

# PARLIAMENT OF CEYLON

## 4th Session 1950



# Navy Act, No. 34 of 1950

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*Navy Act, No. 34 of 1950.*

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L.D.—O. 18/50.

AN ACT TO PROVIDE FOR THE RAISING AND MAINTENANCE OF A NAVY AND FOR MATTERS CONNECTED THEREWITH.

[Date of Assent: December 7, 1950.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Navy Act, No 34 of 1950, and shall come into operation on such date as the Minister may appoint by order published in the *Gazette*.

Short title and date of operation.

PART I.—ORGANISATION OF THE ROYAL CEYLON NAVY.

2. (1) There shall be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a navy, to be called the Royal Ceylon Navy (and hereinafter referred to as the "Navy"), not exceeding such strength as may from time to time be determined by Parliament.

Royal Ceylon Navy.

(2) The Navy shall consist of—

- (a) a Regular Naval Force,
- (b) a Regular Naval Reserve, and
- (c) such Volunteer Naval Force and Volunteer Naval Reserve as may be constituted under sections 5 and 6.

3. (1) The Regular Naval Force shall consist of officers and seamen who are appointed or enlisted for the purpose of rendering continuous service under this Act during the period of their engagement.

Regular Naval Force.

(2) The Regular Naval Force shall be organized in such manner as may from time to time be determined by the Governor-General.

(3) Where the whole or any part of the Regular Naval Reserve, Volunteer Naval Force, or Volunteer Naval Reserve is called out, as hereinafter provided, on active service or for naval training, the officers and seamen of such Reserve, Force, or part so called out shall, during the period of such service or training be deemed for all purposes to be officers and seamen of the Regular Naval Force.

4. The Regular Naval Reserve shall consist of officers who by order of the Governor-General are transferred to such Reserve from the Regular Naval Force

Regular Naval Reserve.

and seamen who are transferred to such reserve from the Regular Naval Force in accordance with the terms of their enlistment.

Volunteer Naval Force.

5. (1) There may be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a force of volunteers for the purpose of rendering service under this Act.

(2) The force of volunteers raised and maintained under this Act shall be called the Volunteer Naval Force.

(3) The Volunteer Naval Force shall be organized in such manner as may from time to time be determined by the Governor-General.

Cap. 254.

(4) Every member of the Ceylon Naval Volunteer Force raised under the Naval Volunteer Ordinance who is not in actual service (within the meaning of that Ordinance) on the day immediately preceding the date on which this Act comes into operation shall be deemed to be a member of the Volunteer Naval Force raised under this Act.

Volunteer Naval Reserve.

6. There may be organized and maintained a Volunteer Naval Reserve consisting of such officers and seamen of the Volunteer Naval Force or of any other unit of the Navy as are transferred to such Reserve by order of the Governor-General.

Training.

7. The whole or any part of the Regular Naval Reserve, Volunteer Naval Force, or Volunteer Naval Reserve may by order of the Governor-General be called out for naval training with the whole or any part of the Regular Naval Force during any period specified in such order.

Captain of the Navy.

8. (1) The Governor-General shall appoint a fit and proper person to command the Navy.

(2) The person appointed under sub-section (1) shall be designated Captain of the Navy.

#### PART II.—COMMISSIONED OFFICERS.

Appointment of commissioned officers.

9. (1) All officers other than warrant officers and subordinate officers shall be appointed by commissions under the hand of the Governor-General. An officer so appointed is hereinafter referred to as a "commissioned officer".

(2) No commission issued by the Governor-General under sub-section (1) shall become invalid by reason of his death or vacation of office.



10. Every commissioned officer shall hold his appointment during the Governor-General's pleasure.

Duration of appointments.

11. (1) A commissioned officer of the Regular Naval Force or Regular Naval Reserve shall not have the right to resign his commission, but may be allowed by the Governor-General to do so.

Resignation.

(2) A commissioned officer of the Regular Naval Force or Regular Naval Reserve who tenders the resignation of his commission to the Governor-General shall not be relieved of the duties of his appointment until the acceptance of the resignation is notified in the *Gazette*.

(3) Where a commissioned officer of the Volunteer Naval Force or Volunteer Naval Reserve desires to resign his commission on any date, he shall, not less than three months before that date, give the Governor-General written notice that he will be resigning his commission on that date.

(4) Where a commissioned officer of the Volunteer Naval Force or Volunteer Naval Reserve has, in accordance with sub-section (3), given notice of resignation of his commission, he shall be entitled to resign his commission—

- (a) if he is not on active service, on the date of resignation specified in such notice, or
- (b) if he is on active service, immediately after the termination of such service.

### PART III.—SEAMEN.

12. (1) The enlistment of persons as seamen shall be in accordance with such regulations as may be made in that behalf under this Act.

Enlistment.

(2) Every person selected for enlistment as a seaman shall appear before a prescribed officer and sign an attestation paper containing the terms of his enlistment.

(3) The attestation paper referred to in sub-section (2) shall be in the prescribed form

13. (1) Subject to the provisions of section 17, the enlistment of a person as a seaman of the Regular Naval Force shall—

Original enlistment, and re-engagement.

- (a) be for the prescribed period which shall be called the period of original enlistment, and
- (b) be entirely for service in such Force or partly for such service and partly for service in the Regular Naval Reserve.

(2) A seaman may, before the expiry of the period of his original enlistment, be re-engaged for a further period of naval service not exceeding the prescribed maximum period of re-engagement.

Discharge of  
seamen of  
Volunteer Naval  
Force or  
Volunteer Naval  
Reserve.

14. Where a seaman of the Volunteer Naval Force or Volunteer Naval Reserve desires to obtain his discharge from such Force or Reserve on any date before the expiry of the period for which he has volunteered to serve in such Force or Reserve, he shall, not less than three months before such date, make a written request to his commanding officer for such discharge; and, if he makes such request, he shall, subject to the provisions of section 17, be entitled to be discharged from such Force or Reserve on such date.

#### PART IV.—SERVICE.

Employment of  
Regular Naval  
Force.

15. The Regular Naval Force shall at all times be liable to be employed on active service.

Employment of  
Regular Naval  
Reserve,  
Volunteer Naval  
Force, and  
Volunteer Naval  
Reserve.

16. (1) The Governor-General may—

(a) for the defence of Ceylon in time of war whether actual or apprehended, or

(b) for the prevention or suppression of any rebellion, insurrection or other civil disturbance in Ceylon, by Proclamation or, where the circumstances render it impossible to issue a Proclamation, by order call out on active service the whole or any part of all or any of the following units of the Navy:—

Regular Naval Reserve.

Volunteer Naval Force.

Volunteer Naval Reserve.

(2) If Parliament is sitting at the date of issue of a Proclamation or an order under sub-section (1) the Governor-General shall forthwith communicate to Parliament the reason for issuing the Proclamation or order. If Parliament is not then sitting the Governor-General shall summon Parliament to meet as soon as possible but not later than thirty days after the aforesaid date, and shall, at the first sitting of Parliament after it is summoned, communicate the aforesaid reason.

(3) All officers and seamen of any such part of the Navy as is called out on active service under sub-section (1) shall be deemed to be on such service until the Governor-General terminates such service by Proclamation.

17. Where the time at which a seaman is entitled to be discharged from the Navy occurs during the period when the whole or any part of the Navy is on active service, the Governor-General may by order prolong the service of that seaman in the Navy for such period.

Prolongation of service in the Navy.

18. (1) Where an officer or a seaman of the Navy is attached to, or is a member of any part of the Navy acting with, any military or air force of Ceylon under such conditions as may be prescribed, then, for the purposes of command and discipline, the officers and the non-commissioned officers (not below the rank of sergeant) of such force shall, in relation to him, be treated as, and have all the powers (other than powers of punishment) vested in, officers or petty officers of the Navy as the case may be.

Relations between naval, military, and air forces of Ceylon acting together.

(2) Where an officer or a non-commissioned officer (not below the rank of sergeant) of the Army or Air Force of Ceylon is attached to, or is a member of any military or air force of Ceylon which is acting with, any part of the Navy under such conditions as may be prescribed, then, for the purposes of command and discipline, he shall, in relation to that part of the Navy, be treated as, and have all the powers (other than the powers of punishment) vested in, an officer or a petty officer of the Navy as the case may be.

19. Any officer or seaman of the Navy who, by order of the Captain of the Navy, is serving in a ship of, or belonging to, the naval forces of any country (other than Ceylon) which is a member of the Commonwealth, or in a naval establishment of such country, or who is on board such ship or in such establishment awaiting passage or conveyance to any destination shall, for the purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such country.

Officers and seamen of the Navy in ships and naval establishments of any member of the Commonwealth other than Ceylon.

20. (1) If the whole or any part of the Navy is required to act in co-operation with any foreign naval force, the Governor-General may place the Navy or such part thereof under the command of the officer commanding such foreign naval force, if that officer is senior in rank to all the officers of the Navy or of such part thereof.

Co-operation with foreign naval force.

(2) Where any officer or petty officer of the Navy is acting in co-operation with any foreign naval force in defence of Ceylon, the Governor-General may, in

(2) A seaman may, before the expiry of the period of his original enlistment, be re-engaged for a further period of naval service not exceeding the prescribed maximum period of re-engagement.

Discharge of  
seamen of  
Volunteer Naval  
Force or  
Volunteer Naval  
Reserve.

14. Where a seaman of the Volunteer Naval Force or Volunteer Naval Reserve desires to obtain his discharge from such Force or Reserve on any date before the expiry of the period for which he has volunteered to serve in such Force or Reserve, he shall, not less than three months before such date, make a written request to his commanding officer for such discharge; and, if he makes such request, he shall, subject to the provisions of section 17, be entitled to be discharged from such Force or Reserve on such date.

#### PART IV.—SERVICE.

Employment of  
Regular Naval  
Force.

15. The Regular Naval Force shall at all times be liable to be employed on active service.

Employment of  
Regular Naval  
Reserve,  
Volunteer Naval  
Force, and  
Volunteer Naval  
Reserve.

