

MANUAL OF DEPARTMENTAL
REGULATIONS
PARLIAMENT

VOLUME II

DISCIPLINARY
PROCEDURE

TRUE COPY


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ISSUED BY THE SECRETARY-GENERAL OF PARLIAMENT
WITH THE APPROVAL OF
THE STAFF ADVISORY COMMITTEE OF PARLIAMENT

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**DEPARTMENTAL REGULATIONS
MADE UNDER SECTION 6 OF THE
PARLIAMENTARY STAFFS ACT, NO.9 OF 1953,
AS AMENDED BY ACT, NO. 20 OF 1959**

**DISCIPLINARY CONTROL OF THE
STAFF OF PARLIAMENT**

Approved by the
Staff Advisory Committee of Parliament
on July 06, 1989

I N T R O D U C T I O N

The Parliamentary Staffs Act

Regulations made under Section 6 of the Parliamentary Staffs Act,
(Chapter 384) No. 9 of 1953 by the Secretary-General of Parliament.

S.N. Seneviratne
Secretary-General of Parliament

PREFACE

The Manual of Departmental Regulations

Parliament

Volume II

Disciplinary Procedure

The Manual of Departmental Regulations-Parliament Volume II Disciplinary Procedure has been approved by the Staff Advisory Committee on 06.07. 1989 in terms of Section 7 of the Parliamentary Staffs Act, No. 9 of 1953.

This volume has been issued taking into consideration the appropriate provisions laid down in the Establishments Code Volume II of the Government of the Democratic Socialist Republic of Sri Lanka.

S.N. Seneviratne
Secretary-General of Parliament

REGULATIONS

1. These Regulations may be cited as the Parliamentary Staff (General Conduct and Discipline) Regulations.

GENERAL CONDUCT AND DISCIPLINE

2. (1) It shall be the duty of every officer to maintain and protect at all times dignity and the good name of the Parliament.

(2) Every Officer shall assist at all times in ensuring the security of the Parliament and shall strictly observe rules and instructions issued for the purpose.

(3) Every officer is expected to give his undivided allegiance to the service of the Parliament at all times and at all occasions when the service of the Parliament has a claim on his service.

(4) No officer shall, except with the approval of the Secretary-General of Parliament, take part in the affairs of any commercial business or agricultural undertaking or of any firm carrying on any description of professional or commercial work in Sri Lanka or abroad.

(5) No officer shall, except with the prior sanction of the Secretary-General of Parliament, undertake services for Government Departments or Local Bodies or other public bodies or private persons.

(6) The special permission of the Secretary-General of Parliament is required before an officer may undertake any unofficial work for remuneration. Such permission will not be given unless it is shown that no other means of getting the work done are reasonably available. In cases where special permission has been granted, such percentage of fee as the Secretary-General of Parliament may direct, will be credited to the Consolidated Fund, the remainder duly appropriated by the officer concerned.

(7) No officer on leave of absence may, except with prior express sanction of the Secretary-General of Parliament, accept paid employment.

(8) No officer shall become a member of any political association.

(9) Officers belonging to a particular category, class or profession, may with the prior approval of the Secretary-General of Parliament form an association with non-political objectives and consisting of officers of that particular category, class or profession only as patron, office bearers and members.

(10) No member of the staff shall interview any Minister, or a Member of Parliament or any Government Official in the precincts of Parliament with a view to influencing or canvassing support in any private or personal matter.

Any representations that members of the staff wish to make should in the first instance be placed before the Secretary-General of Parliament and if dissatisfied with the decision of the Secretary-General of Parliament they could then address the Speaker

(11) Every officer shall be courteous towards Members of Parliament, all members of the public and readily assist all persons visiting their respective divisions on business.

(12) Every officer, shall always be polite in their official acts and correspondence and use temperate and restrained language when corresponding or writing reports and minutes.

(13) No officer shall use Government funds, labour or any other material or equipment or vehicles belonging to the Parliament without the special sanction of the Secretary-General of Parliament or that of such other Staff Officer to whom authority has been delegated.

(14) Drunkenness or smelling or liquor whilst on duty or if found in the premises whilst on leave will render an officer liable for disciplinary action. The evidence of two staff officers will be sufficient to establish an officer's guilt and an officer if found guilty will be dismissed. An officer convicted of an offence under the influence of liquor will be dismissed from service after the first conviction in a Court of Law.

