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# SECOND SUPPLEMENT TO THE FEDERATED MALAY STATES GOVERNMENT GAZETTE

OF FRIDAY, THE 5TH OF OCTOBER, 1923.  
(No. 20, Vol. XV.)

PUBLISHED BY AUTHORITY.

FRIDAY, 12TH OCTOBER, 1923.

The following Notifications are, by direction of the Chief Secretary to Government, published for general information.

C. W. H. COCHRANE,  
*Under Secretary, F.M.S.*

No. 6484.—The following Bill about to be introduced in the Federal Council is published for general information:

A BILL  
*intituled*

An Enactment to further amend "The Banishment Enactment, 1910."

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows:

1. (i) This Enactment may be cited as "The Banishment Enactment, 1910, Amendment Enactment, 1923," and shall come into force on the publication thereof in the *Gazette*.

Short title, commencement and construction.

(ii) This Enactment shall be read and construed as one with "The Banishment Enactment, 1910," hereinafter called the "principal Enactment," and any copies of the principal Enactment printed after the commencement of this Enactment may be printed with the amendments made by this Enactment.

2. Sub-section (i) of section 3 of the principal Enactment is amended by deleting the words "as he may deem necessary or on the written information of the Secretary for Chinese Affairs, Federated Malay States, or in his absence from the State of the officer appointed by him to submit such written informations on his behalf in the State, or of the Chief Police Officer, the Superintendent of the Convict Establishment or a District Superintendent of Prisons" in lines 2 to 8 and substituting therefor the words "or on such written information as he may deem necessary".

Amendment of section 3 (i).

3. Section 6 of the principal Enactment is amended

Amendment of section 6.

(a) by deleting the word "Resident" in line 4 of sub-section (i) and substituting therefor the words "Superintendent or District Superintendent of the Prison in which he is confined";

(b) by deleting the words "by the Chief Police Officer to every such person" in lines 2 and 3 of sub-section (ii) and substituting therefor the words "to every such person at the time of his removal from the State".

4. Section 9, sub-section (iv) of section 10 and sub-sections (i) and (iii) of section 11 of the principal Enactment are amended by deleting the words "the Colony" wherever occurring therein and substituting therefor in each case the words "any British possession or British Protectorate".

Amendment of sections 9, 10 (iv) and 11.

5. Section 12 of the principal Enactment is amended by inserting after the word "capacity" in the seventh line thereof the words "or in the case of any other British possession or of any British Protectorate by the person authorised to issue such order".

Amendment of section 12.

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## OBJECTS AND REASONS.

The object of this Bill is to amend the Banishment Enactment by

- (a) enabling other officers than those hitherto specified to submit informations and recommendations;
- (b) dispensing with the necessity for the Resident personally to warn banishees, a duty which it is considered can be equally well performed by the officer in charge of the prison;
- (c) dispensing with the necessity for the Chief Police Officer personally to serve a copy of the banishment order upon each banishee.

The amendments are amendments of procedure only and it will still be necessary to warn each banishee and to serve a copy of the banishment order on him.

KUALA LUMPUR,  
8th October, 1923.

W. S. GIBSON,  
*Legal Adviser, F.M.S.*

No. 6485.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL

*intituled*

An Enactment to consolidate and amend the law relating to Fisheries.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

1. (i) This Enactment may be cited as " The Fisheries Enactment, 1923," and shall come into force upon the publication thereof in the *Gazette*. Short title, commencement and repeal.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in the schedule shall be repealed to the extent specified in the last column thereof, provided that all rules made, licences issued and fees and charges fixed under any of the Enactments hereby repealed which were in force immediately prior to the coming into force of this Enactment shall so far as they are not inconsistent therewith be deemed to have been made, issued or fixed under this Enactment.

2. In this Enactment

Interpretation.

" Tidal Waters " includes the sea and all rivers, creeks, streams, lagoons, ponds and other waters whether private or otherwise, as far as the tide flows and re-flows.

" Inland Waters " includes all rivers, creeks and streams for that portion of their watercourse which is beyond the influence of tides, and also fresh water lakes, lagoons and ponds whether private or otherwise.

" Fish " includes all or any of the varieties of marine, fluvio-marine, or fresh water fishes, crustacea, mollusca or other marine or fresh water animal life.

" Fish Dealer " includes any person resident in the Federated Malay States who is engaged in buying, selling, exposing for sale or consigning fish, whether fresh or preserved in any manner.

" Oysters " and " Mussels " respectively include the brood, ware, half ware, spat and spawn of oysters and mussels.

" Oyster and Mussel Fishery " includes a fishery for oysters and mussels either separately or for both.

" Director " means the officer performing the duties of Director of Fisheries.

" Chief Secretary " means the Chief Secretary to Government, Federated Malay States.

Appointment  
of officers.

**3.** (i) The Chief Secretary may appoint a Director of Fisheries and such fishery and deputy fishery officers as he thinks fit for the purpose of carrying into effect the provisions of this Enactment.

(ii) Such officers shall be deemed to be public servants within the meaning of the Penal Code.

(iii) A deputy fishery officer may be appointed generally to carry out all the purposes of this Enactment and of the rules made thereunder or the purposes of particular sections or rules.

Powers of  
officers.