16. (1) The Governor-General may—

- (a) for the defence of Ceylon in time of war whether actual or apprehended, or
- (b) for the prevention or suppression of any rebellion, insurrection or other civil disturbance in Ceylon, by Proclamation or, where the circumstances render it impossible to issue a Proclamation, by order call out on active service the whole or any part of all or any of the following units of the Navy:—

Regular Naval Reserve.  
Volunteer Naval Force.  
Volunteer Naval Reserve.

(2) If Parliament is sitting at the date of issue of a Proclamation or an order under sub-section (1) the Governor-General shall forthwith communicate to Parliament the reason for issuing the Proclamation or order. If Parliament is not then sitting the Governor-General shall summon Parliament to meet as soon as possible but not later than thirty days after the aforesaid date, and shall, at the first sitting of Parliament after it is summoned, communicate the aforesaid reason.

(3) All officers and seamen of any such part of the Navy as is called out on active service under sub-section (1) shall be deemed to be on such service until the Governor-General terminates such service by Proclamation.

17. Where the time at which a seaman is entitled to be discharged from the Navy occurs during the period when the whole or any part of the Navy is on active service, the Governor-General may by order prolong the service of that seaman in the Navy for such period.

Prolongation of service in the Navy.

18. (1) Where an officer or a seaman of the Navy is attached to, or is a member of any part of the Navy acting with, any military or air force of Ceylon under such conditions as may be prescribed, then, for the purposes of command and discipline, the officers and the non-commissioned officers (not below the rank of sergeant) of such force shall, in relation to him, be treated as, and have all the powers (other than powers of punishment) vested in, officers or petty officers of the Navy as the case may be.

Relations between naval, military, and air forces of Ceylon acting together.

(2) Where an officer or a non-commissioned officer (not below the rank of sergeant) of the Army or Air Force of Ceylon is attached to, or is a member of any military or air force of Ceylon which is acting with, any part of the Navy under such conditions as may be prescribed, then, for the purposes of command and discipline, he shall, in relation to that part of the Navy, be treated as, and have all the powers (other than the powers of punishment) vested in, an officer or a petty officer of the Navy as the case may be.

19. Any officer or seaman of the Navy who, by order of the Captain of the Navy, is serving in a ship of, or belonging to, the naval forces of any country (other than Ceylon) which is a member of the Commonwealth, or in a naval establishment of such country, or who is on board such ship or in such establishment awaiting passage or conveyance to any destination shall, for the purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such country.

Officers and seamen of the Navy in ships and naval establishments of any member of the Commonwealth other than Ceylon.

20. (1) If the whole or any part of the Navy is required to act in co-operation with any foreign naval force, the Governor-General may place the Navy or such part thereof under the command of the officer commanding such foreign naval force, if that officer is senior in rank to all the officers of the Navy or of such part thereof.

Co-operation with foreign naval force.

(2) Where any officer or petty officer of the Navy is acting in co-operation with any foreign naval force in defence of Ceylon, the Governor-General may, in

agreement with the Commander of such force, define the powers of command and the order of precedence of such officer or petty officer in relation to a member of such force who is of the same or similar rank.

Performance of non-naval duties.

21. (1) The Governor-General may order all or any of the members of the Navy to perform such non-naval duties as he may consider necessary in the public interest.

(2) Every officer or seaman of the Navy shall perform such duties as may be imposed on him by order of the Governor-General under sub-section (1).

#### PART V.—PERSONS SUBJECT TO NAVAL LAW.

Meaning of "person subject to naval law".

22. For the purposes of this Act, "person subject to naval law" means a person who belongs to any of the following classes of persons:—

(a) All officers and seamen of the Regular Naval Force.

(b) All such officers and seamen of the Regular Naval Reserve, Volunteer Naval Force, or Volunteer Naval Reserve, as are deemed to be officers and seamen of the Regular Naval Force under sub-section (3) of section 3.

(c) All persons who by virtue of any provisions of this Act are deemed to be persons subject to naval law.

Persons liable to naval custody.

23. A person subject to naval law who commits any naval or civil offence may be taken into naval custody.

Persons who may order naval custody.

24. (1) A senior officer may order into naval custody a junior officer who, being a person subject to naval law, commits any naval or civil offence, and a junior officer may order into naval custody a senior officer who, being a person subject to naval law, is engaged in a quarrel, affray or disorder.

(2) Any officer or petty officer may order into naval custody any seaman who, being a person subject to naval law, commits any naval or civil offence.

Naval custody of officer or seaman not on active service.

25. Where any officer or seaman not on active service is kept in naval custody for a longer period than seven days without trial, his commanding officer shall submit weekly to the officer to whom application would be made to convene a court-martial if the person in naval custody were to be tried by a court-

martial, a written report on the necessity for such custody, until he is brought to trial or is released from such custody.

26. No person subject to naval law, unless he is an offender who has avoided apprehension or fled from justice, shall be tried or punished by a court-martial or by a naval officer exercising judicial powers under this Act for any offence committed by that person unless the trial takes place within a period of three years from the commission of the offence, or, where that person has been absent from Ceylon during such period, within one year after his return to Ceylon.

Time limit for prosecution.

27. (1) Where a person subject to naval law commits an offence and thereafter ceases to be a person subject to naval law, he may be taken into and kept in naval custody and be tried and punished for that offence in like manner as he might have been taken into and kept in naval custody and tried and punished if he had continued to be a person subject to naval law:

Trial and punishment of offenders who have ceased to be subject to naval law.

Provided that, after the lapse of six months from the date of the commission of such offence, he shall not be tried for such offence unless such offence is the offence of mutiny or desertion.

(2) Where a person subject to naval law is sentenced by a court-martial or by a naval officer exercising judicial powers under this Act to imprisonment or detention for any offence and thereafter ceases to be a person subject to naval law, he may, during his imprisonment or detention, be dealt with as if he had continued to be a person subject to naval law.

#### PART VI.—JUDICIAL POWERS OF COMMANDING OFFICERS.

28. A commanding officer may, except in the cases which are expressly required by this Act to be tried by a court-martial, summarily try and punish a seaman who has committed any non-capital naval offence, subject to the restriction that the commanding officer shall not have power to award imprisonment or detention for more than three months.

Summary trial of offenders by commanding officers.

29. Where a petty officer is charged with a non-capital naval offence other than a disciplinary offence, his commanding officer shall ask him whether he desires to be dealt with summarily or to be tried by a court-martial, and, if he elects to be tried by a court-martial, shall take steps for his trial by a court-martial.

Right of offender who is a petty officer to elect to be tried summarily or by court-martial.

Delegation of commanding officer's judicial powers.

**30.** A commanding officer may, in accordance with such regulations as may be made in that behalf under this Act, delegate his power of dealing summarily with an offender to an officer under his command.

Witnesses at summary trials to give evidence on oath or affirmation.

**31.** Every witness at a summary trial of an offender by a naval officer exercising judicial powers under this Act shall, before giving evidence, take or make the same oath or affirmation as that required to be taken or made by a witness before a court-martial.

Record of proceedings at summary trials.

**32.** Every naval officer exercising judicial powers under this Act who tries an offender summarily shall, except in any such case or circumstance as may be prescribed, make a brief record of the proceedings at the trial.

#### PART VII.—COURTS-MARTIAL.

Jurisdiction of courts-martial.

**33.** A court-martial may try and punish a person subject to naval law who has committed any naval or civil offence.

Authorities who may order courts-martial to be held.

**34.** (1) The Governor-General, or such officer of a rank not below that of lieutenant commander as may be authorised by the Governor-General, may order a court-martial to be held.

(2) An officer authorised by the Governor-General to order courts-martial to be held shall not have the power to do so if there is present at the place where a court-martial is to be held any officer superior in rank to himself on full pay and in command of one or more of the ships of the Navy; and in such a case such last-mentioned officer may order a court-martial to be held, although he has not been authorised to do so by the Governor-General.

(3) Where an officer authorised by the Governor-General to order courts-martial to be held and having the command of a fleet or squadron in foreign parts dies, is recalled, leaves his station, or is removed from his command, the officer for the time being in command of such fleet or squadron shall, without any authorisation from the Governor-General, have the same power to order courts-martial to be held as the first-mentioned officer was invested with.

(4) An officer authorised by the Governor-General to order courts-martial to be held and having the



command of a fleet or squadron in foreign parts may in writing authorise—

- (a) where he separates himself from such fleet or squadron, the next senior officer of such fleet or squadron, and
- (b) where he assigns separate service to a detachment of such fleet or squadron, the commanding officer for the time being of such detachment,

to order courts-martial to be held during his absence from such fleet or squadron or during the time of separate service of such detachment, as the case may be.

**35.** (1) A court-martial shall consist of not less than three nor more than nine members.

*Constitution of courts-martial.*

(2) A court-martial shall—

- (a) where it is convened to try a person subject to naval law for the offence of treason, murder or rape, consist of not less than five members, and
- (b) where it is convened to try a person subject to naval law for any other offence, consist of not less than three members.

(3) Where a commander, lieutenant commander, or lieutenant is a member of a court-martial, the number of members of the court-martial shall not exceed five.

(4) No person shall be qualified to be a member of a court-martial unless he has attained the age of twenty-one years and is a flag officer, captain, commander, lieutenant commander, or lieutenant of the Navy, or an officer of equivalent rank in the Army or Air Force of Ceylon.

(5) Where the members of a court-martial consist of officers of the Navy and officers of the Army or Air Force, there shall be not less than one officer of the Navy for every two officers of the Army or Air Force among such members.

(b) The following shall not be members of a court-martial—

- (a) the officer who investigated the charge on which the offender is arraigned;
- (b) the officer who ordered the court-martial to be held;
- (c) the commanding officer of the offender;
- (d) the prosecutor;
- (e) any witness for the prosecution.