(15) No officer shall collect any subscriptions or circulate any subscription papers for the purposes of making a present to any officer or for collecting funds for distribution during a festival. This rule may be, upon an Officer's final relinquishment of service or other occasion to be determined by the Secretary-General of Parliament, relaxed.

(16) Serious pecuniary embarrassment, from whatever cause, will be regarded as a circumstance which impairs the efficiency of an officer and renders him less valuable and worthy of trust than he would otherwise be. Such embarrassment if occasioned by extravagance, imprudence or other reprehensible cause, may be regarded as an offence affecting the repute of the Parliament and the degree of confidence which may be reposed in the officer.

(17) An officer not specially authorised in that behalf is forbidden to allow himself to be interviewed on or communicate, either directly or indirectly, any information which he may have gained in the course of his official duties to any person, inclusive of the Press, who is not officially entitled to receive such information.

(18) No officer shall send any official correspondence for publication in the newspapers without the prior approval of the Secretary-General of Parliament.

(19) No officer, whether on duty or on leave of absence, shall allow himself to be interviewed on questions of public policy or on any other matter affecting the administration or security of the Parliament or on any matter that would cause embarrassment to the Speaker or the Secretary-General of Parliament and other members of the staff.

(20) It shall be the duty of an officer when called upon by the Secretary-General of Parliament or other officer authorised by him to lay before him in writing or otherwise, as required, any information in relation to any act of misconduct committed or alleged to have been committed by another officer.

(21) When an officer is either remanded or convicted of a criminal offence it shall be the duty of such officer to inform the Secretary-General of Parliament at the earliest possible opportunity.

DISCIPLINARY PROCEDURE

3.(1) An act of misconduct or lapse by an officer calling for punishment in any form shall be dealt with, under these regulations as soon as possible. These regulations should be read in conjunction with any general or specific orders which may be issued from time to time by the Secretary-General of Parliament with the

approval of the Staff Advisory Committee of Parliament.

(2) No proceedings or order made under these rules shall be invalid by reason only of any informality or non-observance of any rule or provision which has not resulted in a failure of justice.

POWER OF DISMISSAL AND DISCIPLINARY CONTROL

4.(1) The power of dismissal and disciplinary control of the Staff of Parliament is vested in the Secretary-General of Parliament, acting with the approval of the Speaker.

(2) Where disciplinary action is contemplated against a member of the staff, the Secretary-General of Parliament will cause to be made such preliminary investigations as are necessary. If a prima facie case against the member of the staff is disclosed the Secretary-General of Parliament shall furnish a statement of the charges against him, and call for his explanation to the charges within a stipulated period. If he fails to explain within the stipulated period it shall be presumed that he has no explanation to offer.

(3) It should be noted that a preliminary investigation as envisaged in paragraph (2) is not a pre-requisite to instituting disciplinary proceedings, if sufficient material is otherwise readily available.

(4) If the Secretary-General of Parliament is of opinion that the member of the staff has not exculpated himself from the charges preferred against him or if he fails to reply the charges the Secretary-General of Parliament may, if the offence falls under Schedule 'B' of these regulations, order an appropriate minor punishment or appoint a Tribunal in terms of regulation 7 to inquire into the charges.

(5) If offence falls under Schedule "A" of the regulations the Secretary-General of Parliament shall appoint a Tribunal to inquire into the charges.

(6) The Tribunal shall inquire into the charges and transmit the proceedings along with its findings and reasons for such findings on each charge, to the Secretary-General of Parliament.

(7) On receipt of the findings of the Tribunal, the Secretary-General of Parliament may accept or reject the findings on any or all of the charges and order such punishment as he deems fit with the approval of the Speaker. If the Secretary-General of Parliament rejects the findings of the Tribunal he shall give the reasons for such rejection.

(8) In the case of an employee temporarily released to the Parliament Staff against whom disciplinary action is warranted he will be reverted to his substantive post to enable the appropriate disciplinary authority to initiate disciplinary action against him on the material supplied by the Secretary-General of Parliament.

