

- (ii) under the order or direction of a superior officer of such Army or Forces, or
- (iii) for the purpose of maintaining law and order, or securing the public safety or safety of such Army or Forces, or maintaining supplies and services essential to the life of the community,— where such act or thing was done,
 - (a) between the 8th day of December, 1941, and the 5th day of May, 1945, in the Union of Burma other than in the areas comprised in the Tenasserim Division, or
 - (b) between the 8th day of December, 1941, and the 1st day of January, 1946, in the areas comprised in the Tenasserim Division.

5. (1) Where any person has been sentenced for any act or thing done or purported to be done in the circumstances specified in section 3 or section 4, the remaining portion of the sentence passed upon him, if unexpired, shall be remitted, and he shall be set free.

(2) For the purpose of this section, the decision of the President of the Union on the question whether any person was a member of or attached to the Burma Independent Army, Burma Defence Army, Burmese Army or Patriotic Burmese Forces, or whether he was sentenced for or in respect of any act or thing done in the circumstances specified in section 3 or section 4, shall be conclusive.

6. No criminal proceeding whatsoever shall be instituted, entertained or heard by any Court or Tribunal against any person in respect of any offence committed by him under section 143, section 144, section 145, section 147, section 148, section 150 or section 153, or under any other section of the Penal Code when it is read with section 149 of the Penal Code, where such offence was committed during the intervening period in the Union of Burma.

†“THE SPECIAL CRIMES (TRIBUNAL) ACT, 1947”.

[BURMA ACT LIII 1947] (30th August, 1947)

It is hereby enacted as follows :—

1. This Act shall remain in force until such date as the President of the Union, by notification, directs that it shall no longer be in force.

2. In this Act, unless there is anything repugnant in the subject or context. “the Code” means the Code of Criminal Procedure.

3. The President of the Union may constitute a Special Tribunal, and it shall consist of three persons who shall be appointed by the President of the Union. The President of the Special Tribunal shall be a Judge [or a retired Judge]¹ of the High Court, and the remaining two members shall be appointed from

* Published in Judicial Department Notification No. 338, dated 30th August 1947 (*Burma Gazette*, 1947, Part I, page 549.)

† ပြည်သူ့တရားသူကြီးအဖွဲ့ ဥပဒေပုဒ်မ ၈၃ အရ ရုပ်သိမ်းသည်။

¹ Substituted by Act XVI, 1960.

among persons who have acted for a period of not less than two years in the exercise of the powers of a Sessions Judge under the Code or acted as Advocates of the High Court of over ten years' standing.

4. (1) The Special Tribunal shall try such offences as the President of the Union may, by general or special order in writing, direct.

(2) If any question arises as to whether an offence falls within the general or special orders of the President of the Union made under subsection (1), the decision of the Special Tribunal before whom the case is sent up for trial shall be final, and such decision shall not be questioned in any Court whatsoever

5. (1) The Special Tribunal may take cognizance of offences without the accused being committed to it for trial and, in trying accused persons, shall follow the procedure prescribed by the Code for the trying of warrant cases by Magistrates:

Provided that—

(i) the Special Tribunal shall not be bound to adjourn any trial for any purpose whatsoever unless such adjournment is, in its opinion, necessary in the interests of justice ;

(ii) the Special Tribunal may refuse to summon any witness if satisfied that the evidence of such witness will not be material.

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

(3) The Special Tribunal may pass any sentence authorized by law.

6. (1) The Special Tribunal shall sit at such places and times as the President may appoint.

(2) If any member of the Special Tribunal is unable to continue to attend the trial of any case, the President of the Union may, subject to the provisions of section 3, appoint another person in the place of such member ; and the proceeding shall be continued as if such person had been appointed from the commencement of the trial.

7. The Special Tribunal shall have power, where there is more than one accused, to dispense with at any time the attendance of any accused before it on the ground of ill-health or otherwise.

8. Save as otherwise provided in this Act, the provisions of the Code and of any other law for the time being in force shall, to such extent as may be applicable, apply to trials before the Tribunal constituted under this Act, and to appeals from and confirmations of sentences of such Tribunal, and all other matters connected with or arising from such trials, as if the Tribunal was a Court of Session exercising original jurisdiction :

Provided that—

(i) the provisions of section 526 of the Code shall not apply to the proceeding held before the Special Tribunal ;

(ii) no appeal shall lie in any case tried by the Special Tribunal unless the Special Tribunal passes a sentence of death or a sentence of transportation or imprisonment exceeding five years."