(7) No commander, lieutenant commander, or lieutenant shall be required to be a member of a court-martial when four officers of a higher rank and junior to the president of the court-martial can be assembled at the place where the court-martial is to be held (but the regularity or validity of a court-martial or of the proceedings thereof shall not be affected by reason only of the fact that a commander, lieutenant commander, or lieutenant is required to be or is a member thereof under any circumstances).

(8) The president of a court-martial shall be named by the authority ordering the court-martial to be held or by an officer empowered by such authority to name the president.

(9) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer and the other members of the court-martial are of the rank of captain or of higher rank.

(10) No court-martial for the trial of a captain shall be duly constituted unless the president is a captain or of higher rank and the other members of the court-martial are commanders or officers of higher rank.

(11) No court-martial for the trial of a person below the rank of captain shall be duly constituted unless the President is a captain or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the President, two other members of the court-martial are of the rank of commander or of higher rank.

(12) Subject to the other provisions of this section, when a court-martial is to be held, the officer appointed to preside thereat shall summon the necessary number of persons to be members of the court-martial from the officers next in seniority to himself present at the place where the court-martial is to be held.

Where courts-martial are to be held.

**36.** A court-martial shall be held at such convenient place as may be determined by the person ordering the court-martial to be held.

Sittings of courts-martial.

**37.** A court-martial may, if it appears to the court-martial that an adjournment is desirable, be adjourned for a period not exceeding six days, but, except where such an adjournment is ordered, shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from doing so by stress of weather or unavoidable accident. The proceedings of a court-martial shall not be delayed by the absence of

any member of the court-martial unless the result of such absence is that the minimum number of members required by this Act to constitute the court-martial is not present.

**38.** (1) The authority ordering a court-martial to be held shall appoint a person who has sufficient knowledge of procedure of courts-martial and of the general principles of law and of the rules of evidence to act as the judge-advocate of the court-martial.

Appointment of  
judge-advocate.

(2) A person who is disqualified under this Act from being a member of a court-martial shall not be appointed as the judge-advocate of that court-martial.

**39.** The powers and duties of the judge-advocate of a court-martial shall be as follows:—

Duties of  
judge-advocate.

(a) It shall be his duty, whether before or during the proceedings, to give advice on questions of law or procedure relating to the charge or trial to the prosecutor and to the accused, who are hereby declared to be entitled to obtain such advice at any time after his appointment:

Provided that during proceedings he shall give such advice with the prior permission of the court-martial.

(b) It shall be his duty to invite the attention of the court-martial to any irregularity in the proceedings. Whether or not he is consulted, he shall inform the court-martial and the authority who has ordered the court-martial to be held, of any defect in the charge or in the constitution of the court-martial, and shall give his advice on any matter before the court martial.

(c) He shall take all such action as may be necessary to ensure that the accused does not suffer any disadvantage in consequence of any incapacity to examine or cross-examine witnesses or to give evidence clearly, and may for that purpose, with the permission of the court-martial, question any witness on any relevant matter.

(d) At the conclusion of the case he shall, unless both he and the court-martial consider it unnecessary, sum up the evidence and advise the court-martial upon the law relating to the case before the court-martial proceeds to deliberate upon its finding.

Oath of affirmation to be taken or made by members of court-martial, judge-advocate, and witnesses.

40. (1) Every member of a court-martial and the judge-advocate shall take the prescribed oath or make the prescribed affirmation before the commencement of the trial of a case.

(2) Every witness before a court-martial shall take the prescribed oath or make the prescribed affirmation before the commencement of his evidence.

Objections by accused to members of court-martial.

41. (1) The names of the members of a court-martial shall, before the members are sworn or affirmed, be read in the hearing of the accused; and the accused shall be asked whether he objects to any such member, and, where as hereinafter provided any such member retires on being objected to and a successor to the retiring member is appointed, the accused shall be asked whether he objects to the succeeding member.

(2) The accused may object, for any reasonable cause, to any member of the court-martial, including the president, whether appointed to serve on the court-martial originally or to fill a vacancy caused by the retirement of a member objected to, so that the court-martial may be constituted of officers to whom the accused has no reasonable objection.

(3) An objection of the accused to any member of a court-martial shall be submitted for decision to the other members of the court-martial.

(4) An objection of the accused to the president of a court-martial shall, if upheld by one-third or more of the other members of the court-martial, be allowed, and the court-martial shall adjourn for the purpose of the appointment of another president.

(5) Where an objection of the accused to the president of a court-martial is allowed, the authority by whom the court-martial was ordered to be held shall appoint another officer as president, and such officer shall act as president subject to the right of the accused to object to him.

(6) An objection of the accused to a member of a court-martial other than the president shall, if upheld by one half or more of the other members of the court-martial, be allowed, and the member objected to shall retire, and the authority by whom the court-martial was ordered to be held shall appoint a successor to the retiring member subject to the right of the accused to object.

Dissolution of courts-martial.

42. (1) Where the number of members of a court-martial after the commencement of the trial of a case is, by death or otherwise, reduced below the minimum

number of members required for the constitution of the court-martial under this Act, the court-martial shall be dissolved.

(2) Where after the commencement of the trial of a case the president of a court-martial dies or is otherwise unable to attend the court-martial and the number of members of the court-martial is not reduced below the minimum number of members required for the constitution of the court-martial under this Act, the authority by whom the court-martial was ordered to be held may appoint a senior member of the court-martial, if he is of sufficient rank, to be president, and the trial shall proceed accordingly, but if he is not of sufficient rank, the court-martial shall be dissolved.

(3) Where the judge-advocate of a court-martial dies or is unable to attend the court-martial owing to illness or any other cause, the court-martial shall adjourn and the president shall report the circumstances to the authority by whom the court-martial was ordered to be held; and in the case of the death of the judge-advocate, or where the authority by whom the court-martial was ordered to be held is of the opinion that it is inexpedient to delay the trial until the judge-advocate who is unable to attend the court-martial is able to do so, the court-martial shall be dissolved.

(4) Where the trial of an accused by a court-martial cannot, within a reasonable time having regard to all the circumstances, be continued owing to the illness of the accused, the court-martial shall be dissolved.

(5) Where a court-martial held for the trial of an accused is dissolved under any of the preceding subsections, the accused may be tried again by another court-martial, without prejudice to the provisions of section 26.

43. Every question before a court-martial shall be decided by the majority vote of the members of the court-martial. Where there is an equality of votes of the members of a court-martial on the question of the finding in any case, the accused in that case shall be deemed to be acquitted. Where there is an equality of votes of the members of a court-martial on the sentence in any case or on any question arising after the commencement of the hearing of any case other than the question of the finding, the president shall have a casting vote.

**Manner of  
deciding  
questions before  
court-martial.**

44. Where a court-martial recommends a person under sentence to mercy, the recommendation shall be attached to and form part of the proceedings of the

**Recommendation to mercy.**

court-martial, and shall be promulgated and communicated to such person, together with the finding and sentence.

Power to order place of court-martial to be cleared of persons.

45. The president of a court-martial may, on any deliberation among the members of the court-martial, cause the place where the court-martial is held to be cleared of all other persons.

Effect of acquittal or conviction of an offence.

46. A court-martial shall not try a person for any offence if—

(a) he has been already acquitted or convicted of that offence by a court-martial or by a competent civil court, or

(b) the charge against him in respect of that offence has been dismissed, or he has been dealt with summarily for that offence, by a naval officer exercising judicial powers under this Act.

Where offence proved is included in offence charged.

47. Where a person is charged with an offence before a court-martial and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

Accused who is of unsound mind.

48. (1) Where it appears to a court-martial that an accused is of unsound mind and consequently incapable of making his defence, the court-martial shall record an express finding of the fact of his unsoundness of mind and incapacity; and he shall be kept in custody until the directions of the Governor-General thereon are obtained or until any earlier time at which he is fit to take his trial.

(2) Where, on the trial of an accused by a court-martial, it appears that he did the act or made the omission with which he is charged, but that he was of unsound mind at the time of such act or omission, the court-martial shall record an express finding that he was guilty of such act or omission but was of unsound mind at the time when he did the act or made the omission; and he shall be kept in custody until the directions of the Governor-General thereon are obtained.

(3) Where a court-martial records an express finding under this section that an accused is of unsound mind, the Governor-General may give orders for the safe custody, during his pleasure, of the accused in such place and in such manner as the Governor-General thinks fit.

Imprisonment or detention of offender who is under sentence for previous offence.

49. Where a person who is already under a sentence of imprisonment or detention passed on him under this Act for a former offence is convicted of an offence by a court-martial, the court-martial may award him a sentence of imprisonment or detention to commence at the expiration of the imprisonment or detention to which he has been previously sentenced, although the aggregate of the terms of imprisonment or detention may exceed the term for which any of those punishments could be otherwise awarded:

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for a period exceeding the aggregate of three consecutive years, and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

50. (1) At all proceedings before a court-martial the prosecution as well as the defence shall be entitled to be represented by counsel.

Counsel at court-martial.

(2) The following provisions shall have effect with respect to the conduct of counsel appearing on behalf of the prosecution or defence at a court-martial:—

- (a) Any conduct of a counsel which would be liable to censure, or would be a contempt of court, if it occurred before a civil court, shall likewise be deemed liable to censure, or be deemed a contempt of the court-martial, if it occurs before a court-martial.
- (b) Where the conduct of a counsel appearing before a court-martial is deemed liable to censure or is deemed a contempt of the court-martial, the president of the court-martial may under his hand certify such conduct of that counsel to the Supreme Court, and that Court may thereupon deal with that counsel in like manner as if such conduct had occurred before that Court.
- (c) Where the conduct of a counsel appearing before a court-martial is deemed liable to censure or is deemed a contempt of the court-martial, the president of the court-martial may make an order refusing to hear him and may adjourn the proceedings in order to enable other counsel to be retained.

Report of  
proceedings  
of court-martial.

51. The judge-advocate of a court-martial shall transmit with as much expedition as possible the original proceedings, or a complete and authenticated copy thereof, and the original sentences of the court-martial, to the Captain of the Navy, who shall transmit them to the Permanent Secretary.

