

PRISONERS ACT, 1900

3 of 1900

[2nd February, 1900]

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"The object of this Bill is merely to consolidate the several Acts relating to prisoners confined by order of a Court 'which are now to be found in different parts of the Statute-book, and so to replace a number of separate enactments by a single Act, expressed more simply and intelligibly...."-Gazette of India, 1899, Pt. V, page 101.

"We have adopted the suggestion of the Government of Bombay that sections 1 and 20 of the Prisoners Act 1871 (V of 1871),

should be entirely repealed-and that all cases in which persons sentenced in Native States are to be imprisoned in British India should be dealt with under section 16 of the Act. as reproduced in clause 15 of the Bill. We agree with the Local Government that, owing to the amendments made in S. 16 of the Act of 1871 by the Prisoners Act (1871) Amendment Act, 1894 (VII of 1894), Section 18 of the former Act has been in great measure superseded, and we think that, if power is conferred on the Local Government, as well as the Governor-General in Council, to sanction under section 16 (clause 15 of the Bill), the reception of persons sentenced by the Courts of Native States in British Indian Jails, and if provision is made for the reception in such jails of persons sentenced by such Courts without obtaining a special sanction in each case when at least one Judge of the Court is a British officer the law will be simplified without being materially altered. We have therefore omitted clauses 18 and 19 of the Bill as introduced, and recast the second part of sub-clause (1) of clause 15 so as to give effect to our proposals. These changes have necessitated certain consequential changes in sub-clause (3) of clause 20 of the Bill as introduced (now sub-clause (3) of clause 18). We have on suggestion of the Government of Bengal, supplied what appears to us to be an obvious omission in the existing law by expanding the provisions of clause 39 of the Bill as introduced (now clause 37) so as to enable a Criminal Court inferior to that of a First Class Magistrate, to require, through the medium of the District Magistrate the attendance of prisoners to give evidence or answer charges before it. The same Local Government has pointed out that sub-clause (2) of clause 41 of the Bill as introduced (now clause 39) does not properly provide for the case of a prisoner confined within a Presidency-town whose removal for the purpose of giving evidence elsewhere is required. We have accordingly enlarged the sub-clause by providing that in such cases the orders for removal shall be sent to the Commissioner of Police. Mr. Justice Knox of the Allahabad High Court has noticed that the Bill appears to be defective in that it makes no provision whereby a Criminal Court can require attendance of a prisoner confined in a prison situate beyond the local limits of the jurisdiction of the High Court to which such criminal Court is subordinate for the purpose of answering a charge of an offence in that Court. Clause 39 of the Bill as introduced (now clause 37) is limited to cases in which the prisoner so charged is confined in some place within the limits of the jurisdiction of the High Court to which the Criminal Court is

subordinate, while clause 42 only provides for the case of prisoners required to give evidence. To cure this defect we have inserted words in the latter clause (now clause 40) which will make it cover prisoners charged with offences. It has been suggested that it would be desirable to make it clear now the custody of prisoners sent to a Court either to give evidence or to answer a charge is to be provided for pending their return to their original prison. We have therefore added a power to make rules on this point to sub-clause (l)(a) of clause 53 of the Bill as introduced (now clause 51)."
* * * * *-Gazette of India, 1900, Pt., V, page 23.

PART 1
PRELIMINARY

1. Short title and extent :-

(1) This Act may be called The Prisoners Act, 1900;

¹[(2) It extends to the whole of India except ²[the territories which, immediately before the 1st November, 1956. were comprised in Part B States.]] ³[*]

³ [(3) * * * * *]

1. Substituted for sub-section (2) by A.L.O., 1950 (26-I-1950):
2. Substituted for the words '-Part B States' by 2 A.L.O., 1956 (1-11-1956).
3. The word 'and' and sub-section (3) were repealed by the Repealing and Amending. Act, 1914 (10 of 1914). Section 3 and Schedule II

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(a) "Court" includes a Coroner 'and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) "prison" includes any place which has been declared by the ¹[State Government], by general or special order, to be a subsidiary jail.

² [(c) "States" means the territories to which this Act extends.]

1. Substituted for the words 'Provincial Government' by A.L.O., 1950.
2. Substituted for the former clause (c) by 2 A.L.O., 1956 (1-11-1956).

PART 2
GENERAL

3. Officers in charge of prisons to detain persons duly committed to their custody :-

The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

4. Officers in charge of prisons to return writs, etc. after execution or discharge. :-

The officer-in-charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

PART 3
PRISONERS IN THE PRESIDENCY-TOWNS

5. Warrants, etc., to be directed to Police-officers :-

Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police officer within the local limits of such jurisdiction.

6. Power for a[State] Governments to appoint Superintendents of Presidency prisons. :-

The a[State Government] may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this part.

Explanation.- Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as "the Superintendent."

7. Delivery of persons sentenced to imprisonment or death by High Court :-

Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent together with its warrant, and such warrant shall be executed by

the Superintendent and returned by him to the High Court when executed.