**4.** (i) Any officer appointed under this Enactment and any police officer not below the rank of Corporal may—

(a) without a warrant stop and search any vessel which he has reason to suspect of being used in fishing or carrying fish contrary to the provisions of this Enactment or any rules made thereunder ;

(b) without a warrant search and examine all fishing stakes, nets, instruments and appliances used in catching fish ;

(c) without a warrant seize any fish, nets, instruments or appliances in respect of which he has reason to believe that an offence against this Enactment has been committed ;

(d) arrest without warrant any person found committing or attempting to commit or abetting the commission of an offence against this Enactment ;

(e) exercise any power conferred upon him by the Chief Secretary by rules made under this Enactment.

(ii) An officer appointed under this Enactment may in his discretion, in lieu of the power of arrest conferred above, exercise the powers conferred upon a police officer by section 22 of the Criminal Procedure Code.

Duration of  
licence.

**5.** (i) Every licence issued under this Enactment or the rules made thereunder shall, unless the contrary is stated in the licence, expire on the 31st day of December of the year in respect of which it is issued and shall be valid only for the time, place and purpose specified therein.

(ii) A licence shall not be transferable.

Refusal to  
grant and  
revocation of  
licence.

**6.** (i) The licensing officer may in his discretion refuse to grant a licence or to renew any licence which has expired, and may revoke any licence already issued.

(ii) Any person aggrieved by such refusal or revocation may appeal to the Chief Secretary whose decision shall be final, and no action or proceeding whatsoever shall be maintainable in any Court of Law in respect of such refusal or revocation.

## Partners.

**7.** (i) Two or more persons carrying on business in partnership shall not be obliged to obtain more than one licence.

(ii) The names of all the partners shall be disclosed to the licensing officer and entered in the licence, and a licence to two or more persons shall not be determined by the death or retirement from business of any one or more of the partners.

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8. When a licence is granted to two or more persons carrying on business in partnership, every such person shall be liable for the acts and omissions of the other or others of them, unless the person charged with liability for the acts or omissions of his partner proves to the satisfaction of the Court that he acted *bona fide* and in no way directly or indirectly contributed to the offence against this Enactment or rules made thereunder with which his partner is charged.

Responsibility of partners.

9. Any person who manufactures, sells, exposes for sale, or has in his possession any instruments serving only or intended to damage or destroy fishing stakes, nets or fishing implements shall be guilty of an offence against this Enactment.

Offences in respect of instruments intended only to damage fishing implements.

10. Any person who wilfully damages or destroys fishing stakes, nets or fishing implements by cutting or otherwise shall be guilty of an offence against this Enactment.

Wilful damage to fishing implements.

11. Any person who without a licence uses poison of any description or any explosive substance with intent to stupefy, poison or kill fish shall be guilty of an offence against this Enactment. Any person found in possession of any such poisonous or explosive substance in the neighbourhood of any waters shortly after the use of such substance in such waters shall be presumed to have made use of such substance therein.

Prohibition of use of poison or explosives.

12. (i) Every omission or neglect to comply with and every act done or attempted to be done contrary to this Enactment or any rule made thereunder or in breach of the restrictions and conditions subject to or upon which any licence has been issued under this Enactment shall be deemed to be an offence against this Enactment, and for every such offence the offender shall be liable on conviction to a fine not exceeding one hundred dollars or to imprisonment of either description for a term not exceeding three months.

Penalty for breach of provisions of Enactment or rules.

(ii) In the case of a subsequent or continuing offence the offender shall be sentenced to imprisonment of either description for a term not exceeding three months.

13. Any person who attempts to commit any offence punishable under this Enactment or abets within the meaning of the Penal Code the commission of such offence shall be punished as if he had committed such offence.

Attempts and abetments.

14. (i) Any person licensed under this Enactment who would be liable under this Enactment or any rules made thereunder to any punishment or penalty for any act, omission, neglect or default shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any agent or servant employed by him in the course of his business as such licensed person, if such act, omission, neglect or default was committed by such agent or servant in the course of his employment by such licensed person.

Liability of principal and agents.

(ii) Any agent or servant employed by a person licensed under this Enactment in the course of his business as such licensed person shall also be liable to every punishment or penalty prescribed by this Enactment or any rules made thereunder for such act, omission, neglect or default as fully and effectually as if such agent or servant had been the person licensed.

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**Rules.**

**15.** (i) The Chief Secretary may make rules to carry out the purposes of this Enactment.

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

- (a) regulate or prohibit, except under or in accordance with the conditions of a licence, the erection, maintenance, working, repair and lighting of fishing stakes;
- (b) regulate or prohibit, except under or in accordance with the conditions of a licence, any method of fishing or the use of fish traps or fishing nets;
- (c) provide for the leasing, licensing, regulation and protection of oysters and mussels and oyster and mussel fisheries;
- (d) prescribe the kinds and the minimum weights and sizes of any species of fish which may be caught for the purposes of sale or consignment;
- (e) prescribe the areas, whether without or within the waters adjacent to the Federated Malay States, and the periods of time, within which fish or any particular species or size of fish may not be caught, or within which any particular method of fishing is prohibited;
- (f) provide for the closure of any specific waters adjacent to the Federated Malay States, either for a specified time each year or for an indefinite period or permanently, with respect to the capture of any species of fish or the use of any particular method of fishing;
- (g) provide for the supply by any person concerned in the capture of fish or by any fish dealer of such information as may be necessary for the compilation of fishery statistics;
- (h) prohibit or regulate the deposit or discharge of any solid or liquid substance detrimental to fish;
- (i) prescribe the fees and other payments to be made in connection with any licences issued under this Enactment or with any method of fishing.