Right of person  
tried by court-  
martial to copy  
of proceedings.

52. (1) A person tried by a court-martial shall be entitled to obtain from the person having the custody of the record of the proceedings of that court-martial a copy thereof, upon payment for it at such rate not exceeding ten cents for every folio of seventy-two words as may be prescribed.

(2) The right conferred by sub-section (1) shall be subject to the condition that the demand for the copy of the proceedings of the court-martial by the person referred to in that sub-section is made within three years after the date of the final decision of the court-martial.

(3) If the person referred to in sub-section (1) dies within the period of three years specified in sub-section (2), his next of kin shall, within ten months after his death, have the right to obtain the copy of the proceedings mentioned in sub-section (1).

Preservation of  
records of  
proceedings of  
courts-martial.

53. The records of the proceedings of courts-martial shall be preserved in such manner and by such officer as may be determined by the Captain of the Navy.

#### PART VIII.—NAVAL OFFENCES.

##### *Misconduct in the presence of the enemy.*

Misconduct in  
action.

54. (1) Every flag officer, captain, commander, or commanding officer who upon signal of battle or on sight of a ship of an enemy which it may be his duty to engage—

- (a) does not use his utmost exertions to bring his ship into action, or
- (b) does not during action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or
- (c) surrenders his ship to the enemy when capable of making a successful defence, or in time of action improperly withdraws from the fight,



shall be guilty of a naval offence and shall be punished—

- (i) if he has acted traitorously, with death,
- (ii) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and
- (iii) if he has acted from negligence or through other default, with dismissal with or without disgrace from the Navy or with any less severe punishment in the scale of punishments.

(2) Every person subject to naval law, and not being a commanding officer, who does not use his utmost exertions to carry out the orders of his superior officers when ordered to prepare for action, or during action, shall be guilty of a naval offence and shall be punished—

- (a) if he has acted traitorously, with death,
- (b) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and
- (c) if he has acted from negligence or through other default, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

55. Every officer who forbears to pursue the chase of any enemy, pirate, or rebel, beaten or flying; or does not relieve and assist a known friend in view to the utmost of his power shall be guilty of a naval offence and shall be punished—

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

- (a) if he has acted traitorously, with death,
- (b) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and
- (c) if he has acted from negligence or through other default, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

56. When any action or service is commanded, every person subject to naval law who delays or discourages such action or service upon any pretence whatsoever shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Delaying or discouraging service.

*Communications with the enemy.*

Spies.

**57.** All persons who act as spies for the enemy shall be deemed to be persons subject to naval law and shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Correspondence, etc., with the enemy.

**58.** Every person subject to naval law who—

(a) traitorously holds correspondence with or gives intelligence to the enemy, or

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

(c) relieves the enemy with any supplies, shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Improper communication with the enemy.

**59.** Every person subject to naval law who, without traitorous intention, holds any improper communication with the enemy shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

*Neglect of duty.*

Abandonment of post, etc., when on active service

**60.** (1) Every person subject to naval law who, while on active service, abandons his post or sleeps upon his watch shall be guilty of a naval offence and shall be punished—

(a) if he has acted traitorously, with death;

(b) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and

(c) if he has acted from negligence or through other default, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

(2) Every person subject to naval law who, while on active service, is absent without leave without being guilty of desertion shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Absence without leave, etc., when not on active service.

**61.** Every person subject to naval law who, while not on active service, is absent without leave without being guilty of desertion, or negligently performs the duty imposed on him, shall be guilty of a naval offence

and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

**62.** Where any person subject to naval law is absent without leave for a period of one month and is not apprehended and tried for his offence, he shall be liable to such forfeiture of pay and other benefits as may be prescribed, and the Captain of the Navy may, by an order containing a statement of the absence without leave, direct that any clothes and effects left by him at his place of duty be forfeited; and where any such order is made, such clothes and effects may be sold, and the proceeds of the sale shall be disposed of as the Captain of the Navy may direct, and every order under this section shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the Governor-General may, if it seems fit on sufficient cause being shown, at any time after forfeiture and before sale remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his heirs.

Absence without  
leave for one  
month

### *Mutiny.*

**63.** (1) Every person subject to naval law who joins in any mutiny which is accompanied by violence shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Mutiny with  
violence

(2) Every person subject to naval law who does not use his utmost exertions to suppress any mutiny which is accompanied by violence shall be guilty of a naval offence and shall be punished—

- (a) if he has acted traitorously, with death or any less severe punishment in the scale of punishments,
- (b) if he has acted from cowardice, with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments, and
- (c) if he has acted from negligence, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

**64.** (1) Every person subject to naval law who is a ringleader of any mutiny which is not accompanied by violence shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Mutiny without  
violence.

(2) Every person subject to naval law who, not being a ringleader, joins in any mutiny which is not accompanied by violence shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Incitement to mutiny.

65. (1) Every person subject to naval law who incites or endeavours to incite any other person subject to naval law to commit any act of mutiny shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

(2) Every person, not otherwise subject to naval law, who incites or endeavours to incite any person subject to naval law to commit any act of mutiny shall, so far as respects such incitement or endeavour, be deemed to be a person subject to naval law and shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Making mutinous assemblies or uttering words of mutiny.

66. Every person subject to naval law who makes or endeavours to make any mutinous assembly, or leads or incites any other person subject to naval law to join in any mutinous assembly, or utters any words of mutiny, shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

Concealment of mutinous practice.

67. Every person subject to naval law who wilfully conceals any mutinous practice or design shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

Striking or attempting to strike, etc., superior officer.

68. Every person subject to naval law who strikes or attempts to strike, or draws or lifts up any weapon against, or uses or attempts to use any violence against, his superior officer whether or not such superior officer is in execution of his office, shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

*Insubordination.*

69. Every person subject to naval law who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language or behaves with contempt to his superior officer, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Disobedience of  
or use of  
threatening  
language to  
superior officer

70. Every person subject to naval law who quarrels or fights with any other person, whether such other person is or is not a person subject to naval law, or uses reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding six months or any less severe punishment in the scale of punishments.

Quarrelling or  
using reproach-  
ful speech or  
gestures

71. Every person subject to naval law who absents himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who, at any time and under any circumstances when absent from his ship or place of duty, does any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted and shall be guilty of a naval offence and shall be punished—

Desertion.

(a) if he has deserted to the enemy, with death or any less severe punishment in the scale of punishments, and

(b) if he has deserted in any other circumstances, with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments;

and in every such case he shall forfeit all such pay, allowances, and other emoluments as may be due to him, and all medals and decorations granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted unless the tribunal by which he is tried, or the Governor-General, otherwise directs.

72. Every person subject to naval law who induces or endeavours to induce any other person subject to naval law to desert shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Inducing  
desertion.

Entertaining a deserter.

**73.** Every officer in command of any ship of the Navy who receives or entertains a deserter from the Navy, Army, or Air Force of Ceylon after discovering him to be a deserter and does not with all convenient speed, in the case of a deserter from the Navy, give notice to the commanding officer of the ship to which the deserter belongs, or, if such ship is at a distance, to the Captain of the Navy, or in the case of a deserter from the Army or Air Force, give notice to the Commander of the Army or the Commander of the Air Force, as the case may be, or the commanding officer of the regiment or unit to which the deserter belongs, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the navy or with any less severe punishment in the scale of punishments.

*Offences in relation to courts-martial and Naval Officers exercising judicial powers.*

Absence of member of court-martial without just cause.

**74.** A member of a court-martial who absents himself therefrom shall, unless his absence is due to illness or other just cause approved by the other members of the court-martial, be guilty of a naval offence and shall, on conviction by a court-martial, be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Misconduct of and contempt by witness subject to naval law.

**75.** Every person subject to naval law who—

- (a) being duly summoned to attend as a witness before a court-martial or a naval officer exercising judicial powers under this Act, makes default in attending, or
- (b) refuses to take an oath or make an affirmation lawfully required by a court-martial or by such officer to be taken or made, or
- (c) refuses to produce any document in his power or control lawfully required by a court-martial or by such officer to be produced by him, or
- (d) refuses when a witness to answer any question to which a court-martial or such officer may lawfully require an answer, or
- (e) commits contempt of a court-martial or such officer by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such

court-martial or officer, or by printing or publishing observations or by uttering words calculated to influence such court-martial or officer or any witness before such court-martial or officer, or by bringing such court-martial or officer into disrepute,

shall be guilty of a naval offence and shall, on conviction by a court-martial, other than the court-martial in relation to or before which the offence was committed, be punished with simple or rigorous imprisonment for a term not exceeding six months or any less severe punishment in the scale of punishments :

Provided that where a person subject to naval law is guilty of contempt of a court-martial by using insulting or threatening language or by causing any interruption or disturbance in the proceedings, the court-martial may, instead of causing him to be tried by another court-martial, sentence him to simple or rigorous imprisonment for a term not exceeding one month.

76. Every person subject to naval law who, when examined on oath or affirmation before a court-martial or a naval officer exercising judicial powers under this Act, wilfully gives false evidence, shall be guilty of a naval offence and shall, on conviction by a court-martial, be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

False evidence  
by witness  
subject to naval  
law

*Offences in relation to persons in custody.*

77. Every person subject to naval law who—

- (a) releases without proper authority, whether wilfully or otherwise, any person under naval custody who is committed to his charge, or
- (b) wilfully or without reasonable excuse allows to escape any person under naval custody who is committed to his charge,

Permitting  
escape of person  
in custody.

shall be guilty of a naval offence and shall be punished if he has acted wilfully, with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments, and, in any other case, with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Irregular arrest  
or confinement.

**78.** Every person subject to naval law who unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments.

Escape from  
confinement.

**79.** Every person subject to naval law who, being under arrest, or in confinement or prison, or otherwise in lawful custody, escapes or attempts to escape shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

*Offences in relation to property.*

Corrupt dealings  
in respect of  
supplies to the  
Navy.

