The Controller General or an inspector or an officer empowered in this behalf by the Central or the Provincial Government may—

(a) direct a dealer or producer to maintain records of all sale and purchase transactions ;

(b) direct a dealer or producer to furnish any information he may require as to the business carried on by such dealer or producer ;

(c) direct a dealer or producer to furnish any information possessed by such dealer or producer as to the business carried on by any other person ;

(d) inspect or cause to be inspected any books or other documents belonging to or under the control of any dealer or producer ;

(e) enter and search or authorise any person not below the status of a gazetted officer to enter and search any premises ;

(f) seize or authorise the seizure of any article in respect of which he suspects that an offence under this Ordinance has been committed, and thereafter take or authorise the taking of all measures necessary for securing the production of the article in a Court.

Hoarding and Profiteering Prevention.

[ORD. XXXV OF 1943.]

(2) The Controller General may, by order published in the official Gazette, issue to all dealers or producers of a specified class a direction such as is referred to in clause (a) or clause (b) of sub-section (1).

13. Penalties.—(1) Whoever contravenes any of the provisions of this Ordinance shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both.

(2) Whoever fails to comply with any direction made under authority conferred by this Ordinance shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

(3) A Court convicting any person of an offence punishable under this Ordinance may order any article, in respect of which the offence was committed, to be forfeited to His Majesty.

14. Procedure.—No prosecution for any offence punishable under this Ordinance shall be instituted except with the previous sanction of the Central or the Provincial Government, or of an officer not below the rank of a District Magistrate empowered by the Central or the Provincial Government to grant such sanction.

15. Certain officers to be deemed public servants.—The Controller General, an inspector and any officer empowered for the purposes of section 5, 8, 9 or 12 by the Central or the Provincial Government shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

16. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Ordinance.

17. Saving of other laws.—The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force regulating the keeping, storage, distribution, disposal, or price of articles.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Act 46 of 1950

ORDINANCE No. XXXVI OF 1943.

An Ordinance to provide for the forfeiture in certain cases not provided for by the Indian Army Act, 1911, of pay and allowances of certain persons subject to that Act.

(Published in the Gazette of India Extraordinary, dated the 16th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the forfeiture in certain cases not provided for by the Indian Army Act, 1911 (VIII of 1911), of pay and allowances of certain persons subject to that Act;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Prisoners of War (Forfeiture of Emoluments) Ordinance, 1943.

(2) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, “Indian commissioned officer” means an Indian commissioned officer as defined in clause (2) of section 7 of the Indian Army Act, 1911 (VIII of 1911).

Price anna 1 or 1½d.

Prisoners of War (Forfeiture of Emoluments). [ORD. XXXVI OF 1943.]

3. *Forfeiture of pay and allowances of prisoner of war.*—(1) The whole or any part of the pay and allowances of an Indian commissioned officer may be forfeited by order of the Central Government if the officer is found by a military Court of Enquiry constituted under this Ordinance—

- (a) to have deserted to the enemy, or
- (b) while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or
- (c) to have allowed himself to be taken prisoner by the enemy through want of due precaution, or through disobedience of orders or wilful neglect of duty, or
- (d) having been taken prisoner by the enemy, to have failed to rejoin His Majesty's service when it was possible to do so.

(2) The Central Government may at any time cancel in whole or in part any order made under sub-section (1), and any such cancellation may be with retrospective effect.

4. *Courts of Enquiry.*—The Commander-in-Chief of His Majesty's Forces in India or any officer authorised by him in this behalf may constitute a military Court of Enquiry of such composition as the constituting authority thinks fit to enquire into and report to the Central Government on any case of the nature referred to in sub-section (1) of section 3.

LINLITHGOW,
Viceroy and Governor General.

Repealed by Ordinance 1 of 1946
ORDINANCE No. XXXVII OF 1943.

An Ordinance to authorise in a certain area contiguous with territories now occupied by the enemy the trial of certain offences by Military Courts, to create certain new offences, to enhance penalties provided by law for certain offences, and to confer certain powers upon Military or Air Force authorities.

(Published in the *Gazette of India Extraordinary*, dated the 19th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to authorise in a certain area contiguous with territories now occupied by the enemy the trial of certain offences by Military Courts, to create certain new offences, to enhance penalties provided by law for certain offences, and to confer certain powers upon Military or Air Force authorities;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

PART I.

1. *Short title, extent, application and commencement.*—(1) This Ordinance may be called the Military Operational Area (Special Powers) Ordinance, 1943.

(2) It extends to the Province of Assam, to the Districts of Tippera, Noakhali and Chittagong in the Province of Bengal, and, subject to the provisions of section 92 of the Government of India Act, 1935 (26 Geo. 5, c. 2), to the Chittagong Hill-tracts; and it applies also in the case of British subjects who are domiciled in any part of India, to offences committed in Burma or any territory occupied by the enemy.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “enemy” includes an enemy agent, and any mutineer, or rebel against whom operations are being carried out by His Majesty’s forces or the forces of a Power in alliance with His Majesty,

(b) “enemy agent” means a person, not operating as a member of an enemy armed force, who is employed by, or works for or acts on instructions received from, the enemy or who at any time in the past has been so employed or has so worked or acted.

3. *Powers of military authorities under Defence of India Rules.*—Any reference in the Defence of India Rules to an authority empowered under those Rules to exercise a power conferred by those Rules shall be deemed to include, in relation to the exercise of that power in the area to which this Ordinance extends, a reference to the General Officer Commanding the military forces in that area and to any officer not below the rank of Brigadier whom that General Officer Commanding may authorize in this behalf.

4. *Jurisdiction of Military Courts.*—(1) In the area to which this Ordinance extends, and for so long as it remains in force, the provisions of section 5 of the Code of Criminal Procedure, 1898 (V of 1898), so far as they relate to the trial of offences triable by Military Courts constituted under this Ordinance, shall be deemed to be repealed.