(iii) All such rules shall be published in the *Gazette* and shall thereupon have the same force and effect as if enacted by this Enactment and may be applied either generally to the Federated Malay States or to specified areas therein.

(iv) All such rules shall be laid before the Federal Council at the first meeting after such publication and may be amended or disallowed by resolution of the said Council.

(v) Any rule so amended shall come into force as amended from the date of the passing of such resolution and any rules disallowed shall cease to have any force or effect from the date of such resolution.

**Exemption.**

**16.** Fishing elsewhere than in closed waters for the purposes of scientific research or for personal consumption (and not for sale) is exempted from the provisions of this Enactment.

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THE SCHEDULE.  
ENACTMENTS REPEALED.

State.	No. and year.	Short title.	Extent of repeal.
Perak ...	2 of 1898	The Fish Protection Enactment, 1898	The whole
Selangor ...	1 of 1898	" "	" "
Negri Sembilan	8 of 1898	" "	" "
Pahang ...	13 of 1902	The Fish Protection Enactment, 1902	" "
Perak ...	12 of 1902	The Lights and Small Shipping Enactment, 1902	The whole in so far as not already repealed
Selangor ...	18 of 1902	" "	
Negri Sembilan	12 of 1902	" "	
Pahang ...	12 of 1902	" "	

OBJECTS AND REASONS.

The appointment of a Director of Fisheries has involved an examination into the adequacy and suitability of the laws governing fishing. These are now contained in a few unrepealed sections of the Lights and Small Shipping Enactments, which merely confer rule making powers, and in an old Enactment prohibiting tuba fishing in each State. The present Bill is a more comprehensive measure intended to confer such powers as are necessary to the proper working of a Fisheries Department. A similar Bill is under consideration in the Colony, and it is hoped to pass legislation on identical lines in both Administrations.

KUALA LUMPUR,  
21st September, 1923.

W. S. GIBSON,  
Legal Adviser, F.M.S.

No. 6486.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL  
*intituled*

An Enactment to repeal and re-enact with amendments  
“The Police Force Enactment, 1920.”

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

Short title and commencement.

1. (i) This Enactment may be cited as “The Police Force Enactment, 1920,” and shall come into force upon the publication thereof in the *Gazette*.

Repeal and saving provisions.

(ii) Upon the coming into force of this Enactment “The Police Force Enactment, 1920,” shall be repealed; provided that all appointments, rules regulations and orders made and all pensions granted under the said Enactment or under any Enactment thereby repealed which were in force or had authority immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment, be deemed to have been made and granted under this Enactment.

Interpretation.

2. In this Enactment unless there is something repugnant in the subject or context—

“British Malaya” means the Federated Malay States and the States of Johore, Kedah, Perlis, Kelantan and Trengganu.

“Chief Police Officer” means the police officer in each State next in seniority to the Commissioner and available for duty in the State Contingent.

“Chief Secretary” means the Chief Secretary to Government, Federated Malay States.

“Commissioner” means the Commissioner of Police for the Federated Malay States.

“Gazetted Police Officer” includes officers of all grades from the Commissioner down to and including Probationary Assistant Commissioner.

“Superior Police Officer” means Inspector of Police of whatever class other than Sub-Inspector.

“Subordinate Police Officer” includes members of the Police Force of all grades from and including Sub-Inspector and Subadar down to and including lance-corporal.

“Police Constable” or “Constable” means a person below the rank of lance-corporal employed for police duties, but does not include an extra or additional constable or a person appointed under section 25.

“Member of the Police Force” includes all persons employed for police duties under this Enactment other than extra constables, additional constables and persons appointed under section 26.

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“Peace Officer” includes all persons employed for police duties under this Enactment.

“Extra Constable” means a person employed temporarily under section 22, and not enrolled on the permanent establishment.

“Additional Constable” means a person employed temporarily under section 23, and not enrolled on the permanent establishment.

**3.** The superintendence and administration of the Police Force shall be in the hands of the Commissioner subject to the orders and control of the Chief Secretary. Adminis-  
tration of Police  
Force by  
Commissioner.

**4.** The Commissioner, when present in any State, may exercise therein any of the powers vested by law in the Chief Police Officer. Commissioner  
may exercise  
powers of Chief  
Police Officer.

**5.** All powers vested in and duties imposed on any peace officer by any law in force in the Federated Malay States or any part thereof shall, as to the manner in which the same are to be exercised and performed, be subject to this Enactment and to the Police Regulations. Powers and  
duties to be  
exercised  
subject to this  
Enactment.

**6.** All members of the Police Force, except in such cases as may be otherwise approved by the Chief Secretary, shall be bound to serve in any place in British Malaya or on board any vessel proceeding to any place within British Malaya or the Colony as the Commissioner may with the approval of the Chief Secretary require, and shall also be bound to proceed to and serve in the Colony in accordance with the provisions of “The Police Assistance and Criminal Jurisdiction Enactment, 1913:” Liability of  
members of the  
Police Force for  
service through-  
out British  
Malaya.