**80.** Every person subject to naval law who takes any reward, fee, or advantage in respect of or in connection with the purchase of any articles for the use of the Navy shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Embezzlement,  
etc. of naval  
stores.

**81.** Every person subject to naval law who embezzles or fraudulently purchases, sells, or receives any ammunition, provisions, or other naval stores, or who knowingly permits any such embezzlement, purchase, sale or receipt, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Deficiency in or  
injury to naval  
property.

**82.** Every person subject to naval law who—

(a) whether by pawning, sale, destruction or otherwise makes away with, or is concerned in making away with, any property of the Navy, or

(b) loses by neglect any such property, or

(c) wilfully injures any such property,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Unlawfully  
burning  
property.

**83.** Every person subject to naval law who unlawfully sets fire to any property which does not belong to any enemy, pirate, or rebel shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.



*Offences in Relation to Documents and Statements.*False documents  
and declarations

84. Every person subject to naval law who—
- (a) in any report, return, muster roll, pay list, certificate, book, or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes or is privy to the making of any false or fraudulent statement or any omission with intent to defraud, or
  - (b) knowingly with intent to injure any person or to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce, or
  - (c) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

85. Every person subject to naval law who—

False  
accusations.

- (a) being an officer or a seaman, makes a false accusation against any other officer or seaman, knowing such accusation to be false, or
- (b) being an officer or a seaman, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of any other officer or seaman, or knowingly and wilfully suppresses any material facts,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

*Offences in Relation to Enlistment.*

86. Every person subject to naval law who, having been dismissed with disgrace from the Navy, Army, or Air Force of Ceylon, has afterwards enlisted in the Navy without declaring the circumstances of his dismissal, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Enlistment of  
seaman, soldier  
or airman  
discharged with  
disgrace

False answers  
on enlistments.

**87.** Every person subject to naval law who, when enlisted as a seaman, has wilfully made a false answer to any question set out in the attestation paper signed by him, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

General offences  
in relation to  
enlistment.

**88.** Every person subject to naval law who—

- (a) is concerned in the enlistment of any other person as a seaman, when he knows or has reasonable cause to believe that such other person by enlisting commits an offence, or
- (b) wilfully contravenes any provision of law relating to the enlistment of seamen,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

#### *Miscellaneous Offences.*

Drunkenness  
and immorality.

**89.** Every person subject to naval law who is drunk or commits any act of immorality shall be guilty of a naval offence and shall be punished with dismissal with or without disgrace from the Navy or with any less severe punishment in the scale of punishments.

Cruelty and  
scandalous  
conduct.

**90.** Every officer subject to naval law who commits any act of cruelty or whose conduct is scandalous, fraudulent, or unbecoming the character of an officer shall be guilty of a naval offence and shall be punished with dismissal with or without disgrace from the Navy.

Suffering ships  
or aircraft to be  
improperly lost.

**91.** Every person subject to naval law who loses, strands, or hazards, or suffers to be lost, stranded or hazarded, any ship of the Navy, or loses or suffers to be lost any aircraft belonging to the Navy, shall be guilty of a naval offence and shall be punished—

- (a) if he has acted designedly, with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments, and
- (b) if he has acted negligently, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

**92.** Officers of all ships of the Navy appointed for the convoy and protection of any vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who fails in his duty in this respect and does not defend the vessels and goods under his convoy, without deviation to any other objects, or refuses to fight in their defence if they are assailed, or cowardly abandons and exposes the vessels in his convoy to hazard, or demands or exacts any money or other reward from any merchant or master for convoying any vessels entrusted to his care, or misuses the masters or mariners thereof shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Not taking care and defending ships under convoy.

**93.** An officer in command of any ship of the Navy who receives on board or permits to be received on board such ship any articles which are not for the sole use of such ship, except any articles belonging to any merchant, or on board any vessel which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except any articles which he may at any time be ordered to take or receive on board by order of a superior officer, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments.

Taking articles on board a ship other than for use of the ship.

**94.** Every person subject to naval law who—

- (a) malingers, or feigns or causes in himself disease or infirmity, or
- (b) wilfully maims or injures himself or any other person subject to naval law, whether at the instance of that other person or not, with the intent thereby to render himself or that other person unfit for service, or causes himself to be maimed or injured by any other person with intent thereby to render himself unfit for service, or
- (c) by wilful misconduct, or by wilful disobedience of orders whether in hospital or otherwise, produces or aggravates disease or infirmity, or delays its cure,

Causing or aggravating disease or infirmity.

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Stirring up disturbance on account of victuals or other grounds.

**95.** Every person subject to naval law who stirs up any disturbance among any persons subject to naval law on account of the unwholesomeness of the victuals supplied to them or upon any other ground shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Papers found aboard a prize vessel.

**96.** Where the commanding officer of a ship of the Navy who takes any vessel as prize fails to preserve all the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized or found aboard the vessel taken as prize, or fails to send them for inspection and use according to law to any tribunal authorised to determine whether such prize is lawful capture, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments and, in addition thereto, with forfeiture of his share of the capture.

Embezzlement of property belonging to prize vessel.

**97.** Every person subject to naval law who embezzles any property belonging to any vessel seized as prize shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments and, in addition thereto, with forfeiture of his share of the capture.

Ill-treatment of persons on board a prize vessel.

**98.** Every person subject to naval law who strips off the clothes of, or in any way pillages, beats, or ill-treats, any person on board a vessel taken as prize shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Collusion in capturing a vessel as prize etc.

**99.** If the commanding officer of any ship of the Navy—

- (a) by collusion with the enemy takes as prize any vessel, goods, or thing, or
- (b) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize, or
- (c) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize,

shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

**100.** Every person subject to naval law who breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right or under any law for the time being in force, with intent to embezzle anything therein or belonging thereto, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments and, in addition thereto, with forfeiture of his share of the capture.

Breaking bulk on board prize vessel with a view to embezzle

**101.** Every person subject to naval law who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the Navy, or any employment therein, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments:

Persons subject to naval law giving or receiving illegal gratification in respect of appointments or promotions in the Navy.

**102.** Every person subject to naval law who, orally or in writing, or by signal or otherwise, discloses the numbers or position of any naval forces of Ceylon, or any magazines or stock of such forces, or any preparations for, or orders relating to, operations or movements of such forces at such time and in such manner as to have produced effects injurious to such forces, shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

Injurious disclosures.

**103.** Every commanding officer who, on application being made to him, neglects or refuses to deliver to a civil court, or to assist in the lawful arrest of, any officer or seaman under his command who is charged with, or convicted of, a civil offence before that court, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Failure to deliver to civil court officers and seamen charged with, or convicted of, civil offences.

**104.** Every person subject to naval law who, by any act, conduct, disorder, or neglect which does not constitute an offence for which special provision is made in any other section of this Act, prejudices good order and naval discipline, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Offences against naval discipline not particularly mentioned

## PART IX.—OFFENCES UNDER THIS ACT WHICH ARE NOT NAVAL OFFENCES.

Unlawful recruiting

**105.** Every person, other than a person subject to naval law, who without due authority—

- (a) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for the Navy, or relating to recruits for the Navy, or
- (b) opens or keeps any house, place of rendezvous, or office connected with the procuring of recruits for the Navy, or
- (c) receives any person under any such notice or advertisement as aforesaid, or
- (d) directly or indirectly interferes with a duly appointed recruiter in the discharge of his duties,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees.

False answers by applicants for enlistment.

**106.** Every person, other than a person subject to naval law, who has knowingly made a false answer to any question put to him at an examination for his enlistment as a seaman shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding three months.

Inducing or assisting officers or seamen to desert or absent themselves without leave

**107.** Every person, other than a person subject to naval law, who by any means—

- (a) procures or persuades any officer or seaman to desert or absent himself without leave, or attempts to procure or persuade any officer or seaman to desert or absent himself without leave, or
- (b) knowing that an officer or seaman is about to desert or absent himself without leave, aids him in deserting or absenting himself without leave, or
- (c) knowing any officer or seaman to be a deserter or absentee without leave, conceals or employs such officer or seaman or aids him in concealing himself, or effects, or aids him in, his rescue from arrest,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding two years.

**108.** Every person, other than a person subject to naval law, who—

Interference  
with naval  
duties.

- (a) wilfully obstructs, or impedes, or otherwise interferes with any officer or seaman in the execution of his duties, or
- (b) wilfully produces any disease or infirmity in, or maims or injures, any person whom he knows to be an officer or seaman with a view to enabling such officer or seaman to avoid naval service, or
- (c) with intent to enable an officer or seaman to render himself, or induce the belief that he is, permanently or temporarily unfit for service, supplies to, or for the use of, such officer or seaman any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding one thousand rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

**109.** Every person, other than a person subject to naval law, who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the Navy, or any employment therein, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding one thousand rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

Persons not  
subject to naval  
law giving or  
receiving illegal  
gratification in  
respect of  
appointments or  
promotions in  
the Navy

**110.** (1) Every person, other than a person subject to naval law, who—

Purchase of  
naval property.

- (a) buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatsoever, or
- (b) solicits or entices any person to sell, exchange, pawn or give away, or
- (c) assists or acts for any person in selling, exchanging, pawning, or making away with,

any property of the Navy shall, unless he proves either that he acted in ignorance of the fact that such

property was the property of the Navy, or that it was purchased at a sale held by order or with the consent of the Captain of the Navy, or that it was the personal property of a person who had ceased to be an officer or a seaman, or of the legal representative of an officer or a seaman who had died, be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees, together with a penalty of treble the value of any property of which he has become possessed by means of his offence, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment. Such penalty may be recovered in like manner as a fine imposed by the Magistrate.

(2) Where there is reasonable ground to believe that any property found in the possession or keeping of any person is naval property which has been stolen, or which has been bought, exchanged, taken in pawn, obtained or received in contravention of this section, he may be taken or summoned before a Magistrate's court, and he shall, if he does not satisfy the court that he came by such property lawfully and without any contravention of this Act, be punished, on conviction after summary trial, with the same punishments as are specified for a contravention of the last preceding sub-section.