PARLIAMENTARY INVESTIGATIONS INTO ALLEGED OFFENCES

5.(1) The Secretary-General of Parliament may order to investigate a breach of discipline. Such investigation will be purely a fact finding process and does not constitute a preliminary inquiry. It is meant to be a search for material that may disclose an offence and provide evidence for the charges that may be framed against a member of the staff under suspicion. This may involve the recording of statements of witnesses and the search for an examination of documents. The suspect member of the staff or any other representative on his behalf need not be present when any statements are recorded.

(2) He has a right, however, to be present when stocks in his charge etc. are verified so that he could signify that the verification was done in his presence and results accepted by him or when productions have to be taken and sealed in his presence. The investigation will be carried out and completed with the least possible delay.

(3) Where a criminal offence or bribery is suspected, or disclosed in the course of an investigation, the matter will be reported to the Police or the Bribery Commissioner as the case may be:

Provided that this shall not, however, preclude Secretary-General of Parliament from taking Departmental action against the officer if he has not been taken into custody. In case the officer has been taken into custody disciplinary proceedings may be continued on his release. The Secretary-General of Parliament may simultaneously carry out disciplinary inquiries while court proceedings are about to commence or are already in progress. When Departmental proceedings have been completed, a disciplinary order need not await the conclusion of proceedings in court.

(4) If an officer is convicted by a Court of law in any Criminal Proceedings or is summarily convicted by a court under section 449 of the Code of Criminal Procedure Act or is found guilty of any offence or is subject to any penalty by any Statutory Authority empowered by law to do so, that Court of Statutory Authority shall report the facts to the Secretary- General of Parliament.

On receiving a report under this regulation the Secretary General of Parliament shall take such action and order punishments as he deems fit.

The fact that an officer has been acquitted or discharged or found not guilty by a Court of Law or Statutory Authority does not mean that he should not be dealt with under these regulations, if there is sufficient material on which disciplinary proceedings can be taken against him.

CHARGES AND ANSWERS

6. (1) The charge need not take a legalistic form. All that is required is to indicate a clear and simple statement of the acts of misconduct or lapses for which it is intended to punish the officer. In addition to the statement of the charges an indication whether the offence is regarded as one falling under Schedule 'A' or 'B' should be made.

(2) It should contain a list of witnesses to be summoned for the prosecution and a list of documents which constitute evidence relating to the matters under inquiry and indicate how and where they can be examined by the accused or his representative. These documents to be listed in the Charge Sheet may include where necessary, statements made by witnesses at a preliminary investigation.

(3) The accused or his representative will be entitled to make his own copies or notes of such documents or statements, under supervision to prevent tampering with or abstraction of documents.

(4) An officer called upon to answer a charge shall furnish a full and complete answer or he may plead "guilty" or "not guilty" to the charges and request a further inquiry in order to submit mitigatory grounds or establish his innocence.

(5) The Secretary-General of parliament may, at any stage but not after receiving the submission of the defence, amend the

statement of charges, recalled witnesses, summon new witnesses or entertain any further documents as considered necessary. In such a case, however, the accused officer must be afforded an adequate opportunity of defending himself against such amended charges, of cross-examining such witnesses or examining such documents as the case may be.

TRIBUNAL OF INQUIRY

7. (1) A Tribunal appointed by the Secretary-General of Parliament may consist of one member or more at his discretion. A member of a Tribunal should be a person who holds or has held an office in the Parliament Staff or in the public service or the Judicial Service and is considered senior to that of the accused officer.

(2) A person associated with a preliminary investigation of an offence committed by the accused should not be appointed to the Tribunal holding the formal inquiry.

(3) If the Tribunal consists of more than one member, the Secretary-General of Parliament shall appoint the Chairman of the Tribunal.

PROCEDURE AT AN INQUIRY

8. (1) The Secretary-General of Parliament may appoint an officer of Parliament staff who is not a material witness in the proceedings to present the case for the prosecution.

(2) The Tribunal shall inform the accused officer that on a specified day the charges against him would be inquired and inform him to be present at the inquiry. If he does not present himself and if no acceptable reason is provided for his absence, the inquiry shall be conducted *ex parte*.

(3) The Secretary-General of Parliament may in his discretion permit a serving or retired member of the staff of Parliament or a serving or retired public servant to represent the accused officer. The Secretary-General of Parliament may also permit the Department to be represented by a State Counsel in which event the accused officer shall be entitled to be represented by a lawyer.