(2) In the area to which this Ordinance extends the following offences shall, notwithstanding anything contained in section 28 or section 29 of the Code of Criminal Procedure, 1898 (V of 1898), or elsewhere in any law, be triable by, and only by, Military Courts constituted under this Ordinance, namely:—

(a) any offence made punishable by Part II of this Ordinance;

(b) any offence punishable under the Indian Penal Code, which is specified in the Schedule;

(c) any offence punishable by or under the Defence of India Rules, which is specified in the Schedule,

when the offence is committed by any person except a person attached to or officially accompanying on duty His Majesty’s forces or the forces of a Power in alliance with His Majesty, or a member of any such forces who is not an enemy within the meaning of clause (a) of section 2.

(3) No Military Court constituted under this Ordinance shall try any offence unless the offence was committed either—

- (a) within the area to which this Ordinance extends, or
 - (b) within Burma, or any territory occupied by the enemy, where the accused person is a British subject domiciled in any part of India,
- and unless the offence was committed after the commencement of this Ordinance.

5. *Kinds of Military Courts.*—For the purposes of this Ordinance there shall be the following kinds of Military Courts, namely :—

- (a) Superior Military Courts ;
- (b) Summary Military Courts.

6. *Power to constitute Military Courts.*—Any General Officer Commanding military forces in the area to which this Ordinance extends or an officer not below the rank of Lieut.-Colonel empowered by him in this behalf, may, whenever necessary, convene Superior Military Courts or by general or special order set up Summary Military Courts for the trial of offences triable by such Courts under this Ordinance.

7. *Composition of Military Courts.*—(1) A Superior Military Court shall consist of three officers of whom one at least shall be of rank not below that of Major or Squadron Leader :

Provided that a civilian official being a Judge of a High Court, a Sessions Judge, or an Additional Sessions Judge may be appointed in the place of not more than one such officer.

(2) A Summary Military Court shall consist of one person who shall be either an officer of rank not below that of Major or Squadron Leader, or a Magistrate of the first class.

(3) The President of a Superior Military Court shall be nominated by the convening authority.

8. *Cases triable by and powers of Military Courts.*—(1) A Superior Military Court may try any offence triable by a Court constituted under this Ordinance and may pass any sentence authorised by law.

(2) A Summary Military Court may try any such offence except an offence punishable with death or with transportation or imprisonment for more than seven years, and may pass any sentence authorised by law except a sentence of imprisonment for more than one year or of fine exceeding seven hundred and fifty rupees.

9. *Distribution of cases, transfer of cases, and place of sitting of Courts.*—The General Officer Commanding the military forces in the area to which this Ordinance extends or any officer authorised by him in this behalf, may by general or special order give directions as to the distribution between Superior Military Courts and Summary Military Courts or among Superior Military Courts and among Summary Military Courts of cases for trial, as to the transfer of cases from one Military Court to another, and as to the places at which Military Courts shall sit.

10. *Procedure of Superior Military Courts.*—(1) A Superior Military Court shall exercise the powers of and follow the procedure laid down in the Indian Army Act, 1911 (VIII of 1911), and the rules made thereunder for a summary general court-martial convened under that Act, and the provisions of that Act and of the rules made thereunder shall, so far as they are not inconsistent with the provisions of this Ordinance, have effect in relation to a Superior Military Court as they have effect in relation to a summary general court-martial :

Provided that—

- (a) an accused person may not object to any member of the Court ;
- (b) a memorandum of the evidence given at the trial and the statement, if any, made by the accused shall always be recorded.

(2) The finding and sentence of a Superior Military Court shall require to be confirmed by the convening officer in every case :

Provided that a sentence of death shall be reserved for confirmation by the General Officer Commanding the military forces in the area to which this Ordinance extends and a sentence of transportation or imprisonment for more than five years shall be reserved for confirmation by an officer of rank not below that of Major-General.

11. Procedure of Summary Military Courts.—A Summary Military Court shall follow the procedure laid down in the Indian Army Act, 1911 (VIII of 1911), and the rules made thereunder for a summary court-martial convened under that Act, and the provisions of that Act and of the rules made thereunder shall, so far as they are not inconsistent with the provisions of this Ordinance, have effect in relation to a Summary Military Court as they have effect in relation to a summary court-martial :

Provided that—

- (a) no other officer shall be required to attend the trial ;
- (b) the proceedings may be recorded in schedule form and the Court shall not be required to record more than a memorandum of the evidence.

12. Legal Practitioners.—Every person accused of an offence before a Superior Military Court or a Summary Military Court shall be entitled to be defended by a legal practitioner :

Provided that the Court shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court, such adjournment would cause unreasonable delay in the disposal of the case.

13. Trials in camera.—(1) A Superior Military Court or a Summary Military Court may direct that throughout or during any part of the proceedings before the Court such persons or classes of persons as the Court may determine shall be excluded.

(2) Where the Court makes a direction under sub-section (1) the Court may further direct that any legal practitioner by whom the accused is to be defended shall be a person approved or chosen from among persons approved in this behalf by such authority as the General Officer Commanding the military forces in the area to which this Ordinance extends may empower for the purpose, and may also direct that no information with respect to the proceedings of the Court or with respect to the accused shall be disclosed or published.

14. Powers of arrest.—(1) Any person reasonably suspected of having committed an offence triable under this Ordinance may be arrested without warrant by any member of His Majesty's forces.

(2) A member of His Majesty's forces making any such arrest shall at once produce the person arrested before a military authority empowered to bring him to trial or before his immediately superior officer who shall take steps to forward the arrested person to an authority empowered to bring him to trial.

15. Confinement in custody.—Any person arrested under section 14 or accused of an offence triable under this Ordinance may be confined in military custody pending the investigation and trial of the offence, and such custody shall be lawful whether within the area to which this Ordinance extends or elsewhere in British India.