(3) A person found committing an offence under this section may be arrested without warrant and taken, together with the property which is the subject of the offence, before a Magistrate's court.

(4) A Magistrate's court, if satisfied on the evidence on oath or affirmation of any person that there is reasonable cause to suspect that any other person has in his possession, or on his premises, any property with respect to which any offence under this section has been committed, may grant a warrant to search for such property, as in the case of stolen property; and the officer charged with the execution of such warrant shall seize any such property found on search of that other person or his premises and shall bring the person in whose possession such property is found before such court to be dealt with according to law.

(5) For the purposes of this section, property shall be deemed to be in the possession or keeping of a person if it is possessed or kept for him by any other person.



111. Every person, other than a person subject to naval law, who receives or has in his possession any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connection with the right of any person to a naval pension or pay to any bounty, allowance, gratuity, relief, benefit or advantage granted in connection with naval service, as a pledge or security for a debt or with a view to obtain payment from the person entitled thereto of a debt due either to the first-mentioned person or to any other person, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

Possession of  
naval certificate  
as security for  
debt

112. Every person, other than a person subject to naval law, who—

Unauthorised  
use of naval  
decorations, etc.

- (a) without lawful authority uses or wears any naval decoration, medal, medal ribbon, badge, wound stripe, or emblem, or any imitation thereof which is calculated to deceive, or
- (b) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, medal, medal ribbon, badge, wound stripe, or emblem, or
- (c) without lawful authority or excuse supplies or offers to supply any such decoration, medal, medal ribbon, badge, wound stripe, or emblem, to any person not authorised to use or wear it,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees, or with simple or rigorous imprisonment for a term not exceeding three months, or with both such fine and such imprisonment.

113. (1) It shall be the duty of every employer to give all proper facilities for enabling any person in his employ to become or to be a member of the Volunteer Naval Force or the Volunteer Naval Reserve and any such person who is a member of that force or reserve to undergo and render such naval training and service as he may be required to undergo and render by virtue of this Act.

Obligations of  
employers.

(2) Any employer who—

- (a) fails to give the facilities referred to in sub-section (1), or
- (b) dismissing an employee or by reducing his wages or in any other manner penalises him for undergoing or rendering any training or service referred to in that sub-section,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding one hundred rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

Misconduct of  
civilian witness.

114. Where any person, other than a person subject to naval law,—

- (a) being duly summoned as a witness before a court-martial or a naval officer exercising judicial powers under this Act and after payment or tender of the reasonable expenses of his attendance, makes default in attending; or
- (b) being in attendance as a witness before a court-martial or such officer—
  - (i) refuses to take any oath or make any affirmation which he is lawfully required by such court-martial or officer to take or make, or
  - (ii) refuses to produce any document, in his power or control, which he is lawfully required by such court-martial or officer to produce, or
  - (iii) refuses to answer any question which he is lawfully required by such court-martial or officer to answer,

he shall be deemed to commit an offence; and the president of the court-martial or such officer may under his hand certify such offence of that person to the nearest civil court, and that court may thereupon deal with that person in like manner as if he had committed a like offence in that court.

115. (1) Where any person, other than a person subject to naval law, wilfully gives false evidence when examined on oath or affirmation before a court-martial or a naval officer exercising judicial powers under this Act, he shall be deemed to commit the offence of giving false evidence under Chapter XI of the Penal Code and may be prosecuted and punished accordingly.

False evidence  
and contempt  
by civilian  
witness

(2) Where any person, other than a person subject to naval law, uses insulting or threatening language about or towards a court-martial or a naval officer exercising judicial powers under this Act, or causes any interruption or disturbance in the proceedings of a court-martial or such officer, or prints or publishes observations or utters words calculated to influence a court-martial or such officer or witnesses before a court-martial or such officer or to bring a court-martial or such officer into disrepute, he shall be deemed to commit the offence of contempt of the court-martial or such officer; and the president of the court-martial or such officer may under his hand certify such offence of that person to the Supreme Court, and that Court may thereupon deal with that person in like manner as if he had been charged with the offence of contempt committed against the authority of that Court.

**116.** Where any person promotes or organises or is a member of any association or body of persons who, without the permission of the Governor-General, are being trained in the use of any naval weapon of war or are undergoing any training of a naval nature, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding six months.

Unauthorised training of a naval nature.

**117.** (1) Every person, other than a person subject to naval law, who conveys or causes to be conveyed into a naval prison or naval detention quarters any articles for the purpose of facilitating the escape of any naval prisoner, or by any means whatsoever aids any naval prisoner to escape or in an attempt to escape from any naval prison or naval detention quarters, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding two years.

Persons not subject to naval law who aid escape or attempt to escape of naval prisoners or who contravene naval prison regulations.

(2) Every person, other than a person subject to naval law, who, for any purpose other than the purpose specified in sub-section (1), brings or attempts to bring any article into any naval prison or naval detention quarters in contravention of such regulations relating to naval prisons and naval detention quarters as may be made under this Act, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees.

PART X.—PUNISHMENTS BY COURTS-MARTIAL IN  
RESPECT OF CIVIL OFFENCES.

118. (1) Every person subject to naval law who is convicted by a court-martial of the offence of treason shall be punished with death.

(2) Every person subject to naval law who is convicted by a court-martial of the offence of murder shall be punished with death.

(3) Every person subject to naval law who is convicted by a court-martial of the offence of culpable homicide not amounting to murder shall be punished with simple or rigorous imprisonment for a term not exceeding twenty years.

(4) Every person subject to naval law who is convicted by a court-martial of the offence of rape shall be punished with simple or rigorous imprisonment for a term not exceeding twenty years.

119. Every person subject to naval law who is convicted by a court-martial of any civil offence not mentioned in section 118 shall be punished—

- (a) with dismissal with or without disgrace from the Navy or with any less severe punishment in the scale of punishments, or
- (b) with the punishment prescribed for such offence by any law of Ceylon other than this Act.

PART XI.—AWARD OF PUNISHMENTS BY COURTS-  
MARTIAL AND NAVAL OFFICERS EXERCISING  
JUDICIAL POWERS.

120. The following shall be the scale of punishments, in descending order of severity, which subject to the provisions of this Act, may be awarded to persons convicted of offences by courts-martial or by naval officers exercising judicial powers under this Act:—

- (a) Death.
- (b) Rigorous imprisonment.
- (c) Dismissal with disgrace from the Navy.
- (d) Simple imprisonment.
- (e) Detention.
- (f) Dismissal without disgrace from the Navy.
- (g) Forfeiture of seniority as an officer for a specified time or otherwise.

1 treason,  
murder,  
culpable  
homicide not  
amounting to  
murder, and  
rape.

Any civil  
offence not  
mentioned in  
section 118

Scale of  
punishments

- (h) Dismissal from the ship to which the offender belongs.
- (i) Severe reprimand.
- (j) Reprimand.
- (k) Disrating subordinate or petty officer.
- (l) Forfeiture of pay, allowance, and other emoluments due, and medals and decorations granted, to the offender, or of any one or more thereof; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship or at the place from which he has deserted.
- (m) Such minor punishments as may be prescribed.

**121.** The following provisions shall apply in regard to the award of punishments by courts-martial or by naval officers exercising judicial powers under this Act :—

Special provisions in regard to the award of punishments

- (a) A sentence of death shall not be passed on any person by a court-martial unless, where the number of members of the court-martial does not exceed five, at least four of the members present, and, where the number of members of the court-martial exceeds five, not less than two-thirds of the members present, concur in the sentence.
- (b) The sentence of dismissal with disgrace from the Navy shall involve in all cases the forfeiture of all pay, allowances, and other emoluments due, and all medals and decorations granted, to the offender, and an incapacity to serve again in the Navy, Army or Air Force of Ceylon or hold any office under the Crown.
- (c) A sentence of imprisonment may be accompanied with the direction that the prisoner shall be kept in solitary confinement for any period of the term of imprisonment, not exceeding fourteen days at any one time and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods; and when the term of imprisonment exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole of such

term, with intervals between the periods of solitary confinement of not less duration than such periods.

(d) The punishment of detention may, unless otherwise expressly provided for in this Act, be for any term not exceeding two years.

(e) The punishment of imprisonment or detention shall involve disrating in the case of a petty officer, and shall in all cases be accompanied by stoppage of pay during the term of imprisonment or detention :

Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay during the term of detention.

**PART XII.—REVISION AND EXECUTION OF SENTENCES PASSED BY COURTS-MARTIAL AND NAVAL OFFICERS EXERCISING JUDICIAL POWERS.**

Revision of sentences.

**122.** The Governor-General may annul, suspend, or modify any sentence (including a sentence of death) passed by a court-martial or by a naval officer exercising judicial powers under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of the punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by such court-martial or officer :

Provided that neither the degree nor the duration of the punishment involved in any sentence shall be increased by any such modification.

Sentence of death.

**123.** A sentence of death passed by a court-martial shall not be carried out until the sentence has been confirmed by the Governor-General.

Committing authorities.

**124.** (1) Every officer, below the rank of commander, who is authorized in that behalf by the Governor-General shall have the power to order the committal of a naval prisoner to prison or detention quarters.

(2) An officer authorized to make an order under sub-section (1) is hereinafter referred to as a "committing authority".

125. (1) An order of a committing authority shall be a sufficient warrant for the committal of a naval prisoner to prison or detention quarters.

(2) An order of a committing authority shall be a sufficient authority for the transfer of a naval prisoner from prison to detention quarters or *vice versa*, or from any prison or detention quarters to any other prison or detention quarters.

(3) It shall be lawful for the committing authority, by order in writing, to direct that any person who is undergoing imprisonment or detention by virtue of a sentence passed on him by a court-martial or by a naval officer exercising judicial powers under this Act be delivered over to naval custody for the purpose of being heard before a court-martial, either as a witness, or for trial or otherwise, and such person shall accordingly, on the production of such order, be delivered over to such custody.