CONSTITUTION OF POLICE FORCE.

**7.** The Police Force of the Federated Malay States shall consist of such number of gazetted, superior and subordinate police officers and constables as may be sanctioned from time to time by the Chief Secretary. Constitution of  
Police Force.

**8.** Gazetted police officers shall be appointed and may be interdicted and dismissed in terms of the rules at the time existing with regard to civil officers of corresponding rank. Appointment of  
gazetted police  
officers.

**9.** (i) Superior police officers shall be appointed and promoted by the Commissioner with the approval of the Chief Secretary and may be dismissed in terms of the rules at the time existing with regard to civil officers of corresponding rank. Appointment of  
superior and  
subordinate  
police officers.

(ii) Subordinate police officers shall be appointed and promoted and may be discharged by the Commissioner.

**10.** Police constables shall be appointed and promoted by the Commissioner or by the Chief Police Officer with the approval of the Commissioner and may be discharged by the Commissioner. Appointment of  
constables.

**11.** Any superior or subordinate police officer or constable may, pending the determination of an enquiry, be interdicted from the performance of duty by the Commissioner or by the Chief Police Officer. Interdiction.

**12.** (i) The appointment of every gazetted police officer shall be published in the *Gazette*. Appointments.

(ii) A certificate of appointment to be signed by the Commissioner or by the Chief Police Officer shall be issued to every peace officer other than a gazetted police officer:

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- 13.** Every member of the Police Force shall be vested with such powers, privileges and duties as may be prescribed by the Police Regulations.
- 14.** Every peace officer shall, for the purposes of this Enactment, be deemed to be always on duty when required to act as a peace officer, and shall have and exercise all the powers, duties and privileges, vested in him by this Enactment or by the Police Regulations or by any other law for the time being in force at any and every place where he may be doing duty.
- 15.** Every peace officer shall, for the effectual discharge of his duties, be provided with such staves, arms, accoutrements and ammunition as may be prescribed by the Police Regulations.
- 16.** (i) All subordinate police officers and constables shall engage to serve in the Police Force for such periods and on such conditions as may be prescribed in the Police Regulations. Every such engagement shall be in writing signed by the person engaged and by the Commissioner, Chief Police Officer or Commandant of the Police Dépôt.
- (ii) Notwithstanding anything in any other Enactment contained any male person not below the age of eighteen years shall be deemed competent to enter into an engagement under this Enactment.
- 17.** Every member of the Police Force shall, before entering on the duties of his office, undergo a medical examination.
- 18.** Every peace officer at the commencement of this Enactment shall be held to continue his service on the terms of his existing engagement, as to pay and term of service, and in every other respect subject to the provisions of this Enactment and the Police Regulations.
- 19.** (i) Every subordinate police officer or constable who shall have completed the period of service for which he engaged may offer himself for re-engagement for a further period and if approved may re-engage on such terms and conditions as may be prescribed by the Police Regulations.
- (ii) Every such re-engagement shall be evidenced by an endorsement on the original engagement signed by the person re-engaged and by the Commissioner, Chief Police Officer or Commandant of the Police Dépôt.
- 20.** (i) Every subordinate police officer or constable who shall continue in the Police Force after the completion of the period of service for which he originally engaged shall, unless he shall sign a fresh engagement for a further period, be deemed to be under engagement to serve from month to month; every such engagement after the first month's service being held to commence on the first and to be determinable on the last day of each successive month.
- (ii) Any such subordinate police officer or constable may resign and may unless he shall have completed ten years service be discharged from the Police Force after one month's notice in writing in either case.
- 21.** Every member of the Police Force under an engagement for a fixed period may be permitted to resign after such notice and on such terms as may be prescribed by the Police Regulations.
- 22.** The Commissioner may without written engagement employ persons to serve temporarily as extra constables, and every such extra constable shall be vested with such powers, privileges and duties as may be prescribed by the Police Regulations.

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**23.** (1) The Chief Police Officer may, on the application of any person, appoint any number of additional constables to preserve the peace or to keep order or to act as guards or watchmen at any place or as escorts from place to place at the cost of the person applying, but subject to the orders of the Commissioner and the Chief Police Officer and to the Police Regulations.

Additional constables.

(ii) The person upon whose application such appointment shall have been made may upon giving one month's notice in writing to the Chief Police Officer require that the additional constables so appointed at his cost shall be discharged and thereupon the Chief Police Officer shall give notice of discharge to such additional constables.

**24.** Any extra constable or additional constable may be dismissed by the Commissioner or may be discharged after one month's notice in writing or may resign upon giving to the Chief Police Officer one month's notice in writing.

Termination of services.

**25.** The notice in writing referred to in sections 20, 23 and 24 shall be given on or before the first day of the month at the end of which such services are intended to be discontinued.

Notice in writing.

**26.** Persons appointed by any Government department to serve as railway, dock, wharf, marine or traffic police or to perform any other special or local police duties may be vested with such powers, privileges and duties within such local limits as may be prescribed by the Police Regulations.

Persons appointed for police duties by a Government department.