16. Transfer of cases investigated or enquired into under the Code of Criminal Procedure.—When it appears from a police report or in the course of enquiry into an offence that the offence is one triable under this Ordinance, the Magistrate shall, on perusal of the police report or when the case has reached the stage referred to in section 208, 242 or 252, as the case may be, of the Code of Criminal Procedure, 1898 (V of 1898), make over the case to the nearest military authority empowered to bring the accused person to trial and shall forward the accused, if in custody, and shall send all police reports relating to the case to that authority, and no order under section 526 of the Code of Criminal Procedure, 1898 (V of 1898), shall be made in respect of any case which under the provisions of this section is required to be made over to the military authority.

17. Service of Summons.—(1) The convening officer, or a Military Court, or the Judge Advocate, if any, may summon any person to attend at a time and place to be mentioned in the summons for the purpose of giving evidence or of producing any document or other thing.

(2) Such summons may, in lieu of being sent to a Magistrate for service as provided in sub-section (3) of section 84 of the Indian Army Act, 1911 (VIII of 1911), be served by an emissary authorised by the authority issuing the summons.

18. Execution of sentences.—(1) When a sentence of death passed by a Superior Military Court has been confirmed by the confirming authority, the confirming authority shall forthwith forward the accused to a jail in British India with the warrant

authorising the carrying out of the sentence, and such warrant shall be executed by the officer in charge of the jail and returned by him after execution to the confirming authority.

(2) When the accused is sentenced to transportation or imprisonment the confirming authority, or, in the case of a sentence which does not require confirmation, the Court passing the sentence shall forward a warrant to the jail in which he is to be confined, and shall forward him to such jail with the warrant.

(3) When the accused has been sentenced to pay a fine, a copy of such sentence signed and certified by the Court may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898), for the levy of fines, as if it was a sentence of fine imposed by such Magistrate.

(4) When the accused is sentenced to whipping only, the sentence shall be executed at such time and place as the confirming authority, or, in the case of a sentence which does not require confirmation, the Court, may direct :

Provided that the provisions of sub-section (2) of section 392 and the provisions of sections 393 and 394 of the Code of Criminal Procedure, 1898 (V of 1898), shall apply, and every such sentence shall, as far as possible, be carried out in a place to which the public shall not be admitted.

(5) When the accused is sentenced to whipping in addition to imprisonment, the whipping shall be carried out in the jail to which the accused is sent under sub-section (2) and in accordance with the provisions of sections 392, 393 and 394 of the Code of Criminal Procedure, 1898 (V of 1898).

(6) Notwithstanding anything contained in the foregoing sub-sections, a person sentenced to transportation or imprisonment may, if for good reason he cannot conveniently be sent to a jail, be kept in military custody until arrangements for his confinement in a jail can be made.

(7) The form of the warrants referred to in sub-sections (1) and (2) shall be as nearly as may be the form prescribed under the Indian Army Act, 1911 (VIII of 1911), for the execution of sentences passed under that Act.

19. Bar of interference by other Courts.—(1) No Court shall have authority to revise any order or sentence passed by a Military Court constituted under this Ordinance or to transfer any case from such Court, or to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), or to exercise any jurisdiction of any kind in respect of any proceedings of such a Court.

(2) No High Court shall have authority to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), in respect of any person confined in military custody under this Ordinance.

20. Bar of legal proceedings.—No suit, prosecution or other legal proceedings shall lie against any person in any Court for or in respect of anything done or in good faith intended to be done under this Ordinance.

21. Bar of operation of sections 401 and 402 of the Code of Criminal Procedure, 1898.—The powers conferred on the Provincial Government by sections 401 and 402 of the Code of Criminal Procedure, 1898 (V of 1898), shall not be exercisable by the Provincial Government in respect of any sentence imposed by a Military Court under this Ordinance, but those powers may be exercised in respect of any such sentence by the Governor General in his discretion.

PART II.

22. Punishment for offences under sections 121A, 122, 125 and 131, Indian Penal Code.—Whoever commits an offence punishable under section 121A, 122, 125 or 131 of the Indian Penal Code (XLV of 1860) may, in lieu of any punishment to which he is liable under the said Code, be punished with death.

23. Punishment for contraventions of rule 36, Defence of India Rules.—Whoever contravenes any of the provisions of rule 36 of the Defence of India Rules, or is deemed under the provisions of the said Rules to have contravened such provision, may, in lieu of any punishment to which he is liable under the said Rules, be punished with death, or with whipping, or with whipping in addition to any punishment to which he is liable under the said Rules.

24. Punishment for attempts and abetments.—Whoever attempts to commit, or abets or attempts to abet the commission of, an offence triable under this Ordinance, shall, notwithstanding anything to the contrary in the Indian Penal Code (XLV of 1860) or any other law, be punishable with the punishment provided by law for the commission of such offence.

25. Communication with enemy and hindering operations of forces.—Whoever—

(a) without lawful authority communicates to the enemy, or with the intention of communicating it to the enemy, collects, publishes or attempts to elicit any information with respect to the movements, number, description, condition or disposition of any of His Majesty's forces or of any forces of a Power in alliance with His Majesty or with respect to the plans or conduct or supposed plans or conduct of military operations by any such forces, or with respect to any works or measures undertaken for or connected with or intended for the defence of any place, or with respect to any other matter whatsoever information as to which would or might be, directly or indirectly, useful to the enemy, or

(b) wilfully commits any act calculated to mislead, or hamper the movement or imperil the success of any operations of, His Majesty's forces or any forces of a Power in alliance with His Majesty

shall be punishable with death or with transportation for life or with imprisonment for a term which may extend to ten years and shall also be liable to fine.

26. Assisting enemy.—Whoever voluntarily assists in any manner whatsoever, or knowingly protects, harbours or conceals any enemy or prisoner of war shall, notwithstanding anything contained in the Indian Penal Code (XLV of 1860), be punishable with death or with transportation for life or with imprisonment which may extend to ten years and shall also be liable to fine.