(4) A naval prisoner whose sentence is remitted may be released by order of the committing authority.

126. (1) Every term of imprisonment or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded.

(2) Where, by reason of a ship being at sea or off a place at which there is no proper prison or there are no proper detention quarters, a sentence of imprisonment or detention passed on an offender cannot be duly executed, he shall, on arrival at some place at which there is a proper prison or there are proper detention quarters, undergo his sentence in like manner as if the time of such arrival were the day on which the sentence was awarded; and the term of imprisonment or detention shall be reckoned accordingly subject to the deduction of any time during which he has been kept in confinement in respect of the sentence passed on him.

127. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence.

128. If a person imprisoned or undergoing detention by virtue of a sentence passed on him by a court-martial or by a naval officer exercising judicial powers under this Act becomes unsound in mind, the Governor-General may, upon a certificate by two

Committal,  
transfer,  
removal and  
release of naval  
prisoners.

Commencement  
of term of  
imprisonment or  
detention.

Detention in  
naval custody.

Prisoners of  
unsound mind.

qualified medical practitioners that such person is of unsound mind, order that such person shall be removed to a mental hospital or other place for the reception of persons of unsound mind and that he shall be there confined for the unexpired term of his imprisonment or detention or until he is again of sound mind; and, if before the expiry of that term such person is certified in the like manner to be again of sound mind, the Governor-General may order that such person shall be removed to any prison or detention quarters in which he might have been confined if he had not become unsound in mind and that he shall there serve the remainder of that term.

Establishment of naval prisons and naval detention quarters.

**129.** (1) It shall be lawful for the Minister to set apart any buildings or vessels, or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters as the case may be, shall be deemed to be naval prisons or naval detention quarters, respectively, within the meaning of this Act.

(2) In any country in which operations against the enemy are being conducted, the powers of the Minister under sub-section (1) shall be exercised by the officer for the time being in command of the forces of Ceylon in the field.

Jurisdiction of civil courts not affected by this Act.

#### PART XIII.—CIVIL COURTS.

**130.** (1) Save as provided in sub-section (2), nothing in this Act shall affect the jurisdiction of a civil court to try and punish any person subject to naval law for any civil offence.

(2) If a person subject to naval law is convicted of any civil offence and sentenced to punishment by a court-martial and is afterwards tried for, and convicted of, the same offence by a civil court, then the civil court shall, in awarding punishment, have due regard to such punishment imposed by the court-martial as that person may have already undergone.

Delivery of naval offenders to the civil power.

**131.** It shall be the duty of every commanding officer—

- (a) on an order made in that behalf by a civil court, to surrender to that court any officer or seaman under his command who is charged with, or convicted of, any civil offence before that court, and
- (b) to assist any police officer or any other officer concerned or connected with the administration of justice to arrest any officer or seaman so charged or convicted.



**132.** (1) Such of the provisions of section 42 of the Courts Ordinance as relate to the grant and issue of writs of *mandamus*, *certiorari*, and prohibition shall be deemed to apply in respect of any court-martial or of any naval officer exercising judicial powers under this Act.

Issue of prerogative writs by Supreme Court.  
Cap. 6.

(2) The provisions of section 45 of the Courts Ordinance relating to the issue of writs of *habeas corpus* shall be deemed to apply in respect of any person illegally detained in custody by order of a court-martial or other naval authority.

Cap. 6.

**133.** Any action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not be instituted or entertained, unless—

Actions against persons for acts done under this Act.

- (a) it is commenced within six months next after the act, neglect or default complained of,
- (b) written notice setting out the cause of action or the alleged offence, the name and place of abode of the person intending to be the plaintiff or the complainant, and any relief claimed, has been delivered to, or left at the residence or official address of, the person against whom the action, prosecution, or proceeding is intended to be instituted, and
- (c) one month has expired after such notice has been so delivered or left.

#### PART XIV.—RULES OF EVIDENCE.

**134.** Subject to the other provisions of this Part, the rules of evidence to be adopted in proceedings before a court-martial shall be the same as those followed in the civil courts in Ceylon.

Rules of evidence in proceedings before courts-martial.

**135.** Sections 136 to 146, both inclusive, shall apply to proceedings under this Act whether before a court-martial or a civil court notwithstanding anything in any other law.

Application of sections 136 to 146.

**136.** The attestation paper purporting to have been signed by a person on his being enlisted as a seaman in the Navy, or the declaration purporting to have been made by a person upon his re-engagement in the Navy, shall be evidence of the fact that he has given such answers to questions as he is therein represented to have given.

Proof of answers given by a person on enlistment or re-engagement as a seaman.

**142.** Where a record is made in any book of the Navy in pursuance of any naval duty and purports to have been signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated. A copy of such record purporting to have been certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

Record made in a book of the Navy in pursuance of duty.

**143.** A descriptive return, within the meaning of section 151, purporting to have been signed by a Magistrate shall be evidence of the matters therein stated.

Descriptive return.

**144.** (1) Where any officer or seaman charged with being a deserter or absentee without leave has surrendered to a provost marshal, assistant provost marshal or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal or other officer and stating the fact, date, and place of surrender, shall be evidence of the matters so stated.

Certificate regarding surrender of alleged deserter or absentee without leave.

(2) Where any officer or seaman charged with being a deserter or absentee without leave has surrendered to a police officer in charge of a police station and has been delivered into naval custody by such police officer, a certificate purporting to have been signed by such police officer and stating the fact, date, and place of surrender shall be evidence of the matters so stated.

**145.** Where any officer or seaman has been arrested and taken to any office, station, or post, in any place outside Ceylon, which corresponds to a police station in Ceylon, or has on surrender been taken into custody at any such office, station, or post, a certificate which purports to have been signed by the officer in charge of such office, station, or post, and which states the fact, date, and place of arrest or surrender shall be evidence of the matters so stated.

Certificate regarding arrest or surrender of officer or seaman outside Ceylon.

**146.** A copy of the whole or any part of the proceedings of a court-martial purporting to have been certified by the Captain of the Navy, or by any officer thereto authorised by the Captain of the Navy, to be a true copy of such proceedings or of such part, shall be admissible in evidence without proof of the signature of such Captain or officer.

Copy of proceedings of court-martial.

**147.** Where any person subject to naval law has been tried for any offence by a civil court, the registrar, secretary, or chief clerk of such court shall, if requested by the commanding officer of such person or

Evidence of conviction or acquittal by a civil court.

by any other officer authorised in that behalf by such commanding officer, transmit to the officer by whom the request is made a certificate setting out the offence for which such person was tried and the judgment of such court thereon. Such certificate shall, in any proceedings before a court-martial or a naval officer exercising judicial powers under this Act, be evidence of the matters stated therein.

#### PART XV.—MISCELLANEOUS.

Trial of officers  
for disciplinary  
offences in  
time of war

**148.** (1) Where an officer commits in time of war a disciplinary offence, the officer having power to order a court-martial to be held may, if he considers that the offence is of such a character as not to necessitate trial by a court-martial, in lieu of ordering a court-martial, order a disciplinary court, constituted as hereinafter mentioned, to be held for the trial of the offender.

(2) A disciplinary court shall be composed of not less than three and not more than five officers, of whom one shall be a commander or of higher rank.

(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale of punishments, but no greater punishment.

Armed rebels  
and mutineers

**149.** All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Power to arrest  
offenders

**150.** An officer in command of a ship of the Navy or an officer empowered by this Act to exercise judicial powers may, by warrant under his hand, authorise any person to arrest a person subject to naval law for any such offence under this Act as may be mentioned in the warrant. Any such warrant may include the names of more persons than one in respect of several offences of the same nature, and any person named in any such warrant may forthwith, on his arrest, if the warrant so directs, be taken on board the ship to which he belongs, or some other ship of the Navy. Any person authorised by any such warrant to arrest an offender may use force, if necessary, for the purpose of effecting the arrest.

Arrest of  
deserters and  
absentees  
without leave.

**151.** The following provisions shall have effect with respect to officers and seamen who are deserters or absentees without leave:—

(a) Upon reasonable suspicion that an officer or a seaman is a deserter or an absentee without leave, it shall be lawful for any police

officer, or, if there is no police officer at hand, for any person, to arrest the suspected officer or seaman and forthwith to bring him before a Magistrate's court.

(b) Where an officer or a seaman reasonably suspected to be a deserter or an absentee without leave is brought before a Magistrate's court, the court—

(i) if satisfied, either by independent evidence taken on oath or affirmation or by the confession of such officer or seaman, that he is a deserter or an absentee without leave, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into naval custody or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for confinement of persons in custody, for such time as appears to the court reasonably necessary for the purpose of delivering him into naval custody, and

(ii) where such officer or seaman confesses himself to be a deserter or an absentee without leave and the court is not convinced of the truth of the confession, shall remand him for the purpose of obtaining information as to the truth or falsehood of the confession, and for that purpose the court shall transmit to the Captain of the Navy a descriptive return in such form and containing such particulars as may be prescribed, relating to such officer or seaman.

(c) The court may from time to time remand the officer or seaman referred to in paragraph (b) of this section for a period not exceeding eight days in each instance.

(d) Where under paragraph (b) (i) of this section a court causes an officer or a seaman either to be delivered into naval custody

or to be committed as a deserter or an absentee without leave, the court shall send to the Captain of the Navy a descriptive return relating to such officer or seaman.

- (e) Where an officer or a seaman surrenders himself to a police officer as being a deserter or an absentee without leave, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of such officer or seaman that such officer or seaman is a deserter or absentee without leave, may cause such officer or seaman to be delivered into naval custody without bringing him before a Magistrate's court under this section, and in such case shall send to the Captain of the Navy a certificate signed by himself as to the fact, date, and place of the surrender of such officer or seaman.