(4) If the serving or retired member of the staff of Parliament or the serving or retired Public Servant nominated by the accused officer as his representative is an Attorney-at-Law, accused officer shall disclose this fact to the Secretary-General of Parliament for the department to be represented by a State Counsel.

(5) The Secretary-General of Parliament may at any time withdraw the permission granted under regulation 8(3) provided that

the reasons for the decision are intimated to the accused officer. In such a case the accused officer may seek permission to substitute some other person.

(6) If witnesses are examined by the Tribunal the defence shall be allowed to cross-examine such witnesses.

(7) If the accused officer intimates that he desires witnesses to be summoned or documents to be produced in his defence the Tribunal shall summon such witnesses or cause to be produced such documents, provided the Tribunal is satisfied of their relevancy.

(8) Evidence at the inquiry shall be reduced to writing and signed by the witness and the Tribunal.

(9) The Tribunal may be adjourned from time to time if necessary.

(10) The decision of the Tribunal on any matter of procedure shall be final.

(11) The Secretary-General of Parliament may accept or reject or review any or all of the findings of the Tribunal in arriving at a decision. If circumstances justify it, the Secretary-General of Parliament may also quash the inquiry proceedings and order a fresh inquiry. If the Secretary-General of Parliament rejects the findings of the Tribunal he shall give the reasons for such rejection.

(12) The Secretary-General of Parliament, before imposing an appropriate punishment, will state specifically in respect of each charge whether he finds the officer guilty or not guilty. The findings in respect of each charge and the punishment shall be communicated to the accused.

(13) If a punishment less than dismissal is imposed on an officer under interdiction, the disciplinary order shall include an order to reinstate the officer forthwith and an order as to whether the whole of the emoluments withheld from him, or a specified proportion thereof should be paid or whether the whole of the emoluments withheld should not be paid.

INTERDICTION

9. (1) Where it is considered undesirable that an officer should continue to exercise the functions of his office, he may forthwith be interdicted from office by the Secretary-General of Parliament provided that-

- (a) disciplinary proceedings or criminal proceedings have been initiated or are to be initiated on charges which if established are sufficiently serious to warrant his dismissal; or
- (b) a report has been received from a Court of Law or Statutory Authority or an offence has been disclosed in a matter sufficiently serious to warrant his eventual dismissal.

(2) If an officer is remanded by a Court of Law, he shall be interdicted forthwith and he shall not receive any emoluments from the date of interdiction. If he is released from remand, the question of whether he should continue under interdiction shall be decided by the Secretary-General of Parliament.

(3) An officer against whom there is a prime facie case of negligence causing loss to Government, misappropriation, fraud, forgery or similar misdemeanor involving public property and resulting in a loss to Government of bribery or any other means of illegal gain shall not receive any emoluments from the date of his interdiction.

(4) An officer under interdiction who does not fall within the provisions of regulation 9(2) and 9(3) above shall be paid as from the date of his interdiction one half of the emoluments to which he is entitled.

(5) If the proceedings against an interdicted officer result in his dismissal, he shall not be paid any further emoluments.

(6) If the proceedings result in any lesser punishment than dismissal, the payment of the emoluments withheld or of a portion of them shall be decided by the Secretary-General of Parliament and will form part of that order. If the proceedings result in the exoneration of the officer from the charges brought against him, he shall be paid the emoluments withheld.

(7) An officer convicted of a criminal offence shall be deemed to be interdicted as from the date of such conviction notwithstanding the fact that the appeal to a Higher Court may be pending and will remain under interdiction. If the officer furnishes to the Secretary-General of Parliament proof of the fact that he has appealed against the conviction, Secretary-General of Parliament shall await the outcome of the appeal before ordering punishment.

COMPULSORY RETIREMENT FOR OFFENCES UNDER SCHEDULE 'A'

10. (1) Where the Secretary-General of parliament considers that there is a prima facie case against the Deputy Secretary General of Parliament, the Assistant Secretary-General of Parliament, the Sergeant-at-Arms, the Director (Administration), the Editor of Hansard, the Co-ordinating Engineer and the Operations Manager, Catering of his staff in respect of an offence which falls under Schedule "A" of these Rules, and if sufficient material and evidence is available in the form of documents, such as report of the Auditor-General, a Commission or a Committee of Inquiry or departmental files, a preliminary investigation will not be necessary. The Secretary-General of Parliament shall then inform the officer in writing of the grounds on which it is proposed to retire him for general inefficiency and request him to show cause, in writing, within a stipulated period as to why he should not be retired or otherwise dealt with for inefficiency.