27. Obstruction of member of military forces.—Whoever wilfully obstructs or interferes in any manner with a member of His Majesty's forces or of forces of a Power in alliance with His Majesty when such member is acting in the execution of his duty shall be punishable with transportation for life or with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

28. Failure to give information concerning enemy.—Whoever, having seen or having come into contact with the enemy, or having obtained knowledge of the whereabouts of any gathering, movements or intended gathering or intended movements of the enemy, or knowing or having reason to believe that any of his relatives or dependents have joined or are about to join the enemy, fails without delay to give full information thereof to the nearest military or civil authority, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

29. Poisoning water-supplies and damaging military equipment.—Whoever—

(a) poisons or does any act calculated to render poisonous any water-supply, or

(b) interferes with or damages or takes away any stores or equipment or other property whatsoever belonging to or consigned to His Majesty's forces or forces of a Power in alliance with His Majesty

shall be punishable with death or with transportation for life or with imprisonment for a term which may extend to ten years or with whipping either in lieu of or in addition to such transportation or imprisonment.

30. Unauthorised possession of military stores or equipment.—(1) Whoever is found in unauthorised possession of any stores or equipment or any other property whatsoever belonging to or consigned to His Majesty's forces or the forces of a Power in alliance with His Majesty shall be punishable with imprisonment for a term which may extend to seven years or with whipping or with both imprisonment and whipping, and shall also be liable to fine.

(2) The burden of proving that his possession is authorised shall be upon the person in whose possession any such stores, equipment or property is found.

31. Spreading false intelligence or alarming reports.—Whoever disseminates false intelligence knowing it to be false, or spreads reports calculated to cause alarm or despondency shall be punishable with imprisonment which may extend to seven years or with fine or with both.

32. Destroying or damaging notices.—Whoever destroys, damages or tampers with any notice exhibited under the authority of the military authorities shall be punishable with imprisonment for a term which may extend to five years, or with whipping or with both imprisonment and whipping, and shall also be liable to fine.

33. Failure to obey summons and contumacy in Court.—Whoever being summoned to attend a Military Court constituted under this Ordinance—

- (a) without reasonable cause omits to attend, or
- (b) refuses to take an oath or make a solemn affirmation in the required manner, or
- (c) without reasonable cause refuses to produce any relevant document under his control, or
- (d) wilfully causes an interruption of or disturbance in the proceedings of the Court, or
- (e) refuses to give evidence, or gives evidence which is false and which he either knows or believes to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

34. Disclosure of information concerning trial.—Whoever in contravention of a direction made under sub-section (2) of section 13 of this Ordinance forbidding the disclosure or publication of information relating to a trial discloses or publishes any such information shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

THE SCHEDULE.

[See Section 4 (2) (b) and (c).]

1. An offence punishable under Chapter VI or Chapter VII of the Indian Penal Code (XLV of 1860).

2. An offence punishable under Chapter XVI of the Indian Penal Code (XLV of 1860), where the person against whom the offence is committed is a member of His Majesty's forces or the forces of a Power in alliance with His Majesty or of a police force or civil armed force acting with His Majesty's forces.

3. An offence punishable under clause (a) of section 505 of the Indian Penal Code (XLV of 1860).

4. The following offences punishable under the Defence of India Rules, namely :—

- (a) a contravention of rule 6, 8A, 10, 13, 35 or 36.
- (b) a contravention of an order made under rule 8, 9 or 49.

5. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.

LINLITHGOW,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. XXXVIII OF 1943.

An Ordinance further to amend the Civil Pioneer Force Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 23rd October, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Civil Pioneer Force Ordinance, 1942 (X of 1942), for the purposes hereinafter appearing :

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Civil Pioneer Force (Third Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 2, Ordinance X of 1942.*—In section 2 of the Civil Pioneer Force Ordinance, 1942 (X of 1942) (hereinafter referred to as the said Ordinance),—

(a) clauses (a), (b) and (c) shall be relettered as clauses (c), (d) and (e) respectively ;

and

(b) the following shall be inserted as clauses (a) and (b), namely :—

“ (a) “ **Commanding Officer** ” means the commissioned officer appointed to command a unit of the Civil Pioneer Force, or, in the absence from duty of such officer, the senior commissioned officer of the unit present with the unit ;

(b) “ **detachment** ” means any portion of a unit of the Civil Pioneer Force serving away from the headquarters of the unit ; ”.

3. *Amendment of section 3, Ordinance X of 1942.*—To section 3 of the said Ordinance, the following sub-section shall be added, namely :—

“ (3) The strength and composition of a unit shall be such as may be prescribed. ”

4. *Amendment of section 5, Ordinance X of 1942.*—In section 5 of the said Ordinance, sub-sections (3), (4) and (5) shall be omitted.

5. *Amendment of section 6, Ordinance X of 1942.*—In sub-section (3) of section 6 of the said Ordinance,—

(a) after the word “ shall ”, the words “ subject to the prescribed conditions ” shall be inserted ; and

(b) for the word “ commandant ”, the words “ Commanding Officer ” shall be substituted.

6. *Insertion of new section 6A in Ordinance X of 1942.*—After section 6 of the said Ordinance, the following section shall be inserted, namely :—

“ 6A. *Appointment of Commanding Officers and officers in superior command.*—

(1) The Provincial Government shall appoint substantively a commissioned officer of the prescribed rank to command each unit of the Civil Pioneer Force constituted for the Province :

Provided that if an officer of the prescribed rank is not readily available, the Provincial Government may appoint temporarily any commissioned officer not below the rank of Captain as the Commanding Officer of the unit.

(2) Subject to any rules made in this behalf, the Central Government, or, in respect of units of the Civil Pioneer Force constituted for a Province the Provincial Government, may appoint any commissioned officer to exercise command over a number of units or detachments of units, and such officer shall be deemed to be in superior command of all the units or detachments placed under him, and the Commanding Officers thereof shall be subject to his control and orders in all matters respecting their units.

(3) The Provincial Government may, with the previous approval of the Central Government, delegate to a Controller any of the powers vested in the Provincial Government except the power in respect of commissioned officers to order discharge, dismissal, reduction in rank or grade or forfeiture of service.”

