

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1934**

**The Indian Army
(Amendment) Bill**

List of Reports of Select or Joint Committees
presented to the Legislative Assembly in 1934.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Tariff(Amendment) Bill.	5. 2.34.	
2.	The Indian States(Protection) Bill.	14. 2.34.	
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11.	The Indian Aircraft Bill.	25. 7.34.	
12.	The Hedjaz Pilgrims(Muallims) Bill(<u>Second Report of the Select Committee</u>)	2. 8.34.	
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16.	The Indian Income-tax(Amendment) Bill by Sir Hari Singh Gour.	22. 8.34.	
17.	The Indian Navy (Discipline) Bill.	25. 8.34.	

LEGISLATIVE ASSEMBLY.

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Army Act, 1911, for certain purposes 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. *Clause 5.*—We have inserted in this clause a further small amendment to clause (8) of section 7 of the Act. The definition contained in that clause appeared to us defective in that it failed to contemplate the possibility which now arises that an officer commissioned in His Majesty's Indian Forces, that is, an Indian commissioned officer may command an army, army corps, division or brigade on active service.

Clause 10.—The change here made rectifies an accidental omission in the Bill as introduced.

Clause 12 (2) (c).—We have substituted for the expression "subject to this Act" the more general expression "subject to military law" because British officers serving in India are subject not to the Indian Army Act, 1911, but to the Army Act, 53 Vict. C. 4.

We considered the desirability and possibility of inserting in the Act a declaratory section asserting the right of Indian commissioned officers to complete equality of status and opportunities with British officers. Although we have decided against adopting this course, and are assured

that the object we had in view will be secured by Regulations, we desire to record our view that it is of the utmost importance that no apprehensions should exist among the public that the position of Indian commissioned officers, as regards Command, Rank and Precedence, will be in any way inferior to that of British officers. We realise that the Indian commissioned officer will not automatically have any powers of command such as are possessed by British officers, as defined in the Indian Army Act, in relation to British personnel of the British Army in India. But we are assured that Regulations are being framed by His Majesty's Government to cover such powers of command, and that these regulations will in effect empower a commander from H. E. the Commander-in-Chief down to the Commander of a station to appoint the occasions on which Indian commissioned officers may exercise powers of command in relation to personnel of the British Army in India under his command. The Regulations referred to above, when framed, should be laid on the table of the House.

3. The Bill was published in the Gazette of India dated the 28th April, 1934.

4. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

N. N. SIRCAR.

G. MORGAN.

B. V. JADHAV.

*ABDUR RAHIM.

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SHER MOHD. KHAN.

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MAJOR NAWAB AHMAD NAWAZ
KHAN.

*ZIAUDDIN AHMAD.

*HARBANS SINGH.

SIMLA ;

The 7th August, 1934.

* Subject to a note of dissent.

NOTE OF DISSENT.

We cannot regard with much satisfaction the position of the Indian commissioned officers as adumbrated in the Note of the majority under clause 12 (2) (c). It fails to a great extent to fulfil the expectations which the country entertained when the Indian Military Academy was proposed as a result of the recommendations of the Round Table Conference. H. E. the Commander-in-Chief, in his preliminary statement to the Committee appointed to work out the details of the College, said: "I have further proposed to the Government that we shall start at once to Indianise a complete Division of the Indian Army of all arms and etc. This means that for the first time we make a real start with an army as a fighting proposition, not merely as an experiment." He also pointed out "Further, we do not fight in modern warfare by means of a heterogeneous collection of units. We fight in what are known as formations, Brigades, Divisions and Corps; and each Division has to be complete and self-supporting in itself with its Cavalry, Infantry, Engineers, Artillery, possibly Tanks and Armoured Cars, and all its administrative services."

Now, the formations mentioned by the Commander-in-Chief are, at present in the Indian Army, mixed formations, consisting of British and Indian personnel. It is evident, further, that in order to Indianise a complete Division, the command of the Brigades, Divisions must be given to Indian Commissioned officers. But before Indianisation is completed, the present mixed formations will apparently continue and provision will have to be made to meet the situation. Further, as the defence forces in India are composed of various units have to work together on different occasions, it will be impracticable not to accept in full the principle of reciprocity.