(2) If the explanation is found to be unsatisfactory the Secretary-General of Parliament shall with the approval of the Speaker either make an order of compulsory retirement or impose other appropriate punishment as he deems fit. The Secretary-General of Parliament may also recommend a fine but not more than 10% in the pension at his discretion.

(3) If the explanation discloses that the offence is one that falls under Schedule "B", the Secretary-General of Parliament may with the approval of the Speaker, order such minor punishment as he deems fit.

RETIREMENT FOR GENERAL INEFFICIENCY

11. (1) Where the Secretary-General of Parliament is of opinion that an officer (not specified under regulation 10(1)) should be retired for General Inefficiency which cannot appropriately be dealt with by specific charges he shall inform the officer in writing of the grounds on which it is proposed to retire him and order him to show cause as to why he should not be retired or otherwise dealt with for general inefficiency.

(2) If the explanation is found to be unsatisfactory, the Secretary-General of Parliament with the approval of the Speaker shall either make an order of retirement for general inefficiency or impose other appropriate punishment as he deems fit. The Secretary-General of Parliament may also recommend a fine, but not more than 10% in the pension at his discretion.

RETIREMENT, RESIGNATION AND PERMISSION TO LEAVE THE ISLAND, WHEN DISCIPLINARY PROCEEDINGS ARE PENDING OR CONTEMPLATED.

12. An officer against whom disciplinary proceedings are pending or contemplated shall not be granted permission to leave the Island without the written approval of the Secretary-General of Parliament. If such officer resigns before the proceedings have been completed and before the disciplinary order is made, he shall be deemed to have been dismissed.

OFFICERS ON PROBATION AND THOSE HOLDING TEMPORARY OR CASUAL APPOINTMENT

13. With regard to disciplinary action for a specific act of misconduct or lapse on the part of an officer of this category, he shall be dealt with in terms of these regulations subject to the condition that if the charges warrant interdiction had been holding a permanent appointment, such officer would not in general be interdicted pending inquiry but would be discontinued. He may be re-employed on completion of the inquiry if the circumstances of his case justify re-employment.

PUNISHMENTS

14. Punishments are classified into minor and major punishments as follows:-

(1) Minor Punishments

Reprimand.

Severe Reprimand or Censure, suspension or stoppage of increment for a period not exceeding one year.

A fine not exceeding one week's pay; or
any other form of punishment not more severe than those listed.

(2) Major Punishments

Suspension or stoppage of increment for a period in excess of one year.

Reduction of salary.

Deferment of increment.

Retirement for general inefficiency as a merciful alternative to dismissal.

Deferment of promotion.

Disqualification from sitting promotional examinations

Denial of promotion.

Reduction in Rank to a lower post.

Reduction in Seniority.

Retirement for General Inefficiency.
Termination of appointment.
Dismissal.

or any other appropriate form of punishment of
greater severity than those described in paragraph 14
(1).

APPEAL AND REVISION OF DISCIPLINARY ORDERS

15. (1) An officer aggrieved by any disciplinary order made by the Secretary-General of Parliament, has a right of appeal to the Speaker within six months of the order. Only one appeal will be allowed, provided that a second appeal within one year from the order complained of may be admitted if the Speaker is satisfied that there appear on the face of the appeal new material facts which might have affected the decision.

(2) An officer who has been deemed to have vacated post for absenting himself from duty without leave, after due intimation to him by registered post or by personal delivery and the Secretary-General of Parliament having considered his explanation has refused such officer permission to resume duties, may tender an appeal before the expiry of three months to the Speaker.

(3) In all cases for which these Regulations do not provide, resort shall be had to the Rules of Disciplinary Procedure in the Establishments Code for the time being in force in respect of State Officers as far as may be applicable.

CLASSIFICATION OF OFFENCES

SCHEDULE "A"

1. Incompetence, negligence or errors of judgement resulting in serious failures in the planning or execution of important programmes, projects or policies.