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7. *Amendment of section 8, Ordinance X of 1942.*—For the proviso to section 8 of the said Ordinance, the following proviso shall be substituted, namely :—
 “Provided that an enrolled person shall not without his own consent be transferred to a unit constituted for a Province other than that in which he was enrolled.”

8. *Substitution of new section for section 14, Ordinance X of 1942.*—For section 14 of the said Ordinance, the following section shall be substituted, namely :—

“14. *Non-judicial disposal of offences of enrolled persons other than officers.*—

(1) When an enrolled person other than a commissioned, administrative or non-commissioned officer is charged with an offence punishable under sub-clause (i) or (ii) of clause (e) of section 11, or under section 12, or under section 13 read with sub-clause (i) or (ii) of clause (e) of section 11 or with section 12, the Commanding Officer, subject to any rules made in this behalf, may dispose of the charge without formal trial, and may award one or more of the following punishments, namely :—

(a) confinement in such place as may be considered suitable for a period not exceeding seven days ;

(b) punishment drill, extra work, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to quarters or lines ;

(c) forfeiture of pay and allowances for a period not exceeding one month.

(2) Any commissioned officer if so authorised by the Central Government, and the commissioned or administrative officer commanding a detachment if so authorised in writing by his Commanding Officer, may, without formal trial, dispose of a charge of an offence punishable under section 12 or under section 13 read with section 12 against any enrolled person other than an officer, and, subject to any rules made in this behalf, may award to such person any one or more of the punishments specified in clauses (a) to (c) of sub-section (1).”

9. *Substitution of new section for section 15, Ordinance X of 1942.*—For section 15 of the said Ordinance, the following section shall be substituted, namely :—

“15. *Non-judicial disposal of minor offences of non-commissioned officers.*—(1) When a non-commissioned officer is charged with an offence punishable under section 12 or under section 13 read with section 12, the Commanding Officer may dispose of the case without formal trial, and, subject to any rules made in this behalf, may award to such non-commissioned officer any one or more of the following punishments, namely :—

(a) reduction to a lower grade or a lower class or to the ranks ;

(b) forfeiture of pay and allowances for a period not exceeding one month ;

(c) reprimand or severe reprimand.

(2) Any commissioned officer if so authorised by the Central Government, and the commissioned officer commanding a detachment if so authorised in writing by his Commanding Officer, may, without formal trial, dispose of a charge of an offence punishable under section 12 or under section 13 read with section 12 against a non-commissioned officer, and may award such person one or both of the following punishments, namely :—

(a) forfeiture of pay and allowances for a period not exceeding seven days ;

(b) reprimand or severe reprimand.”

10. *Amendment of section 16, Ordinance X of 1942.*—In section 16 of the said Ordinance,—

(a) after the word and figures “section 12”, the words and figures “or under section 13 read with section 12” shall be inserted ;

(b) for the words “the commandant may”, the words “the Commanding Officer, subject to any rules made in this behalf, may” shall be substituted.

11. *Insertion of new section 16A in Ordinance X of 1942.*—After section 16 of the said Ordinance, the following section shall be inserted, namely :—

“16A. *Reduction in rank for inefficiency or lack of zeal.*—Subject to any rules made in this behalf, the Commanding Officer may reduce to a lower grade or a lower class or to the ranks any non-commissioned officer in his unit on the ground of inefficiency or lack of zeal.”

12. *Amendment of section 17, Ordinance X of 1942.*—In section 17 of the said Ordinance,—

(a) in sub-section (1), after the word and figures “section 12”, the words and figures “or under section 13 read with section 12” shall be inserted ;

(b) in sub-section (2), for the word "commandant", the words "Commanding Officer" shall be substituted.

13. *Amendment of section 18, Ordinance X of 1942.*—In section 18 of the said Ordinance,—

(a) for the word "Commandant" the words "Commanding Officer" shall be substituted.

(b) to clause (c), the following words shall be added, namely :—

"or, subject to any rules made in this behalf, for any day on which he is in hospital on account of venereal disease";

(c) clause (d) shall be relettered as clause (f), and the following shall be inserted as clauses (d) and (e), namely :—

"(d) all pay and allowances ordered to be forfeited under section 14 or section 15 ;

(e) any deduction from pay ordered under clause (b) of section 19 . " ;

(d) in the proviso, after the words "any enrolled person", the following shall be inserted, namely :—

"made under clauses (d) to (f), both inclusive".

14. *Amendment of section 21, Ordinance X of 1942.*—In sub-section (1) of section 21 of the said Ordinance, for the word "commandant", the words "Commanding Officer" shall be substituted.

15. *Amendment of section 23, Ordinance X of 1942.*—In section 23 of the said Ordinance, for the word "commandant", the words "Commanding Officer" shall be substituted.

WAVELL,

Viceroy and Governor General.

Repealed by Ordinance 17 1946
ORDINANCE No. XXXIX OF 1943.

An Ordinance to amend the Criminal Law Amendment Ordinance, 1943.

(Published in the Gazette of India Extraordinary, dated the 25th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to amend the Criminal Law Amendment Ordinance, 1943 (XXIX of 1943), for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of

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Criminal Law Amendment (Amending).

[ORD. XXXIX OF 1943.]

India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Criminal Law Amendment (Amending) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 6, Ordinance No. XXIX of 1943.*—In sub-section (1) of section 6 of the Criminal Law Amendment Ordinance, 1943 (XXIX of 1943), in the second proviso, after the words “the said Code”, the words “English shall be deemed to be the language of the Court and” shall be inserted.

WAVELL,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946

ORDINANCE No. XL OF 1943.

An Ordinance further to amend the Criminal Law Amendment Ordinance, 1943.