Restriction on  
arrest of officer  
or seaman for  
debt

152. (1) It shall not be lawful for any person to arrest an officer or a seaman under any warrant, process, or writ issued by any court in a suit for the recovery of a debt due from the officer or seaman, unless the debt was contracted when the debtor was not a member of the Navy, nor unless before the issuing of the warrant, process, or writ, the plaintiff in the suit or some person on his behalf has made an affidavit that the debt due to the plaintiff was contracted at a time when the debtor was not a member of the Navy, nor unless a memorandum of such affidavit is made on the back of the warrant, process, or writ

(2) Where an officer or a seaman is arrested in contravention of the provisions of sub-section (1), the court which issued the warrant, process, or writ under which the arrest was made may, on complaint by such officer or seaman or by his superior officer, investigate the case and, if satisfied that the arrest was made in contravention of such provisions, may make an order for the immediate discharge of the arrested officer or seaman, and may award to him the costs of the complaint, for the recovery of which he shall have the like remedy as the plaintiff in the suit in which the warrant, process, or writ was issued would have on judgment being given in his favour with costs.

**153.** (1) Every assignment of and every charge on, and every agreement to assign or charge, the pay or any allowance or other emoluments of any officer or seaman, shall be void unless it is approved by the Governor-General or any person thereto authorised by the Governor-General.

Assignment, seizure, or sequestration of pay, etc.

(2) No pay, allowance, or other emoluments of any officer or seaman shall be seized or sequestered under any writ or order issued or made by any civil court.

**154.** Where a civil court enters a decree or makes an order against a person, who is or subsequently becomes an officer or a seaman, for the payment of any sum as cost of maintenance of his wife or of his legitimate or illegitimate child or children, the Captain of the Navy may, if a duly certified copy of such decree or order is sent to him, cause to be deducted from the pay of the officer or seaman and to be appropriated towards the payment of that sum such portion of the pay of the officer or seaman as the Captain of the Navy may determine, so however that there shall be left to the officer or seaman not less than one-third of his pay.

Maintenance of wife and children

**155.** (1) Where a person subject to naval law is convicted by a court-martial of the offence of committing theft or criminal breach of trust of any property, or of receiving any property knowing it to be stolen property, and the property or any part thereof is found in the possession of that person, the court-martial or the Governor-General may order the property so found to be restored to the person appearing to be the lawful owner thereof.

Power as to restitution of stolen property.

(2) Where any property found in the possession of a person convicted by a court-martial of an offence referred to in sub-section (1) appears to the court-martial or to the Governor-General to have been obtained by the conversion or exchange of any of the property in respect of which that offence was committed, an order similar to an order under that sub-section may be made by the court-martial or the Governor-General.

(3) Where it appears to the court-martial mentioned in sub-section (1) or to the Governor-General, from the evidence given before the court-martial, that any part of the property referred to in that sub-section was sold to or pawned with any person without any guilty knowledge on the part of that person, the court-martial or the Governor-General may, on the application of that person and on the restitution of

such property to the owner thereof, order that out of the money, if any, found in the possession of the offender, a sum not exceeding the amount of the proceeds of the sale or pawning shall be paid to that person.

(4) An order under this section shall not bar the right of any person, other than the offender or any one claiming through him, to recover any property delivered in pursuance of such order from the person to whom it is so delivered.

(5) In this section "property" includes money.

Members of any naval force of His Majesty attached to the Navy of Ceylon

156. Where any member of any naval force of His Majesty raised outside Ceylon is attached to the Navy of Ceylon for duty and service or for exercise or training, he shall be subject to the provisions of this Act while he is so attached.

Vesting of naval property in Captain of the Navy.

157. All property belonging to the Navy, other than the property of individual members of the Navy, and the exclusive right to sue for and recover moneys and other property due to the Navy, shall vest in the Captain of the Navy for the time being, with power for him to sue, to make contracts and conveyances, and to do all other lawful things relating to such property; and civil or criminal proceedings taken by virtue of this section by the Captain of the Navy shall not be discontinued and shall not abate by reason of his death, resignation, retirement, or removal from office, but may be carried on by and in the name of his successor in office.

Provisions as to orders by Captain of the Navy.

158. Where any order is authorised by this Act to be made by the Captain of the Navy, such order may be signified under the hand of any officer authorised to issue orders on behalf of the Captain of the Navy; and an order purporting to have been signed by any officer appearing therein to be so authorised shall be evidence of his being so authorised.

Naval ports.

159. Where any port is wholly or mainly used by the Navy, the Minister may, by Order published in the *Gazette*, declare that port to be a naval port for the purpose of enabling the making of regulations under this Act in regard to matters affecting that port. The limits of every naval port shall be defined in the Order by which the port is declared to be a naval port.

**160.** (1) The Minister may by Order published in the *Gazette* declare that, with effect from such date as may be specified in the Order, any provision of written law (other than this Act and the regulations made thereunder) which is generally or specially mentioned in the Order and which relates to ports or to persons, vessels or other property in ports or to the carrying on of any undertaking or to the doing of or the omission to do any act in ports, and which is a provision not related to or connected with the imposition, levy or payment of customs duties or the prevention or detection of the smuggling of goods—

Exclusion or  
modified  
application of  
written law  
affecting ports.

(a) shall not apply, or

(b) shall apply with such modifications as may be specified in the Order,

to and in relation to the members or vessels of the Navy.

(2) Every Order made by the Minister under subsection (1) shall have the force of law.

**161.** (1) The Minister may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary to be prescribed for securing the discipline and good government of the Navy or for giving effect to this Act, and in particular in respect of all or any of the following matters:—

Regulations.

(a) appointments and promotions in the Navy;

(b) the pay, allowances, and other emoluments of officers and seamen;

(c) pensions and gratuities to officers and seamen or the widows and orphans of deceased officers and seamen;

(d) procedure for obtaining redress of grievances of officers and seamen;

(e) the summoning of witnesses required to give evidence before courts-martial and naval officers exercising judicial powers under this Act;

(f) the assembly and procedure of disciplinary courts;

(g) the management and regulation of naval prisons and naval detention quarters;

(h) the labour of prisoners in naval prisons and naval detention quarters and the enabling of such prisoners to earn, by special industry and good conduct, a remission of a portion of their sentence.



- (i) the maintenance of discipline among prisoners in naval prisons and naval detention quarters, the punishment by personal correction, restraint or otherwise of offences committed by them; and the temporary release of them in such cases, for such periods, and subject to such conditions, as may be prescribed;
- (j) the good government of naval establishments, the discipline of persons receiving instructions or training or employed in or in connection with naval establishments;
- (k) the prohibition or regulation of the entry, departure, movement or anchoring of vessels into, from or in naval ports;
- (l) the provision of port equipment and port facilities to persons requiring them in naval ports, and the fixing of fees for the use of such equipment and facilities;
- (m) the safety of naval ports;
- (n) the prohibition or regulation of the admission of persons to naval ports;
- (o) the conduct of persons within naval ports;
- (p) the control of traffic within naval ports;
- (q) the prevention of damage to property within naval ports;
- (r) any other matter affecting naval ports.

(2) The regulations may provide as punishments for breaches thereof, simple or rigorous imprisonment for a term not exceeding three months, or a fine not exceeding two hundred rupees, or both such imprisonment and such fine.

(3) No regulation made in respect of the matters mentioned in paragraph (i) of sub-section (1) shall authorise corporal punishment to be inflicted for any offence, nor render the imprisonment or detention more severe than it is, under the law in force for the time being, in any civil prison.

(4) Every regulation made by the Minister under this section shall be published in the *Gazette* and shall come into operation from the date on which it is so published or, where a later date of operation is specified in the regulation, from such later date.

(5) Every regulation made by the Minister under this section shall, as soon as practicable, be brought before the Senate and the House of Representatives by motions that such regulation shall be approved.

(6) Any regulation which the Senate or the House of Representatives refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be so deemed to be rescinded shall be the date on which the Senate or the House of Representatives refuses to approve it.

(7) Notification of the date on which any regulation made by the Minister under this section is deemed to be rescinded shall be published in the *Gazette*.

162. All the King's Regulations which, on the date immediately preceding the date on which this Act comes into operation, applies to the Ceylon Naval Volunteer Force raised under the Naval Volunteer Ordinance shall apply to the officers and seamen of the Navy of Ceylon as if those Regulations had been made under this Act, subject to amendment or rescission by regulation made under this Act.

King's Regulations applicable to the Navy of Ceylon.

Cap. 254.

163. The Naval Volunteer Ordinance and the Ceylon Royal Naval Volunteer Reserve (General Service) Ordinance, No. 44 of 1938, are hereby repealed.

Repeals.  
Cap. 254

164. In this Act unless the context otherwise requires—

Interpretation.

“ active service ” means service rendered in the defence of Ceylon in time of war whether actual or apprehended, or in the prevention or suppression of any rebellion, insurrection, or other civil disturbance in Ceylon;

“ civil court ” means any court constituted under the Courts Ordinance and includes a Rural Court established under the Rural Courts Ordinance, No. 12 of 1945;

“ civil offence ” means an offence against any law of Ceylon which is not a naval offence;

“ disciplinary offence ” means a breach of section 61, 68, 69, 70, 89, or 104;

“ Minister ” means the Minister of Defence and External Affairs;

“ naval port ” means a port declared by the Minister to be a naval port under section 159;

“ naval prisoner ” means a person under sentence of imprisonment or detention passed by a court-martial or by a naval officer exercising judicial powers under this Act;

Cap. 6.

- “ officer ” means a commissioned officer, warrant officer, or subordinate officer;
- “ Permanent Secretary ” means the Permanent Secretary to the Ministry of Defence and External Affairs;
- “ petty officer ” includes a chief petty officer;
- “ prescribed ” means prescribed by regulation made under this Act;
- “ scale of punishments ” means the scale of punishments set out in section 120;
- “ seaman ” means a member of the Navy not being an officer;
- “ subordinate officer ” means an acting sub-lieutenant, a midshipman, or a cadet;
- “ superior officer ” includes any officer, petty officer, and non-commissioned officer.