It has been made clear in the Note under clause 12 that, so far as command of the Indian Army personnel is concerned, the status and opportunities of the Indian commissioned officers will in no way be inferior to that of "British" officers, and this is sought to be provided for by means of regulations. But in respect of command of mixed formations and in relation to British personnel of the British Army in India, there will be a difference in the prospects of the two classes of officers as pointed out in the Report. The Indian commissioned officer will not automatically

have the same powers of command in relation to the British personnel of the British Army in India such as are possessed by "British" officers, but it will be left to the commanders "to appoint the occasions" in which Indian commissioned officers may exercise such powers of command. This distinction has, in our opinion, a serious significance in the Defence Policy of India, apart from the practical difficulties which it is likely to give rise to in the Army administration as well as in actual operations. If this be the inevitable result of an Indian commission, it only tends to confirm the belief which is widely prevalent in the country that the position of Indian commissioned officers will be something intermediate between the Viceroy's commissioned officers and the "British" officers and more or less analogous to that of the officers of the Provincial Civil Service in the civil administration, their chance of attaining a higher command will be like the prospect of a Provincial officer obtaining a District charge, or rather will be confined to occasions. Another anomaly in the position of this new class of officers which, we happened to discover in the course of discussion in the Select Committee, is that even if they are in command, they will not be eligible to sit in a Court Martial on a British soldier.

Granted the necessity of a self-contained Indian Army Act, with the necessary regulations and rules, we fail to see why an Indian commission should necessarily be of a more limited scope than the commission which an officer from Sandhurst or Woolwich holds. The assumption throughout has been that the Military College in India would be a replica of Sandhurst and Woolwich and it will be a great disappointment to the Indian public if the graduates of the Dehra Dun Academy are accorded a status inferior in any way to that of the graduates of the British Military Colleges.

We suggest that a statutory provision be inserted in the Indian Army Act laying down the general principle that the status and opportunities for promotion, the powers of command, rank and precedence of Indian commissioned officers in the Indian Army will be the same as those of "British" officers in the Indian Army in all units and formations. In conformity to this general provision in the statute, the necessary regulations and rules will, of course, be framed by the Military Authorities.

ABDUR RAHIM.
HARBANS SINGH.
ZIAUDDIN AHMAD.
BHUPUT SINGH.
MD. SHAFEE DAOODI.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the Committee.]

A

BILL

Further to amend the Indian Army Act, 1911, for certain purposes.

WHEREAS it is expedient further to amend the Indian Army Act, 1911, for the purposes herein **VIII of 1911**, after appearing: It is hereby enacted as follows:—

1. This Act may be called the Indian Army (Amendment) Act, 1934.
Short title.

2. In the preamble to the Indian Army Act, 1911 (hereinafter referred **VIII of 1911**. Amendment of the preamble, Act VIII of 1911. to as the said Act), for the words "Indian officers" the words "Indian commissioned officers, Viceroy's commissioned officers" shall be substituted.

3. In section 2 of the said Act,—

Amendment of section 2, Act VIII of 1911.

(a) in clause (a) of sub-section (1), for the words "Indian officers" the words "Indian commissioned officers, Viceroy's commissioned officers" shall be substituted; and

(b) in sub-section (2), for the words "discharged or dismissed" the words "retired, discharged, cashiered, removed or dismissed from the service" shall be substituted.

4. In sub-section (1) of section 3 of the said Act, Amendment of section 3, Act VIII of 1911. for the words "Indian officers" the words "Indian commissioned officers, Viceroy's commissioned officers" shall be substituted.

5. In section 7 of the said Act,—

Amendment of section 7, Act VIII of 1911.

(a) for clause (1) the following clause shall be substituted, namely:—

"(1) 'British officer' means a person holding His Majesty's commission in His Majesty's Land Forces or in the Royal Marines or in the Territorial Army, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Naval Forces or Royal Air Force";

(b) for clause (2) the following clauses shall be substituted, namely:—

"(2) 'Indian commissioned officer' means a person commissioned, gazetted or in pay as an officer holding His Majesty's commission in the Indian Land Forces, and includes, in relation to a person subject to this Act when

serving under such conditions as may be prescribed, a person holding a commission in the Indian Air Force :

(2A) 'Viceroy's commissioned officer' means a person commissioned, gazetted or in pay as a Viceroy's commissioned officer in the Indian Army :";

(c) for clause (5) the following clause shall be substituted, namely :—

"(5) 'officer' means an officer of any of His Majesty's Military Forces, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of any of His Majesty's Naval or Air Forces, but does not include a warrant officer, petty officer or non-commissioned officer :";

(d) in clause (6), after the words "British officer" the words "or Indian commissioned officer" shall be inserted;

(e) in clause (7), for the words "a warrant officer or non-commissioned officer subject to the Army Act or the Air Force Act" the words "an officer, warrant officer, petty officer or non-commissioned officer of any of His Majesty's Naval, Military or Air Forces" shall be substituted ; *

(f) to clause (8) the words "or His Majesty's Indian Forces" shall be added ; and

(g) in clause (14), after the word "service" the words "and includes air force custody" shall be inserted.

6. In section 10 of the said Act, after the words "military pay" the words "as an enrolled person" shall be inserted.

Amendment of section 10, Act VIII of 1911.