(*Published in the Gazette of India Extraordinary, dated the 2nd November, 1943.*)

WHEREAS an emergency has arisen which renders it necessary to correct certain errors and to make certain additions in the First Schedule to the Criminal Law Amendment Ordinance, 1943 (XXIX of 1943) ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Criminal Law Amendment (Second Amending) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of the First Schedule, Ordinance No. XXIX of 1943.*—In the First Schedule to the Criminal Law Amendment Ordinance, 1943 (XXIX of 1943)—

(a) in Part I,—

(i) in entry No. 10, for the names “ E. A. Greuter ” and “ S. Mitter ”, respectively, the names “ E. A. Greuter ” and “ N. Mitter ” shall be substituted and shall be deemed always to have been substituted ;

(ii) the following entries shall be added after entry No. 14, namely :—

- | | |
|---|----------------------------|
| 15. Lt. A. E. Wilkins, Hony. A. T. S., Station Superintendent, Sealdah, B. & A. Railway | Section 161, I. P. C. |
| 16. Nanda Lal Chakrabarty, Station Master, Bandananga, B. & A. Railway | Section 161, I. P. C. |
| 17. Narendra Mohan Das Gupta, Station Master, Panchbibi Railway Station, B. & A. Railway | Section 161, I. P. C. |
| 18. Lt. D. Moore, Station Master, Burdwan, E. I. Railway | Section 161, I. P. C. |
| 19. D. R. Bose, S. D. O., M. E. S., Khulna | Section 161, I. P. C. |
| 20. Fakhruddin, Manager, Messrs. E. H. Taher & Co. Ltd., 86, Clive Street, Calcutta | Sections 420/511, I. P. C. |
| 21. V. Kanniah Naidu, Assistant Goods Clerk, M. & S. M. Railway, Katpadi, North Arcot District | Section 161, I. P. C. |
| 22. K. S. Chatterji, Assistant Station Master, Bagra Railway Station, G. I. P. Railway | Section 161, I. P. C. |
| 23. Shiva Bhai Naran Das Gajjar, Ticket Collector, Wadiad, B., B. & C. I. Railway. | Section 161, I. P. C. |
| 24. Nautamal Venishanker, Station Master, Koth Gangad Station, Ahmedabad District, B., B. & C. I. Railway | Section 161, I. P. C. |

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25. (1) Sheroo, son of Khudadad, Irani, East Street, Poona Cantonment.
 (2) Mrs. Shirin Rashid, widow of Rashid Khudadad, Irani, East Street, Poona Cantonment.
 (3) M. K. Irani, son of Khudadad, Irani, East Street, Poona Cantonment.
 (4) Naunitrai, son of Amthalal; Bania, Sachapir Street, Poona Cantonment.
 (5) Mohan Lal, son of Prem Chand, Vohra, Sachapir Street, Poona Cantonment.
 (6) Bhogi Lal, son of Kadhar Lal, Gandhi, Sachapir Street, Poona Cantonment.
 (7) Mansukh Rai, son of Chuni Lal Shah, Jain, Sachapir Street, Poona Cantonment.
 (8) Major Hill Murray, Officer-in-charge, Supply Depot, Poona Cantonment.
- (b) in Part II, the following entries shall be added after entry No. 20, namely :—
- “ 21. Kampta Parshad, Clerk, R. I. Section, O. I. D., Delhi Fort (1) Section 420, I. P. C.
 (2) Sections 420/109, I. P. C.
 (3) Sections 420/120B, I. P. C. ”
22. Nihal Chand, Goods Clerk, Doraha Railway Station, N. W. Railway Section 161, I. P. C.
23. Harbans Singh, Ticket Collector and in charge of Reservation, Delhi Main Station Section 161, I. P. C.
24. Kesho Ram, Station Master, Doraha Railway Station, N. W. Railway Section 161, I. P. C.
25. Abdul Hakim Sheikh, Partner of Messrs. A. R. Kalla & Sons, Meerut Cantonment (1) Sections 161/116, I. P. C.
 (2) Sections 161/116, read with section 511, I. P. C.
26. (1) Sat Narain, employee of Messrs. Panna Lal Durga Pershad, Generalganj, Cawnpore.
 (2) Kali Singh, employee of Messrs. Panna Lal Durga Pershad, Generalganj, Cawnpore. Sections 161/116, I. P. C.
27. Shaukat Ali, Relieving Coaching Clerk, N. W. Railway, Quetta Section 161, I. P. C.
28. (1) Masud Ahmad Akhtar of Messrs. Saeed Anis & Company, Amritsar.
 (2) Fadi Hussain, employee of Messrs. Saeed Anis & Company, Amritsar. (1) Section 406, I. P. C.
 (2) Sections 406/109, I. P. C.
29. Mool Chand, Supervisor, Ordnance Clothing Factory, Lahore Section 161, I. P. C. ”

WAVELL,

Viceroy and Governor General.

Repealed by Act 2 of 1948
ORDINANCE No. XLI OF 1943.

An Ordinance to impose a temporary duty of excise on certain sugar produced in British India.

(Published in the Gazette of India Extraordinary, dated the 10th November, 1943.)

WHEREAS an emergency has arisen which makes it necessary to impose a temporary duty of excise on certain sugar produced in British India;

NOW, THEREFORE, in exercise of the powers conferred by Section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Sugar (Temporary Excise Duty) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “Assessing Officer” and “Circle Officer” mean, respectively, any officer appointed by the Provincial Government or by the Collector of Central Excises and Salt Revenue having jurisdiction in the area to exercise the powers of an Assessing Officer or a Circle Officer under this Ordinance;

(b) “Assistant Collector” means an Assistant Collector of Central Excises and Salt Revenue and includes any officer specially authorised by the Central Board of Revenue or by the Provincial Government to exercise in any specified area all or any of the powers of the Assistant Collector for the purposes of this Ordinance;

(c) “factory” means any premises wherein or within the precincts of which twenty or more workers are working or were working on any day of the twelve months preceding the date of the commencement of this Ordinance;

(d) “sugar” means any form of sugar containing more than ninety per cent. of sucrose;

(e) “wholesale dealer” means any person who buys or sells sugar wholesale and includes a broker or commission agent who in addition to making contracts for the sale or purchase of sugar for others, stocks sugar belonging to others as an agent for the purpose of sale.