**27.** (i) Every peace officer upon ceasing to be employed shall deliver up his certificate of appointment (if any) all and every article of uniform and clothing and all vehicles, arms, accoutrements, ammunition, staves and other effects of every kind belonging to the Government which may have been entrusted to him.

Delivery of Government property on ceasing to be employed.

(ii) Any person neglecting to so deliver up any of the articles aforesaid shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment of either description for a term not exceeding three months, and in addition thereto shall be liable to pay the value of the articles not delivered up, which value shall be ascertained by the convicting Magistrate in a summary way and shall be recoverable as a fine.

**28.** Any peace officer, who unlawfully or in breach of his engagement absents himself from duty under circumstances which show that he has the intention of not returning to duty, shall be deemed to have deserted, and shall be liable on conviction to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

Desertion.

DISCIPLINE AND DUTIES.

**29.** A peace officer shall obey all lawful orders of his senior officers whether given verbally or in writing and shall conform to the Police Regulations.

Peace officers to obey lawful orders.

**30.** (i) Any subordinate police officer who shall be guilty of any of the following offences:

Punishment of subordinate police officers and constables.

- (a) absence from duty without leave or good cause;
- (b) sleeping on duty;
- (c) conduct to the prejudice of good order and discipline;
- (d) cowardice in the performance of duty;

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- (e) disobedience of orders ;
- (f) intoxication ;
- (g) insubordination ;
- (h) neglect of duty or orders ;
- (i) malingering ;
- (j) making a statement to a senior officer which he subsequently contradicts wholly or in part in a Court of Justice ;
- (k) excess of duty resulting in loss or injury to any other person ;
- (l) wilful destruction or negligent loss of or injury to Government property ;

shall be liable on conviction before an officer authorised in that behalf under the Police Regulations, to either of the following punishments :

- (a) reduction in rank ;
- (b) forfeiture of not more than one month's pay (except in case of absence without good cause when forfeiture of pay may extend to the period of absence in addition to any other punishment inflicted).

In lieu of or in addition to either of the aforesaid punishments any such subordinate police officer may be dismissed from the Police Force, and in such case shall be reduced to the ranks before dismissal.

(ii) A constable or extra constable who shall be guilty of any of the offences specified in sub-section (i) shall be liable in lieu of or in addition to either of the punishments prescribed therein to imprisonment in police cells for a term not exceeding seven days with rations of bread or rice and water, or to not more than two of the following punishments :

- (a) confinement to barracks not exceeding fourteen days ;
- (b) compulsory performance of extra duties or drills ;
- (c) such fatigue duties as may be prescribed in the Police Regulations ;
- (d) temporary deprivation of specified privileges ;
- (e) forfeiture of good conduct allowance.

In lieu of or in addition to any of the aforesaid punishments such constable or extra constable may be dismissed from the Police Force or from his employment as extra constable.

(iii) Any subordinate police officer, constable or extra constable may appeal to the Commissioner against any punishment awarded under sub-section (i) and may appeal to the Chief Secretary against any order of dismissal made under sub-sections (i) or (ii).

(iv) A Sub-Inspector, Subadar, Jemadar or Sergeant-Major who is reduced in rank may appeal to the Chief Secretary against the decision of the Commissioner under sub-section (iii).

Grave offences  
may be tried by  
Magistrate.

**31.** If it shall appear that the offence is of such a grave character as to require a more severe punishment than that prescribed under the preceding section the person accused may be charged before a Magistrate, and shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

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**32.** (i) The Commissioner may punish any superior police officer for any of the offences specified in sub-section (i) of section 30 by reprimand, severe reprimand with or without deferment or stoppage of increment or forfeiture of not more than one month's pay.

Punishment superior police officer.

(ii) Any such officer may appeal to the Chief Secretary against any order made under sub-section (i).

(iii) If it shall appear that the offence is of such a grave character as to require a more severe punishment than that prescribed under sub-section (i) the Commissioner may refer the matter to be dealt with by the Chief Secretary.

**33.** Any peace officer, who shall threaten or insult an officer senior in rank when such senior officer shall be on duty, or when such threat or insult shall relate to or be consequent on the discharge of duty by the officer so threatened or insulted, shall be liable on conviction before a Magistrate of the First Class to a fine not exceeding one hundred dollars or to imprisonment of either description for a term not exceeding twelve months or to both such fine and imprisonment.

Threatening or insulting senior officer.

**34.** (i) Any subordinate police officer, constable or extra constable convicted under the provisions of sections 28, 31 or 33 or convicted under the provisions of any other Enactment of an offence punishable with imprisonment may, unless the conviction is reversed on appeal be reduced in rank or class or be dismissed from the Police Force or from his employment as extra constable, and in case of dismissal all pay due to him may be forfeited upon the order of the Commissioner.

Reduction or dismissal after conviction.

(ii) Any subordinate police officer dismissed from the Police Force in accordance with the provisions of this section shall be reduced to the ranks before dismissal.

**35.** In all matters in which by this Enactment jurisdiction is given to a police officer to inflict punishment the power of a Magistrate may be exercised by such police officer, in so far as is necessary to enable him to exercise such jurisdiction.

Powers of Magistrate to be exercised by police officers.