2. Offences of the type that are serious enough to warrant dismissal or a major punishment.

3. Repeated offences of a type which considered singly are not serious enough to warrant dismissal or a major punishment, but where repetition justifies dismissal or a major punishment.

SCHEDULE "B"

Offences of a type which are not serious enough to warrant compulsory retirement, dismissal or a major punishment.

APPENDIX 1

Schedule of Offences

(1) Offences which may be dealt with under these regulations may be categorised under various heads but this is not meant to be a comprehensive list of offences or to limit the definition of an offence to any of the descriptions or definitions contained herein. Any other acts of misconduct or lapses not covered by these definitions for which it is considered that an officer should be punished may be dealt with under the relevant regulations.

(2) The heads under which offences may be broadly categorised are as follows:-

- Inefficiency
- Incompetence
- Negligence
- Lack of Integrity
- Improper Conduct (whether connected with an Officer's official duties or not)
- Indiscipline

Inefficiency may or may not arise from a lack of competence. It consists of failure due to indifference, neglect, or other defects on the part of an officer to discharge the duties expected of him to reasonable standards.

Incompetence arises from a lack of the intellectual, temperamental, physical or other qualities than an officer is presumed to possess or to have developed for the efficient discharge of his duties considering his position, seniority the level of responsibility at which he functions, his age, experience, the qualifications normally stipulated for recruitment to the post he holds, etc. It could be technical, professional or administrative incompetence, or incompetence in the handling of staff, labour or other personal relationship in his office.

Negligence is a neglect of the duties entrusted to him and would cover such matters as errors and mistakes arising from a lack of care or diligence, failure to supervise programmes, staff, etc. to ensure that public funds are not wasted or public property damaged.

Lack of Integrity relates to acts or commissions arising from motives of improper personal gain, fraud, cheating, theft, forgery, dishonesty, concealment of the truth or portions of the truth in writing reports, suppression of documents or facts, bribery, the use of his official position or the exercise of his official functions for his own private advantage or the advantage of his friends or relatives, the use of public property or the services of subordinates for private purpose, acceptance of gifts or favours from members of the Public or firms with whom an officer has official dealings or on whom he is in a position to bestow some present or future favour, any act which brings his private interest into real conflict with his official duties.

Improper Conduct when connected with official duties relates to such matters as the betrayal of confidences enjoyed officially; acts of indiscretion in the place of work, or outside the place of work but in relation an officer's subordinates; speaking in public or publishing articles on matters in which the officer is prohibited from expressing opinions in public; engaging in political activities where he is prohibited from doing so, inciting his subordinates to disloyalty, doing anything that might seem to compromise his official position or any other act which demoralises the Parliamentary Service, or brings the Parliamentary Service or the office he holds into disrepute, any act which appears to bring his private interest into conflict with his public duties even if the conflict is not in fact real. Improper conduct not connected with his official duties relates to such matters as habitual drunkenness, disorderly behaviour in public places, immorality of a type that becomes a public scandal or any other act which brings the Parliamentary Service or the office he holds into disrepute.

Indiscipline relates to such matters as unpunctuality, refusal to carry out orders, rudeness whether to his superiors, subordinates or members of the public, drunkenness when on duty, leaving office without permission etc.

Breaches of the Financial Regulations, the Manual of Departmental Regulations-Parliament or any Departmental Orders, Regulations etc. are specific offences, which may also arise from Incompetence, Negligence or the lack of Integrity.

Examples

A law enforcement officer, and in certain circumstances an officer who fraternises with a law-breaker or reputed law-breaker would be guilty of improper conduct.

An officer who has interests in a firm with whom he has official dealings would be guilty of improper conduct, even if in fact he gets no benefit out of it unless he has brought the fact to the notice of his superior officer.

An officer whose child obtains employment or an apprenticeship in a firm with which he has dealings in his official capacity, would be guilty of improper conduct, even though such employment was sought and obtained by that child on his own merits, unless notice of that fact has been given to his superior officer.

If any personal gain or advantage is obtained by any of the above acts the officer would be guilty of a lack of integrity. Benefits obtained for welfare or other society, or acts done under the guise or in the name of such a society could in certain circumstances amount to improper conduct or lack of integrity.