8. Delivery of persons sentenced to transportation by High Court :-

Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation ¹[* *] the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation ¹ [* *] of such person shall be deemed to commence from such delivery..

1. The words "or penal servitude" were omitted by the Criminal Law (Removal of Racial Discrimination) Act, 1949 (17 of 1949). Section 4 (6-4-1949).

9. Delivery of persons Committed by High Court in execution of a decree or for contempt :-

Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

10. Delivery of persons sentenced by Presidency Magistrates :-

Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

11. Delivery of persons committed for trial by High Court :-

Every person committed by a Magistrate, ¹ [or Justice of the Peace] for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable cause such person to be taken before the Court at a criminal session thereof together with the warrant of commitment, in order that he may be dealt with according to law.

1. Substituted for the words "Justice of the Peace or Coroner" by the Coroners (Amendment) Act, 1908 (4 of 1908), S. 11.

12. Custody pending hearing by High Court under Section 350 of the Code of Civil Procedure of application for insolvency :-

The High Court may, pending the hearing, under S.350 of the Code of Civil Procedure, 1908, of any application for a declaration of insolvency, cause of judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of S.349 of the Code Of Criminal Procedure, 1898 of the said Code', and the Superintendent shall detain the said judgment-debtor in safe custody until he is redelivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

13. Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town :-

(1) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under Section 5 , shall be brought without delay before the Court by which, or by a Judge of which the writ warrat or order was issued, awarded or made, or before a Judge thereof, if the said Court or a Judge thereof, is then sitting for the exercise of original jurisdiction.

(2) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award shall necessary orders or warrants for that purpose.

PART 4

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS

14. References in this Part to prisons etc., to be construed as referring also to Reformatory Schools :-

In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

15. Power for officers in charge of prisons to give effect to sentences of certain courts :-

(1) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued.

(a) by any Court or tribunal acting, whether within or without the States under the general or special authority of the Central Government, or of any State Government, or of the Government of Burma, or by any Court or tribunal, which was before the commencement ¹of the Constitution acting under the general or special authority of his Majesty, or of the Crown Representative; or

(b) before the 26th January, 1950, by any Court or tribunal in any Indian State-

(i) if the presiding Judge, or if the Court or tribunal consisted of two or more Judges, at least one of the Judges, was an officer of the Crown authorised to sit as such Judge by the State or the Ruler thereof or by the Central Government or the Crown Representative: and

(ii) if the reception, detention or imprisonment in any Province of India of persons sentenced by any such Court or tribunal had been authorised by general or special order by the State Government ; "

[*]

² [(C) * * * * *] Provided that effect shall not be given to any sentence or order or warrant for detention passed or issued by any Court or tribunal in Burma without the previous sanction of the State Government concerned.

(2) Where a Court or tribunal of such an Indian State as aforesaid had passed a sentence which could not have been executed without the concurrence of an officer of the Crown, and such sentence had been considered on the merits and confirmed by any such officer specially authorised in that behalf, such sentence, and any order or warrant issued in pursuance thereof shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Central Government or the Crown Representative.]

1. That is, 26th January, 1950.

2. The word 'or' and Cl. (c) were omitted by 2 A.L.O., 1956(1-11-1956)

16. Warrant of officer of such Court to be sufficient authority. :-

A warrant under the official signature of an officer of such Court or

tribunal as is referred to in Section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

17. Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part

:-

(1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto pass the sentence and issue the warrant or order, he shall refer the matter to the ¹ [State Government), by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

1. Substituted for the words "Provincial Government" by A.L.O., 1950.

18. Execution in the States of certain capital sentences not ordinarily executable there :-

(1) Where a ¹[Court established by the authority of the Central Government] exercising, in or with respect to territory beyond the limits of the States, jurisdiction which ²[t h e ³[Central Government]] has in such territory,-

(a) has sentenced any person to death, and

(b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in the States has issued its warrant for the execution of such sentence to the officer in charge of a prison in the States, such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same condition in all respects as if it were a warrant duly issued under the provisions of S.381 of Code of Criminal Procedure, 1973.

(2) The prisons of which the officers incharge are to execute sentences under any such warrants as aforesaid ⁴[shall in each

State be such as the State Government] may, by general or special order, direct.

5 [(3) * * * * *],

1. Substituted the words "for British Court" by A.C.A.O., 1948.
2. Substituted for the words "the Governor-General in Council" by A.O., 1937.
3. Substituted for the word "Crown" by A.C.A.O., 1948.
4. Substituted for the words "shall be such as the Governor-General in Council or a Local Government authorised by the Governor-General in Council in this behalf" by A.O., 1937.
5. Sub-section (3) and the Proviso thereto were omitted by the A.L.O., 1950

PART 5

PERSONS UNDER SENTENCE OF PENAL SERVITUDE

19. 19 :-

27. 27 :-

Repealed by the Criminal Law (Removal of Racial Discriminations) Act, 1949), S. 4 (6-4-1949).]