**36.** The provisions of sections 30 (i), 30 (ii), 31, 32, 34 and 35 shall apply to all persons appointed under section 26, and all such persons upon conviction of any of the offences specified in section 30 shall be liable to the punishment prescribed thereby for members of the Police Force of corresponding rank.

Punishment of departmental police.

**37.** The duties of the Police Force shall be to take lawful measures for:

Duties of Police Force.

- (a) preserving the public peace;
- (b) preventing and detecting crimes and offences;
- (c) regulating the traffic upon public thoroughfares and removing obstructions therefrom;
- (d) preserving order in public places and places of public resort, at public meetings and in assemblies for public amusements; for which purpose all members of the Police Force and all extra constables when on duty shall have free admission to all such places, meetings and assemblies while open, to any of the public;
- (e) assisting in carrying out the Revenue, Excise, Sanitary, Conservancy, Quarantine and Alien Registration laws;

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- (f) assisting in preserving order in the different ports and harbours in the Federated Malay States and in enforcing the Port Rules therein;
- (g) executing summonses, subpoenas, warrants, commitments and other process issued by Courts;
- (h) exhibiting informations and conducting prosecutions;
- (i) protecting unclaimed and lost property and finding owners thereof;
- (j) assisting in the protection of life and property at outbreaks of fire;
- (k) protecting public property from loss or injury;
- (l) attending the Criminal Courts and (when specially ordered by the Resident) the Civil Courts and keeping order therein;
- (m) escorting and guarding prisoners;
- (n) taking charge of and impounding stray animals;
- (o) executing such other duties as may by any law be imposed on a member of the Police Force.

## REWARD FUND.

Reward fund. **38.** All pay and allowances which shall be forfeited shall be paid into a fund to be called the "Police Reward Fund", which fund shall be administered in accordance with the Police Regulations. One-half of all sums paid for extra or special services of members of the Police Force or extra constables shall be paid into the general revenue of the Federated Malay States. Of the remainder such proportion as the Commissioner may think fit may be distributed to the persons in relation to whose services such sums may have been paid and the residue shall be paid into the aforesaid Police Reward Fund.

## PENSIONS.

Police pensions. **39.** (i) There shall be charged on and paid out of the general revenue of the Federated Malay States such sums of money as may from time to time be granted by way of pensions, gratuities or other allowances in accordance with this Enactment or any rules made thereunder to subordinate police officers and constables who have been members of the Police Force and to their dependants.

Rules. (ii) The Chief Secretary may by notification in the *Gazette* make rules for the granting of such pensions, gratuities and allowances.

(iii) Any rules made under this section may provide for the forfeiture, in events to be specified, of any pensions granted under this Enactment or any rules made thereunder.

Pensions not as of right. **40.** No subordinate police officer or constable or dependant shall have an absolute right to a pension, gratuity or allowance under this Enactment or any rules made thereunder, nor shall anything herein contained limit the right of the Chief Secretary to dismiss any subordinate police officer or constable without compensation.

Pension not to be assignable. **41.** No pension, gratuity or allowance granted under this Enactment or any rules made thereunder shall be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever.

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**42.** The Commissioner may, with the approval of the Chief Secretary, require any subordinate police officer or constable to retire from the Police Force at any time after he has attained the age of forty-five years or such other age as may under the rules in force for the time being render him eligible for a pension.

Compulsory retirement on reaching pensionable age.

**43.** Whenever it appears to the Commissioner that any subordinate police officer or constable is unable to efficiently discharge the duties of his office the Commissioner may, with the consent of the Chief Secretary, remove such subordinate police officer or constable from the Police Force.

Removal for inefficiency.

#### ESTATES OF INTESTATES.

**44.** (i) Whenever any person dies intestate in any of the Federated Malay States leaving movable property therein under five hundred dollars in value, which property is, in the absence of any person entitled thereto, taken charge of by the police for the purpose of safe custody, the Chief Police Officer may order the said property to be delivered without letters of administration taken out to any person claiming to be entitled to the whole or any part thereof, if he shall be satisfied as to the title of the claimant and the value of the property by the affirmation of the claimant, or by such other evidence as he may require; provided that, in the event of any such property being of a perishable nature, and likely to be deteriorated in value by being kept, the Chief Police Officer may order its sale, and the proceeds of such sale shall be dealt with in the same manner as the property is by this section directed to be dealt with.

Movable property of intestates under five hundred dollars may be administered by Chief Police Officer.

(ii) The Chief Police Officer may, at his discretion, before making any order under the preceding sub-section, take such security as he may think proper for the due administration and distribution of such property. Nothing in this section contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order. Any property taken charge of under this section and not claimed within the period of one month, may be sold, and the proceeds if not over the value of twenty-five dollars shall be paid to the Police Reward Fund, and if over that value into the Treasury for the service of the Federated Malay States. Provided always, that if at any time thereafter the owner of such property shall appear and claim the same, restitution shall be made, on the claim being established to the satisfaction of the Resident, out of the said reward fund or out of the Treasury.

#### POLICE REGULATIONS.

**45.** (i) The Commissioner shall from time to time make such regulations to be called "Police Regulations" as he may think expedient not inconsistent with the provisions of this Enactment.

Police Regulations.