The seriousness of an offence must be judged not only by the act itself, but in relation to the office held by the person concerned, and the circumstances surrounding it.

All these categories of offences may be classed in one or another of Schedules 'A' and 'B' depending on their gravity and on the punishment that would seem appropriate if the offences are proved.

APPENDIX II

Notes for the Guidance of Tribunals of Inquiry.

1. The date of the Inquiry, the place at which it is held, the names of officers presenting the case for the prosecution and the name of the person appearing for the defence should be entered on the record at the commencement of each sitting.
2. The evidence of witnesses should be given in the language in which they are most familiar. If the Tribunal or the defence are not familiar with it, the evidence should be translated. The evidence need not be given on oath.
3. All evidence should be recorded in direct speech as a continuous narrative and not in the form of question and answer unless on particular points a record in question and answer form is necessary in order to put the meaning of what is being recorded beyond doubt i.e. "I then saw him leaving the office " not "Witness states he then saw him leaving the office."
4. Where the evidence of a witness contradicts the evidence given by him at the preliminary investigation, he should be requested to explain the contradiction. The explanation of the witness, if any, should be recorded. If he states that he is unable to offer an explanation such statement should also be recorded. If the witness remains silent when so questioned, the fact should be recorded within square brackets.
5. If a witness refuses to give an answer, the question should be recorded and the observations [the witness does not answer] recorded thus in square brackets.
6. Any other observations arising out of the evidence being recorded, and which the Tribunal wishes to record, should be recorded in the same manner in square brackets i.e. [At this stage the defence objects to my asking him the question "Were you aware that James had been to jail?" I overrule the objection after hearing the defence.]
7. Similarly any other observations pertinent to the Inquiry should be recorded at the stage at which they arise and in the body of the record i.e. [At this stage the witness turns boisterous and I/We adjourn the Inquiry for half an hour].

8. After the evidence of the prosecution witnesses has been led, the accused officer should be asked whether he is summoning any witnesses in his defence and his answer recorded. The evidence of the defence witnesses, if any, should then be recorded. If witnesses for the prosecution are re-examined or new witnesses are summoned after the defence has led its evidence, the defence will be permitted the same facility.

9. At the conclusion of a witness's evidence he should be asked to read over his statement and sign it with the endorsement "read and accept as correct". The Tribunal should also sign the statement. If the evidence is recorded in a language other than that in which he gave it, the Tribunal should read over and explain to the witness the evidence as recorded by him and sign the statement with the endorsement "read and explained by me". If the witness denies having made any statement as recorded, such denial should be recorded within square brackets together with the comments of the Tribunal, immediately below evidence recorded and before the witness is asked to subscribe his signature to it.

10. The question put to witness should be simple and so framed as to obtain from the witness, as nearly as may be in a chronological sequence, a narrative of all the relevant facts which he has witnessed, i.e., which he has in any manner directly seen or otherwise directly observed or perceived. A general request to a witness to tell what he knows or to state the facts of the case is, as a rule, not to be permitted because it affords an opening for a prepared story.

11. A witness should not be permitted to state in evidence what another person told him, unless the statement of the person has been recorded or will be recorded in the course of the inquiry.

12. It is the duty of the Tribunal to ascertain facts of the case. The Tribunal may recall witnesses already heard to get at the truth of the matter and should be in a position at the end of the inquiry to state clearly whether the officer concerned is guilty or not guilty of the charge or charges made against him.


13. Productions at an inquiry for the prosecution should be marked P1, P2, etc. (in the order in which they are produced) and productions of the Defence marked D1, D2 etc., and initialled by the Tribunal.

14. The Tribunal in arriving at its conclusions should consider to be proved, if after considering all available evidence it believes such a fact to exist or considers its existence so probable that a prudent man would in the circumstances act on the

presumption that it exists. It should consider a fact disapproved if after considering all the available evidence it is satisfied that the fact does not exist or considers its non existence so probable that a prudent man would in the circumstances and on the presumption that it exists. A fact is said not to be proved, when it is neither proved nor disproved.

15. The conclusions of the Tribunal should always be based on facts established in evidence given before it and not on conjectures. Inferences may, however, be drawn where they obviously arise from the facts of the case.

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