7. Section 13 of the said Act shall be re-numbered as sub-section (1) of section 13, and in that section as so re-numbered,—

Amendment of section 13, Act VIII of 1911.

(a) the words "or the Commander-in-Chief in India" shall be omitted, and

(b) the following sub-section shall be added, namely :—

"(2) The Commander-in-Chief in India may dismiss from the service any person subject to this Act other than an Indian commissioned officer."

8. In section 14 of the said Act, the word "Indian" shall be omitted.

Amendment of section 14, Act VIII of 1911.

9. In sub-section (1) of section 19 of the said Act,—

Amendment of section 19, Act VIII of 1911.

(a) after the words "to the ranks" the words "any warrant officer or" shall be inserted ; and

(b) the following proviso shall be added, namely :—

"Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy."

10. In section 21 of the said Act, for the words
 " Indian officers " the
 Amendment of section words " Viceroy's commis-
 21, Act VIII of 1911. sioned officers, warrant
 officers " shall be substituted.

11. In clause (b) of section 36 of the said Act,
 after the word and figures
 Amendment of section " section 117 " the words,
 36, Act VIII of 1911. figures and letter " or
 section 117A " shall be inserted.

12. (1) Section 41 of the said Act shall be re-
 numbered as sub-section
 Amendment of section (1) of section 41.
 41, Act VIII of 1911.

(2) In the said section as so re-numbered,—

(a) after the words " Every person subject
 to this Act who " the words " either
 within British India or " shall be insert-
 ed ;

(b) the words " , or when on active service in
 British India," shall be omitted ; and

(c) the following proviso shall be added,
 namely :—

" Provided that a person subject to this
 Act who at any place within British
 India or at any place, other than such
 frontier posts as may be specified by
 the Governor General in Council by
 notification in this behalf, in which the
 Governor General in Council exercises
 jurisdiction by virtue of the Indian
 (Foreign Jurisdiction) Order in Council,
 1902, and while not on active service,
 commits the offence of murder or cul-
 pable homicide not amounting to
 murder in relation to a person not
 subject to *military law* or the offence of
 rape, shall not be deemed to be guilty
 of an offence against military law and
 shall not be tried by a court-martial."

(3) To the said section as so re-numbered and
 amended the following sub-section shall be added,
 namely :—

" (2) The powers of a court-martial to try
 and to punish any person under this
 section shall not be affected by reason of
 the fact that the civil offence with which
 such person is charged is also a military
 offence."

13. Section 42 of the said Act shall be omitted.

Omission of section 42.
 Act VIII of 1911.

14. In section 43 of the said Act,—

Amendment of section
 43, Act VIII of 1911.

(a) after clause (c) the following clause shall
 be inserted, namely :—

"(cc) in the case of Indian commissioned
 officers, cashiering ;";

(b) clause (e) shall be omitted ;

(c) for clause (f) the following clause shall be substituted, namely :--

“(f) reduction, in the case of a warrant officer, to a lower grade or class or place in the list of his rank, or to the ranks; or in the case of a non-commissioned officer, to a lower grade or a lower rank or to the ranks :

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy ;”;

(d) in clause (g), for the words “ of seniority of rank ” the words “ in the prescribed manner of seniority of rank and service for the purpose of promotion ” shall be substituted ;

(e) in clause (gg), after the word “ officers ,” the words “ warrant officers and non-commissioned officers,” shall be inserted ; and

(f) in clause (h),—

(i) in sub-clause (i), the word “ promotion,” shall be omitted,

(ii) sub-clause (ii) shall be omitted, and

(iii) in sub-clause (iii), after the words “ sentenced to ” and after the word “ such ” the words “ cashiering or ” shall be inserted.

15. In section 47 of the said Act, for the words “ any one or more of the punishments specified in clauses (d), (f), (gg) and (h) of section 43 ” the following words shall be substituted, namely :—

“ the punishment specified in clause (cc) or clause (d) and any one or more of the punishments specified in clauses (f), (g), (gg) and (h) of section 43 ”.

16. After section 47 of the said Act the following section shall be inserted, namely :—

“ 47A. Whenever an Indian commissioned officer is sentenced to transportation or imprisonment, the court shall by its sentence sentence such officer to be cashiered.”

17. In section 49 of the said Act, for the words “ A non-commissioned officer ” the words “ A warrant officer or a non-commissioned officer ” shall be substituted.

18. In section 49A of the said Act, for the words “ any person ” the words “ any enrolled person ” shall be substituted.

19. (1) Section 50 of the said Act shall be re-numbered as sub-section (2) of section 50 and in that section as so re-numbered, after the words “ a person subject to

this Act", in both places where they occur, the words "other than an Indian commissioned officer" shall be inserted.