Such regulations in addition to the powers hereinbefore conferred may provide for

- (a) organization and distribution;
- (b) appointments, pay, resignations, discharges, dismissals and conditions of service;
- (c) classifications and promotions;
- (d) discipline; the regulation and carrying out of punishments;
- (e) instruction and examinations;
- (f) inspections, drills, exercises and parades;

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- (g) leave of absence ;
  - (h) descriptions of uniforms, arms and accoutrements to be provided ;
  - (i) police services and duties of every description and the manner in which they shall be carried out ;
  - (j) administration of the Police Reward Fund ;
  - (k) the institution and maintenance of Police messes, canteens and reading rooms ;
  - (l) departmental finance ;
  - (m) buildings, grounds, stores, furniture and equipment ;
  - (n) transfers of police officers, the places at which they shall reside and the particular services to be performed by them ;
  - (o) the collection and communication of intelligence and information ;
  - (p) the manner and form of reports, correspondence and other records ;
  - (q) the performance of any act which may be necessary for the proper carrying out of the provisions of this or any other Enactment or any rules or regulations made thereunder or for the efficient discharge of any duty imposed by law on the Police Force ;
  - (r) such other matters as may be necessary and expedient for preventing abuse or neglect of duty, for rendering the Police Force efficient in the discharge of its duties, and for carrying out the objects of this Enactment.
- (ii) All such regulations shall be open to revision at any time by the Chief Secretary who may require that the same be amended or varied in any way that he may think fit.

## PROTECTION OF PEACE OFFICERS.

Exemption in respect of civil process.

**46.** Notwithstanding anything in "The Civil Procedure Code, 1918," the pay and allowances of a subordinate police officer or constable shall not be liable to be attached, seized or taken in execution by any process of law or otherwise, nor shall any such person be liable to be imprisoned under an order of any Court by reason of non-payment of any debt which he may have incurred or for which he may become liable after the commencement of this Enactment.

Actions and prosecutions against peace officers.

**47.** (i) Except in the case of proceedings instituted on the complaint of a public servant for the breach of any of the provisions of this Enactment, all suits and prosecutions which may be lawfully brought against any peace officer for anything done, or omitted to be done by him in the execution of his duty as a peace officer whether under this Enactment or otherwise ;

And all suits and prosecutions which may be lawfully brought against any person acting in the aid of any peace officer in the execution of the duty of such peace officer, whether under this Enactment or otherwise ;

And all suits and prosecutions against any person which may be lawfully brought for anything done under this Enactment ;

Shall be commenced within three months after the thing complained of shall have been done, and not otherwise.

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(ii) Notice in writing of any suit and of the cause thereof shall be given to the defendant at least one month before the commencement of such suit, and without such notice no such suit shall be brought or being brought the suit shall be dismissed.

(iii) In every suit so brought it shall be expressly alleged that the defendant acted maliciously and without reasonable or probable cause, and if at the trial the plaintiff shall fail to prove such allegation, the suit shall be dismissed.

(iv) The defendant in his written statement shall set out specially that he was acting under the provisions of this Enactment, or of some other Enactment or law, naming the section or sections, or otherwise referring to the law under which he was acting, and shall state generally the nature of the defence he proposes to make at the trial, but the defendant shall not at the trial, except as next hereinafter provided, be prevented from giving evidence of matters not stated in his written statement.

(v) If it shall appear to the Court on any such trial that any matter proposed to be put in evidence for the defendant, and not set out or clearly referred to in his written statement, is of such a nature as to embarrass the plaintiff by reason of the plaintiff not having had notice or knowledge or the means of knowing that the defendant intended to adduce such evidence, the Court shall postpone the trial and allow the defendant to amend his statement on such terms as may seem reasonable, and with or without costs.

(vi) Judgment shall not be given for the plaintiff in any suit for anything done or intended to be done under this Enactment, if it shall be made to appear to the Court that the defendant acted by the orders of any Magistrate empowered by law to act in that behalf, or if the defendant acted in good faith believing he had power to act, unless it be shown that the defendant acted maliciously and without reasonable or probable cause.

(vii) In any case where the amount of damages which the Court may think proper in the cause shall not exceed in amount any sum tendered or offered in writing to be paid or any sum paid into Court by the defendant at any time before trial, the plaintiff shall not have judgment for any sum more than that tendered or offered or paid into Court, and shall pay to the defendant his costs in the suit. Provided always that in the event of any sufficient tender, offer in writing or payment into Court after suit commenced the costs up till the time of such tender, offer or payment shall be in the discretion of the Court and the costs after such time shall be payable by the plaintiff to the defendant.

(viii) If the suit is dismissed, or if the plaintiff withdraws his suit, the Court shall allow to the defendant his full costs, and he shall have the like remedy for the same as any defendant has by law in other cases, and though judgment shall be given for the plaintiff in any such suit plaintiff shall not have costs against the defendant unless the Court before whom the trial shall be had shall certify its approbation of the action.

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## OBJECTS AND REASONS.

The object of this Bill is to supply certain omissions in the present Police Force Enactment and to define more clearly the position of members of the Force. The main points upon which the Bill expands or amends the present law are :

- (a) re-engagement and continuance of service without formal re-engagement—clauses 19 and 20 ;
- (b) the addition of dismissal as a punishment for disciplinary offences and of reduction in rank, with or without dismissal, after conviction before a Court—clauses 30 and 34 ;
- (c) provision for the discipline of departmental police—clause 36 ;
- (d) the insertion of clauses 42 and 43 corresponding to section 8 of the Pensions Enactments ;
- (e) the amalgamation of Police Regulations and Police Orders—clause 45.