3. *Imposition of duty.*—A duty of excise at the rate of thirteen annas per standard maund shall be levied, and shall be payable to the Central Government, on all sugar produced in any factory in British India before the commencement of this Ordinance and owned or possessed at the commencement of this Ordinance by an owner of a factory or by a wholesale dealer.

4. *Disclosure of stocks.*—Every person owning or possessing sugar liable to the duty imposed by section 3 shall, within seven days of the date of the commencement of this Ordinance, submit to the Assessing Officer having jurisdiction in the area a full account in writing, containing the particulars entered in Form A set out in the Schedule and verified in the manner indicated in that form, of all sugar in his ownership or possession on the date of the commencement of this Ordinance, and shall specify therein the place where such sugar is stored and, if it is in transit from one place to another, the date, place and manner of despatch, its destination, the name and address of the consignee, and the date on which it is expected to reach such destination.

5. *Assessment and payment of duty.*—(1) On receipt of the return referred to in section 4 and after such further enquiry, if any, as he may think necessary, the Assessing Officer shall assess the duty payable on the sugar. If no return is submitted within the period specified in section 4, the Circle Officer, or, if the sum assessed exceeds two hundred rupees, the Assistant Collector, may make a summary assessment of the duty on such information as may be available to him.

Price anna 1 or 1½d.

(2) The amount so assessed shall be communicated in writing to the person owning or possessing the sugar with the particulars contained in Form B set out in the Schedule; and that person shall, not later than the 1st day of December, 1943, unless he obtains permission under sub-section (3) to pay by instalments, pay it into the local Treasury or any other Treasury approved by the Assessing Officer.

(3) Such payment may, with the permission of the Assessing Officer obtained when the assessment is communicated under sub-section (2), be made in instalments, not more than three in number, of which, when three instalments are allowed, the first shall be not less than one-third of the total amount due and shall be paid not later than the 1st day of December, 1943, and the second shall be not less than one-half the balance due and shall be paid not later than the 1st day of January, 1944, and the third shall be paid not later than the 1st day of February, 1944 and, when two instalments are allowed, the first shall be not less than half the total amount due and shall be paid not later than the 1st day of December, 1943, and the second shall be paid not later than the 1st day of January, 1944.

6. *Recovery of duty with penalty.*—If the duty payable under section 3 is not paid in full before the 2nd day of February, 1944, or if any instalment is not paid in full by the date fixed by section 5, the Circle Officer, or, if the deficit exceeds one hundred rupees, the Assistant Collector may, in lieu of the amount left unpaid, recover any sum not exceeding double the amount left unpaid.

7. *Mode of recovery of duty.*—When default is made in the payment of any duty payable under section 3, or when any sum is to be recovered under section 6, the Assistant Collector may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

8. *Power to obtain information.*—An Assessing Officer or any person authorised in writing in this behalf by an Assistant Collector may at all reasonable times enter any place in which he has reason to believe that sugar liable to the duty imposed by section 3 is kept, and may inspect such place and may require any person found therein who is for the time being in charge thereof to produce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in such place and to furnish to him such information as he may require for the purpose of ascertaining whether or what sugar liable to duty is kept in such place or is elsewhere in the ownership or possession of the owner of such place.

9. *Disposal of sugar liable to duty.*—No person owning or possessing sugar liable to the duty imposed by section 3 shall sell or otherwise dispose of any sugar until the order of assessment has been communicated to him and until he holds a release order signed by the officer making the assessment:

Provided that nothing in this section shall apply to sugar sold retail in quantities not exceeding two pounds to one person at one time.

10. *Offences and penalties.*—Whoever commits any of the following offences, namely:—

- (a) fails to supply the information required by section 4 or under section 8 or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;
- (b) evades the payment of any duty payable by him under this Ordinance;
- (c) obstructs any Assessing Officer or other authorized person in the exercise of his powers under section 8;
- (d) contravenes the provisions of section 9;
- (e) attempts to commit, or abets the commission of any of the offences mentioned in the foregoing clauses of this section,

shall, for every such offence, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and where the offence is committed, attempted or abetted in respect of sugar liable to duty under section 3 such fine may extend to five times the duty leviable on the sugar in respect of which the offence is committed, attempted or abetted.

11. *Power of Courts to order forfeiture.*—Any Court trying an offence under this Ordinance may order the forfeiture to His Majesty of any sugar in respect of which the Court is satisfied that an offence under this Ordinance has been committed, and

may also order the forfeiture of any receptacles, packages or coverings in which such sugar is contained and the animals, vehicles, vessels or other conveyances used in carrying the sugar :

Provided that in ordering forfeiture under this section, the Court shall give the owner of the goods an option to pay in lieu of forfeiture such fine as the Court thinks fit.

12. Appeals.—(1) Any person aggrieved by any decision or order passed under section 5 or section 6 may, within one month from the date of such decision or order, appeal therefrom to the Collector of Central Excises and Salt Revenue having jurisdiction in the area ; but the filing of such an appeal shall not, pending the appeal, absolve him from the obligation to pay the sum or sums specified in such decision or order.

(2) The Collector of Central Excises and Salt Revenue may thereupon make such further inquiry and pass such order as he thinks fit, confirming, altering or annulling the decision or order appealed against ; and if the money deposited by the person making the appeal exceeds the amount directed by the Collector of Central Excises and Salt Revenue to be paid, the money deposited in excess of such amount shall be refunded.

(3) Every order passed in appeal under this Section shall, subject to the power of revision conferred by Section 13, be final.

13. Revision by the Central Board of Revenue.—The Central Board of Revenue may, on the application of any aggrieved person, reverse or modify any decision or order made under Section 5, 6, or 12.

14. Rebate on export.—The Central Government may, by notification in the official Gazette, make rules to provide for the grant of a rebate of the duty paid under this Ordinance on sugar which is afterwards exported to any country outside India.

15. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Ordinance.

16. Saving of other laws.—The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force in relation to the levy of central duties of excise on sugar.

THE SCHEDULE

[See sections 4 and 5 (2).]