(2) The following sub-section shall be inserted as sub-section (1) of section 50, namely :—

"(1) The following penal deductions may be made from the pay and allowances of an Indian commissioned officer, that is to say,—

(a) all pay and allowances for every day of absence without leave, unless a satisfactory explanation has been given through his Commanding Officer and has been approved by the Governor General in Council ;

(b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence ;

(c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay ;

(d) any sum required to make good any loss, damage or destruction of public or regimental property which after due investigation appears to the Governor General in Council to have been occasioned by any wrongful act or negligence on the part of the Indian commissioned officer ;

(e) any sum ordered by a court-martial to be stopped under section 43."

20. For section 57 of the said Act the following Substitution of new section shall be substituted, namely :—
Act VIII of 1911.

"57. A general court-martial shall consist of not less than five British officers or Indian commissioned officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of Captain."

21. In section 58 of the said Act, for the word "officers" the words "British officers or Indian commissioned officers" shall be substituted.
Amendment of section 58, Act VIII of 1911.

22. Section 59 of the said Act shall be omitted.
Omission of section 59, Act VIII of 1911.

23. For section 60 of the said Act, the following Substitution of new section shall be substituted, namely :—
Act VIII of 1911.

"60. A general, summary general or district court-martial may be composed of either British officers or Indian commissioned officers"

or of both British officers and Indian commissioned officers."

24. Section 61 of the said Act shall be omitted.
Omission of section 61, Act VIII of 1911.

25. In section 63 of the said Act, for the word "officers" the words "British officers or Indian commissioned officers" shall be substituted.
Amendment of section 63, Act VIII of 1911.

26. In section 65 of the said Act, the proviso to sub-section (1) shall be omitted.
Amendment of section 65, Act VIII of 1911.

27. In section 67 of the said Act, after the words "the person in question" the brackets and words "(not being an Indian commissioned officer)" shall be inserted.
Amendment of section 67, Act VIII of 1911.

28. To section 73 of the said Act the following proviso shall be added, namely :—
Amendment of section 73, Act VIII of 1911.

"Provided that a district court-martial shall not award to a warrant officer any punishment other than the punishment specified in clause (h) of section 43 or, either in addition to or in substitution for any such punishment, the punishment specified in clause (d) or the punishment specified in clause (f) of that section."

29. In clause (a) of the proviso to section 74 of the said Act, for the figures and word "41 or 42" the word and figures "or 41" shall be substituted.
Amendment of section 74, Act VIII of 1911.

30. Section 79 of the said Act shall be omitted.
Omission of section 79, Act VIII of 1911.

31. In section 82 of the said Act, the words "or superintending officer" shall be omitted.
Amendment of section 82, Act VIII of 1911.

32. In sub-section (1) of section 84 of the said Act, the words "before the court" shall be omitted.
Amendment of section 84, Act VIII of 1911.

33. In sub-section (4) of section 86 of the said Act, the words and figures "or section 42" shall be omitted.
Amendment of section 86, Act VIII of 1911.

34. Section 105 of the said Act shall be omitted.
Omission of section 105, Act VIII of 1911.

35. In section 107 of the said Act, the word "rigorous", wherever it occurs, shall be omitted.
Amendment of section 107, Act VIII of 1911.

36. In section 108 of the said Act, the words and figures "section 105 or" shall be omitted.
Amendment of section 108, Act VIII of 1911.

37. In section 111A of the said Act, the words and figures "or section 42" shall be omitted.
Amendment of section 111A, Act VIII of 1911.

38. In sub-section (3) of section 112 of the said Act, before the words " a non-commissioned officer " the words " a warrant officer or " shall be inserted.

Amendment of section 112, Act VIII of 1911.

39. In clause (a) of sub-section (2) of section 113 of the said Act, for the word " discharge " the words " removal, retirement or discharge " shall be substituted.

Amendment of section 113, Act VIII of 1911.

40. In section 117 of the said Act,—

Amendment of section 117, Act VIII of 1911.

(a) in sub-section (1), after the words " Any person subject to this Act " the words " other than an Indian commissioned officer " shall be inserted ; and

(b) to sub-section (3), the following proviso shall be added, namely :—

" Provided that a decision by an authority competent to dispose of the matter complained of shall be final."

41. After section 117 of the said Act the following section shall be inserted, namely :—

Insertion of new section 117A in Act VIII of 1911.

" 117A. Any Indian commissioned officer who deems himself wronged by his Commanding Officer or any superior officer and who on due application made to his Commanding Officer does not receive the redress to which he considers himself entitled, may complain to the Governor General in Council."

42. In sub-section (1) of section 118 of the said Act, the words " or superintending officer " shall be omitted.

Amendment of section 118 Act VIII of 1911.

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GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the Bill
further to amend the Indian Army Act,
1911, for certain purposes ; with the Bill
as amended.