PART 6

REMOVAL OF PRISONERS

28. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools :-

In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

29. Removal of prisoners :-

(1) The ¹[State Government] may, by general or special order, provide for the removal of any prisoner confined in a prison-

(a) under sentence of death, or

(b) under, or in lieu of, a sentence of imprisonment or transportation, or

(c) in default of payment of a fine, or

(d) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in ' ²[the State ²[* * *]].

(2) ⁴[Subject to the orders, and under the control, of the ¹[State

Government]], the Inspector- General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the ³[State] to any other prison in ⁷[the State] ⁸[* * *] ⁹ [*]

1. Substituted for the words "Provincial Government" or word "Province" by A.L.O., 1950.

2. Substituted for the words "British India or to any prison in Berar" by A.O., 1937. The words "or to any prison in Berar" were added by the Prisoners (Amendment) Act, 1923 (17 of 1923), S. 2.

4. Substituted for the words "The Local Government, and (subject to its orders and under its control)" by A.O., 1937(1-4-1937).

7. Substituted for the word "Province" by A.L.O., 1950

8. The words "or in the case of a prisoner so confined in a prison in the Central Province for his removal to any other prison in the Province or to any prison in Berar", which had been added by Act 17 of 1923, Section 2. were omitted by A.O., 1937(1-4-1937).

9. For Removal of Prisoners Order, 1965, see Maha. Govt. Gaz. 6-5-1965. Pt. IV-A, p. 543 and For Removal of Prisoners Order, 1969, in Goa, see Goa, see, Goa Gaz., 8-5-1969, Sr. I, p. 139.

30. Lunatic prisoners how to be dealt with. :-

(1) Where it appears to the ¹[State] Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the ¹[State] Government may, by w Warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the ¹[State] there to be kept and treated as the ¹[State] Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the "[State] Government that the prisoner has become of sound mind, the State Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the State or if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of S.9 of the Lunatic Asylums Act, 1858, shall

apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained Or imprisoned and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

⁵[(4) In any case in which the "[State] Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the ¹[State,] the ¹[State] Government may order his removal to. any such asylum or place within any other ¹[State] or within ⁹[any part of India to which this Act does not extend] by agreement with the ¹[State] Government of such other ¹[State] ¹² [* * *] and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.]

1. Substituted for the word "Provincial" or "Province" by A.L.O., 1950.

5. Substituted for the original sub-section (4) by the Devolution Act. 1920 (38 of 1920), Section 2 and Sch, I.

9. Substituted for the words "any Part B State" by the A.L.O., 1956(1-11-1956).

12. The words "or with such State or the Ruler thereof, as the case may be" were omitted, A.L.O., 1956

31. Removal of prisoners from territories under one Local Government to territories under another :-

Repealed by the Amending Act, 1903(1 of 1903), S.4 and Sch.III.]

PART 7

PERSONS UNDER SENTENCE OF TRANSPORTATION

32. Appointment of places for confinement of persons under sentence of transportation and removal thereto :-

¹[(1)] The ²[State Government] may appoint places within ³[the State] to which persons under sentence of transportation shall be sent; and the ²[State Government], or some officer duly authorised in this behalf by the ²[State Government], shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already

undergoing transportation under a sentence previously passed for another offence.

⁶[(2) In any case in which the ²b [State Government] is competent under sub-s. (1) to appoint places within the ⁸[States] and to order the removal thereto of persons under sentence of transportation the ²[State Government] may appoint such places in any other ⁵[State] by agreement with the ²[State Government] of that ⁵[State,] and may by like agreement give orders or duly authorise some officer to give orders for the removal thereto of such persons.]

1. Section 32 was renumbered as sub-section (1) of that section by the Devolution Act, 1920 (38 of 1920). S. 2 and Sch. I.
2. Substituted for the words "Provincial Government" by A.L.O., 1950
3. Substituted for the words "British India", A.L.O., 1950.
6. Inserted, A.L.O., 1950.
8. Substituted for the word "Province" or "Provinces" by A.L.O., 1950.

PART 8

DISCHARGE OF PRISONERS

33. Release, on recognizance, by order of High Court, of prisoner recommended for pardon :-

¹ [Any High Court] may, in any case in which it has recommended to Government the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

1. Substituted for the words "any Court which is a High Court for a Part A State" by 2 A.L.O., 1956(1-11-1956).

PART 9

PROVISIONS FORREQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE

34. 34 :-

52. 52 :-

Repealed by the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955). S. 10.]

53. Repeals :-

Repealed by the Repealing and Amending Act, 1914(10 of 1914), S. 3 and Sch. II.]

SCHEDULE 1

-Repealed by the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955), S. 10.1

SCHEDULE 2

2

-Repealed. the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955), S. 10.1.l

SCHEDULE 3

3

- Repealed by the Repealing and Amending Act, 1914(10 of 1914), S. 3 and Sch. II.]