

**JOINT/SELECT
COMMITTEE REPORT
LEGISLATIVE
ASSEMBLY
1925**

The Indian Soldiers (Litigation) Bill

List of Reports of Select or Joint Committees
presented to the Legislative Assembly in 1925.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Soldiers (Litigation) Bill.	2.2.25.	
2.	The Obscene Publications Bill.	11.2.25.	
3.	The Code of Civil Procedure (Amendment) Bill.	13.2.25.	Copy not available
4.	The Indian Penal Code (Amendment) Bill (Age of Consent) by Dr. Hari Singh Gour.	23.2.25.	- do -
5.	The Cotton Gining and Pressing Factories Bill.	23.2.25.	
6.	The Indian Tariff (Amendment) Bill.	5.3.25.	
7.	The Indian Succession Bill.	26.8.25.	Report of the Joint Committ.
8.	The Indian Succession (Amendment) Bill (Sec. 27).	26.8.25.	- do -
9.	The Code of Criminal Procedure (Amendment) Bill (Use of firearms) by Dewan Bahadur T. Rangachariar.	26.8.25.	
10.	The Indian Trade Unions Bill.	31.8.25.	
11.	The Indian Carriage of Goods by Sea Bill.	31.8.25.	- do -
12.	The Coal grading Board Bill.	31.8.25.	
13.	The Indian Limitation (Amendment) Bill.	3.9.25.	
14.	The Court-fees (Amendment) Bill.	14.9.25.	
15.	The Contempt of Courts Bill.	16.9.25.	

We, the undersigned, members of the Select Committee to which the Bill to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have considered the amendments proposed to clause 6 of the Bill and have decided to make no change in that clause. The intention of the amendments is to exclude rent suits against certain classes of tenants from the scope of the Bill: but even if the soldier has to pay accumulated arrears of rent on his return from service, he would undoubtedly prefer this alternative to being harassed while on service.

3. We have amended clause 7 to make it clear that a proceeding shall be postponed in the case of a soldier plaintiff as well as a soldier defendant: a similar amendment has been made in clause 9.

4. Sub-clause (2) of clause 10 has been amended to secure that the soldier has in no case a less period of limitation than is allowed by Article 164 of the Limitation Act; the starting point of limitation has been made the same as in Article 164.

The amendments in sub-clause (4) of clause 1 are purely drafting amendments: under section 10 a decree or order is set aside not under sub-sections (1) and (3), but under sub-section (1) or sub-section (1) read with sub-section (3), it is not however necessary to specify the sub-sections.

5. The amendments in clause 11 serve a triple purpose. They extend the benefit of the section to cases in which the defendant is an Indian soldier: this involves only a slight extension of section 13 of the Indian Limitation Act, 1908, the principle of which is the same. We have further made it clear that the clause applies where there is more than one plaintiff or defendant and have extended the benefit of the clause to all in such cases.

6. As the date originally fixed for the commencement of the Bill has passed, a new date has been fixed, the 1st of April, 1925.

7. The Bill was published in the Gazette of India, dated the 6th September, 1924.

8. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. P. MUDDIMAN.

V. N. MUTALIK.

K. C. NEOGY.

C. DURAISWAMI AIYANGAR.

HIRA SINGH, CAPT.

P. S. SIVASWAMY AIYER.

The 30th January, 1925.

[AS AMENDED BY THE SELECT COMMITTEE.]

[New matter not contained in the Indian Soldiers (Litigation) Act, 1918, is shown in italics.]

[Amendments made by the Select Committee are shown in Antique type.]

BILL

TO

Consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions.

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under *special conditions*; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Soldiers (Litigation) Act, 1925.
Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan *and the Sonthal Parganas.*

(3) *It shall come into force on the first day of April, 1925.*

2. In this Act, *unless there is anything repugnant in the subject or context,*—
Definitions.

(a) "Court" means a Civil or Revenue Court;

(b) "Indian soldier" means any person subject to the Indian Army Act, 1911;

VIII of 1911.

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "proceeding" includes any suit, appeal or application.

3. For the purposes of this Act, an Indian soldier shall be deemed to be or, as the case may be, to have been serving—
Circumstances in which an Indian soldier shall be deemed to be serving under special conditions.

(a) *under special conditions—when he is or has been serving under war conditions, or overseas, or at any place in Persia, Tibet, Afghanistan, Kashmir, Nepal or China, or with any unit the headquarters of which are situated at any place in Chitral, Waziristan, the North-West Frontier Province or British Baluchistan which is more than fifty miles distant by road from the nearest railway station;*

(b) *under war conditions—when he is or has been, at any time during the continuance of any hostilities declared by the Governor General in Council by notification in the Gazette of India to constitute a state of war for the purposes of this Act or at any*

time during a period of six months thereafter,—

- (i) serving out of India,
- (ii) under orders to proceed on field service,
- (iii) serving with any unit which is for the time being mobilised, or
- (iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the Governor General in Council by notification in the Gazette of India to be service under war conditions; and

(c) *overseas*—in relation to any place in British India, other than Aden, when he is or has been serving in Aden or in any place outside India (other than Ceylon) the journey between which and British India is ordinarily undertaken wholly or in part by sea, and, in relation to Aden, when he is or has been serving in any place other than Aden.

4. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal.

5. If any Collector has reason to believe that any Indian soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court.

6. If a Collector has certified under section 5, or if the Court has reason to believe, that an Indian soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority:

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

- (a) *the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or*
- (b) *the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.*

7. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that *the soldier in respect of whom the notice was given* is serving under *special conditions*, and that a postponement of the proceeding in respect of *the soldier* is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of *the soldier* for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that *the soldier* is not serving under *special conditions* or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of *the notice* that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

9. When any document purporting to be signed by *the Commanding Officer* of an Indian soldier who is a party to any proceeding is produced by or on behalf of *the soldier* before the Court in which the proceeding is pending and is to the effect that *the soldier*—

- (a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under *special conditions*, or
- (b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under *special conditions*,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall, in any other case, be postponed in the manner provided in section 7.

10. (1) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst he was serving under war or special conditions, or, at any time after the 1st day of April, 1925, whilst he was serving under any *special conditions*, the soldier may apply to the Court which passed the decree or order for an order to set aside *the same*, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days, after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order,

during no part of which the soldier was serving under special conditions :

Provided that the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such IX of 1908. applications.

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

"(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be."

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any IX of 1908. other law for the time being in force for any suit, appeal or application to any Court any party to which is or has been an Indian soldier, the time during which the soldier has been serving under war conditions since the 4th day of August, 1914, or under any special conditions since the 1st day of April, 1925, shall be excluded :

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

12. If any Court is in doubt whether, for the purposes of section 10 or section 11, any Indian soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

13. The Local Government, after consulting the High Court, may, by notification in the local official Gazette, make rules to provide for all or any of the following matters, namely :—

- (a) the manner and form in which any notice or certificate under this Act shall be given ;
- (b) the period for which proceedings or any class of proceedings shall be postponed under section 7 ;
- (c) the persons who shall be the prescribed authorities for the purposes of this Act ;
- (d) any other matter which is to be or may be prescribed ; and
- (e) generally, any matters incidental to the purposes of this Act.

14. The Governor General in Council may, by notification in the Gazette of India, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers.

15. The Indian Soldiers (Litigation) Act, 1918, IX of 1918. Repeal of Acts IX of and the Indian Soldiers 1918 and XII of 1924. Litigation (Amendment) Act, 1924, are hereby repealed.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the
Bill to consolidate and amend the law
to provide for the special protection in
respect of civil and revenue litigation
of Indian soldiers serving under
special conditions.

(With Bill as amended.)