FORM A.

PARTICULARS TO BE CONTAINED IN ACCOUNT RENDERED UNDER SECTION 4.

I/We.....of.....
owner of.....factory

doing business as a wholesale dealer and holding licence No.....
hereby declare that the following stocks of sugar were held by me/us on the.....
.....November, 1943 :—

Place of storage. If any quantities are in transit, state hereunder the date, place and manner of despatch of each con- signment, the name and address of the consignee and the date on which it is expected to reach such destination.	Num- ber of bags.	Average weight of contents of bags in maunds and seers.	Total quantity.		Remarks.
			Mds.	Seers.	

1. I/We.....hereby declare the above particulars to be true.

2. I/We wish to pay the sum leviable hereon in.....
instalments.

Signature of factory owner.....
or other stockholder.....

Date.....

FORM B.

PARTICULARS TO BE CONTAINED IN COMMUNICATION OF ASSESSMENT UNDER SECTION 5

To.....of.....

owner offactory

doing business as a wholesale dealer and holding licence No.....

Duty on..... maunds of sugar owned or possessed by you on
the..... has been assessed at Rs.....

You are required to pay the whole of this amount before the 1st day of December,
1943.

You are permitted to pay this amount in two/three instalments.

Signature.....

Assessing Officer.

Date.....

WAVELL,

Viceroy and Governor General.

Repealed by Ordinance 1 of 1946
ORDINANCE No. XLII of 1943.

An Ordinance further to amend the North-West Frontier Constabulary Act, 1915.

(Published in the Gazette of India Extraordinary, dated the 2nd December, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the North-West Frontier Constabulary Act, 1915 (XIII of 1915), for the purposes hereinafter appearing ;

Now, **THEREFORE**, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the North-West Frontier Constabulary (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. Insertion of new section 3A in Act XIII of 1915.—After section 3 of the North-West Frontier Constabulary Act, 1915 (XIII of 1915) (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

“3A. Power to employ Frontier Constabulary in other Provinces.—Notwithstanding anything contained in section 3 or elsewhere in this Act, it shall be lawful, and

Price Anna 1 or 1½.

shall be deemed always to have been lawful, for the Central Government to employ the Frontier Constabulary outside the limits of or adjoining the North-West Frontier Province in a province other than that Province for the better protection and administration of that other province."

3. In section 7 of the said Act,—

(a) to sub-section (2), the following words shall be added, namely :—

"or, when the Frontier Constabulary is employed under section 3A in a Province other than the North-West Frontier Province, under the general control and direction of the District Magistrate of the district."

(b) in sub-section (3), after the words "the Deputy Commissioner" the words "or District Magistrate" shall be inserted.

4. In section 21 of the said Act, in clause (a) after the words "Deputy Commissioner" the words "District Magistrate" shall be inserted.

WAVELL,

Viceroy and Governor General.

Repealed by Act 40 of 1949

ORDINANCE No. XLIII OF 1943.

An Ordinance to authorise the making of certain penal deductions from the pay and allowances of certain persons subject to the Indian Army Act, 1911.

(Published in the Gazette of India Extraordinary, dated the 2nd December, 1943.)

WHEREAS an emergency has arisen which makes it necessary to authorise the making of certain penal deductions from the pay and allowances of certain persons subject to the Indian Army Act, 1911 (VIII of 1911);

Now, **THEREFORE**, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Penal Deductions Ordinance, 1943.

(2) It shall come into force at once.

Price anna 1 or 1½d.

2. *Deductions from pay and allowances of persons subject to Indian Army Act, 1911.*—(1) In addition to and without derogation from the provisions of sub-section (2) of section 50 of the Indian Army Act, 1911 (VIII of 1911), penal deductions may be made from the pay and allowances of a person subject to the Indian Army Act, 1911 (VIII of 1911) other than an Indian commissioned officer for recovery of any sum required to pay a fine imposed on him by the Head of a training establishment as defined in clause (j) of section 2 of the National Service (Technical Personnel) Ordinance, 1940 (II of 1940), in which he is for the time being undergoing training, in respect of an act or omission for which the Head of the establishment could, if he were the employer in an industrial establishment to which the Payment of Wages Act, 1936 (IV of 1936), applies, in accordance with the provisions of that Act, impose a fine of similar amount on a person employed in such industrial establishment.

(2) The provisions of sections 51 and 52 of the Indian Army Act, 1911 (VIII of 1911), shall apply to any deduction made under this Ordinance as they apply to deductions authorised under the said Act, and the proviso to sub-section (2) of section 50 of the said Act shall have effect as if a deduction made under this Ordinance were a deduction made under any of the clauses (e) to (g), both inclusive, of the said sub-section.

WAVELL,

Viceroy and Governor General.

Repealed by Ordinance 17 1946
ORDINANCE No. XLIV OF 1943.

An Ordinance further to amend the Defence of India Act, 1939.

(Published in the Gazette of India Extraordinary, dated the 2nd December, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Defence of India (Second Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. Amendment of section 6, Act XXXV of 1939.—In clause (5) of section 6 of the Defence of India Act, 1939 (XXXV of 1939)—

Price anna 1 or 1½d.

(a) for sub-clause (a) the following sub-clauses shall be substituted, namely :—
“ (a) in section 53, for regulation (2) the following regulation had been substituted, namely :—

“ (2) Judgment of death shall not be passed on any prisoner unless all the officers present at the court martial, where the number is less than five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence.”

(b) in sub-section (2) of section 57A, for the word “ commander ” the words “ substantive or acting commander ” had been substituted ;

(c) in section 58—

(i) in regulations (1) and (16) for the word “ five ” the word “ three ”, in regulation (7) for the words “ the president is a captain ” the words “ the president is a substantive or acting commander ”, in regulation (15) for the word “ four ” the word “ two ” had been substituted ;

(ii) regulation (3) had been omitted ” ; and

(b) existing sub-clause (b) shall be relettered as sub-clause (d).

WAVELL,

Viceroy and Governor General.