The remaining clauses re-enact without change the provisions of the existing law.

KUALA LUMPUR,  
24th August, 1923.

W. S. GIBSON,  
Legal Adviser, F.M.S.

No. 6487.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL

*intituled*

An Enactment to further amend "The Prisons Enactments, 1907."

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

1. (i) This Enactment may be cited as "The Prisons Enactments, 1907, Amendment Enactment, 1923," and shall come into force on the publication thereof in the *Gazette*. Short title, commencement and construction.

(ii) This Enactment shall be read and construed as one with the Enactments mentioned in the schedule, which are hereinafter called the "principal Enactments", and any copies of the principal Enactments printed after the commencement of this Enactment may be printed with the amendments made by this Enactment.

2. Immediately after section 13 of the principal Enactments there is inserted a new section to be numbered 13A as follows : New section 13A.

"13A. Any punishment lawfully imposed on a prisoner under the provisions of this Enactment or of any Rules or Regulations made thereunder may be carried into effect notwithstanding that the carrying into effect thereof may necessitate the detention of the prisoner beyond the date at which he would otherwise be entitled to be discharged from prison; provided that the period of such detention shall not exceed forty-eight hours." Detention of prisoners to undergo punishment.

3. Sub-sections (ii) and (iii) of section 15 of the principal Enactments are repealed and the following sub-sections substituted therefor : Substituted sub-sections 15 (ii), (iii), (iv) and (v).

"(ii) Whenever a prisoner undergoing a sentence of imprisonment or sentenced to death appears to the Resident to be mentally disordered the Resident may by order under his hand and seal direct that such prisoner be removed to any mental hospital or other fit place of safe custody in the Federated Malay States and be there detained. Such order shall be an authority for the reception of the prisoner and for his detention until removed or discharged as hereinafter provided.

(iii) In the case of a prisoner sentenced to death and in the case of a prisoner sentenced to imprisonment until the expiration of the term of imprisonment to which he has been sentenced the provisions of section 38 of "The Mental Disorders Enactment, 1922," shall not apply to such prisoner, but if in the opinion of the visitors in the said section mentioned such prisoner is no longer mentally disordered the visitors shall report the same to the Resident who shall by order under his hand and seal return such prisoner to the prison from which he was removed or to any other prison in the State to be dealt with according to law.

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(iv) Upon the expiration of the term of imprisonment to which he has been sentenced the provisions of section 38 of "The Mental Disorders Enactment, 1922," shall apply to any prisoner detained under this section.

(v) The time occupied in effecting any removal under this section and the period during which a prisoner is detained in a mental hospital shall be reckoned as part of the term of imprisonment."

## SCHEDULE.

## PRINCIPAL ENACTMENTS.

State.	No. and year.	Short title.
Perak ... ..	19 of 1907	The Prisons Enactment, 1907
Selangor ... ..	12 of 1907	" " "
Negri Sembilan...	12 of 1907	" " "
Pahang ... ..	10 of 1907	" " "

## OBJECTS AND REASONS.

The object of this Bill is to enable a prisoner who has been convicted of some prison offence to be detained until he has undergone punishment. No such provision exists at present and advantage is taken of this fact by prisoners who commit breaches of discipline when on the point of being discharged, with a bad effect on the discipline of the prison. The wording of the new clause is taken from the Colonial Prisons Ordinance.

The amendment to section 15 is to make provision for the case of a condemned person who becomes insane, for which the law at present makes no provision.

KUALA LUMPUR,  
12th October, 1923.

W. S. GIBSON,  
Legal Adviser, F.M.S.

**No. 6488.**—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL  
*intituled*

An Enactment to further amend "The Railways Enactment, 1912."

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

Short title, commencement and construction.

**1.** (i) This Enactment may be cited as "The Railways Enactment, 1912, Amendment Enactment, 1923," and shall come into force on the publication thereof in the *Gazette*.

(ii) This Enactment shall be read and construed as one with "The Railways Enactment, 1912," hereinafter called the "principal Enactment," and any copies of the principal Enactment printed after the commencement of this Enactment may be printed with the amendments made by this Enactment.

Amendment of section 27 (i).

**2.** Sub-section (i) of section 27 of the principal Enactment is amended by adding at the end thereof the following :

"and may therein prescribe the penalty, not exceeding the sum of fifty dollars with which the contravention of any such rule shall be punishable."

Amendment of section 66.

**3.** Section 66 of the principal Enactment is amended by inserting at the beginning thereof before the words "any person" the words "where no other penalty is prescribed by such rules."

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The fine of \$10 prescribed by section 66 is not always a suitable penalty for the breach of a rule, and this Bill is intended to give the Railway Administration the power, conferred in the case of British railways by section 109 of the Railway Clauses Act, 1845, to prescribe varying penalties but with a maximum of \$50 in case of contravention.

KUALA LUMPUR,  
18th August, 1923.

W. S. GIBSON,  
Legal Adviser, F.M.S.