

# ACT No. XI. OF 1841.

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*Passed by the Right Hon'ble the Governor General of India in Council,  
on the 5th of July, 1841.*

AN Act for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the Service of the East India Company.

I. It is hereby enacted, that all Regulations and parts of Regulations concerning Military Courts of Requests are repealed; provided always, that nothing in this Act contained shall be held to alter or affect the jurisdiction of a single Officer duly authorized and appointed under the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively, or the trial by Punchayet of suits against Military persons according to the Rules in force under the Madras Presidency.

II. And it is hereby enacted, subject to the aforesaid proviso, that within the territories of the East India Company actions of debt and other personal actions against Native Officers, Soldiers and other persons amenable to the Articles of War for the Native Forces in the Military Service of the East India Company or residing within any Station or Cantonment, and carrying on any trade or business in a Military Bazar, shall be cognizable before a Military Court and not elsewhere, provided the value in question shall not exceed 200 Rupees, and the defendant was a person of the description abovementioned, when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any Military Court under this Act to determine any dispute of caste or concerning any right to real property.

III. And it is hereby enacted, that the Commanding Officer of any Station or Cantonment, or Officer commanding any portion of Troops in the field, is authorized to convene such Military Courts. And such Courts shall be composed, according to the orders of the Commander-in-Chief for the time being of the Presidency within which the Station or Cantonment is situate, or, in the absence of such orders, according to the discretion of the Convening Officer, either of not less than three European Commissioned Officers, or of not less than three Native Commissioned Officers, and, in the latter case, with a European officer of not less than five years' standing, to superintend and record the proceedings. Provided that if there be not a sufficient number of Officers to constitute a Court at the Station or Cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest Station or Cantonment where a Military Court can be duly constituted as aforesaid.

IV. And it is hereby enacted, that such Military Courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month.

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V. And it is hereby enacted, that the forms of proceeding in every such Court shall be conformable to the usages observed on trials before Courts Martial held for the Native Troops in the service of the East India Company as far as the same are applicable. And any such Court shall have the like power of summoning witnesses as is possessed by Courts Martial. Provided always, that every such Court shall have the power of examining the parties to any suit and of requiring or dispensing with their attendance at its discretion. And every such Court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the Civil Courts of the East India Company, under Act No. VII. of 1841, provided that the depositions taken under a Commission issued by any Military Court of Requests shall be receivable in evidence before any such Court subsequently held: Provided also that Commissions may be issued by Military Courts of Requests under this Act pursuant to the provisions of Act No. VII. of 1841, notwithstanding the Courts to which the Commissions may be directed are not situate beyond the jurisdiction of such Military Courts.

VI. And it is hereby enacted, that witnesses omitting to attend, refusing to give evidence, or committing perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a Court Martial, subject to all the Rules contained in such Articles of War for the punishment of such offences in regard to trials for Military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the Courts of the East India Company for the administration of Criminal Justice (whether such Court have ordinarily jurisdiction over such person in Criminal matters or not) in like manner as if such offences had been committed in regard to any trial before such nearest Court.

VII. And it is hereby enacted, that any person, Civil or Military, European or Native, using menacing words, signs, or gestures, or otherwise interrupting (whether being personally present or not), the proceedings of any Military Court of Requests, shall be punishable, if amenable to Articles of War by a Court Martial, or if not amenable to Articles of War, in the nearest of the Courts of the East India Company for the administration of Criminal justice (whether such Court have ordinarily jurisdiction over such person in Criminal matters or not), in like manner as if the offence had been committed in regard to any proceeding of the Court to which it is so referred.

VIII. And it is hereby enacted, that a record shall be kept of proceedings in every case tried before any Military Court of Requests. And such record shall contain the substance of the evidence given and the nature of such evidence as may have been rejected on the ground of its not being legally admissible, or relevant, or on other grounds, and the same shall be signed by the Members of the said Court. And such record or a copy thereof shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European President, or Superintending Officer of every such Court to the Officer Commanding the Station or Cantonment.

IX. And it is hereby enacted, that where a demand shall exceed the amount of 200 Rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of 200 Rupees only—and the judgment in respect of any demand in a Court of Requests shall be a bar to the recovery of the same demand or of any other or further demand for the same cause of action in any other Court whatever, provided that the liability accrued before the time of instituting the suit in the Military Court—and it shall be competent for every such Military Court to investigate any counterclaim alleged by any defendant. And it shall be competent for every such Military Court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act upon which a demand for debt exceeding



exceeding 20 Rupees is founded, not being money due for goods bought and delivered, shall be in writing and expressed in the language of the defendant and signed by him, or on his behalf by some other person than the plaintiff. Provided that it shall not be competent to any Court of Requests to admit any suit for a debt which has accrued upwards of six years, unless a direct promise to pay made within six years of the commencement of the suit be proved.

X. And it is hereby enacted, that on failure of either of the parties to a suit to attend either personally or by representative, or to produce his witnesses according as he shall be required by any Military Court of Requests, such Court on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.

XI. And it is hereby enacted, that it shall be lawful for the Commanding Officer to whom the proceedings have been transmitted as aforesaid to return the same for revision either by the same or another Military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the Commander-in-Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always that in the case of any new trial the Court may receive evidence which was not adduced at the first trial.

XII. And it is hereby enacted, that every plaintiff shall prefer his claim in writing and shall deliver the same to the Station Staff-Officer. The claims shall be entered in a Schedule by the Station Staff-Officer, which Schedule is to be sent to Adjutants of Corps or Heads of Departments two days at least before the assembly of the Court, and the Adjutants or Heads of Departments shall be responsible that the defendants belonging to their respective Corps or Establishments have been duly summoned.

XIII. And it is hereby enacted, that every decree of any Military Court of Requests shall be published in the Station Orders before the same is executed.

XIV. And it is hereby enacted, that the execution of decrees of Military Courts of Requests may be either general or special, according to the sentence of the Court. Provided always that the Commanding Officer may, notwithstanding the direction of the Court, order that the execution shall be general or special at his discretion.

XV. And it is hereby enacted, that in cases in which, the execution is to be general, the debt if not paid forthwith, shall, under the authority of the Commanding Officer in writing to be signed by him, be levied by seizure and public sale of such of the Debtor's Goods (under which term are included houses or other erection within the limits of Stations and Cantonments) as may be found within the limits of the Station or Cantonment, or elsewhere; and if sufficient Goods are not to be found, the debtor, if not a Soldier, shall be arrested and imprisoned in any Civil Gaol near to the Station or Cantonment, (for which purpose the provisions of Act No. II. of 1840 shall be applicable) or in any other convenient place of confinement situate within the limits of the Station or Cantonment, for the space of two months, unless the debt be sooner paid, and his Goods, if found within the limits of the Station or Cantonments or elsewhere at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a Soldier and the debt be not liquidated by sale of his Effects, Accoutrements and Necessaries excepted, an order may be issued for payment of the residue by monthly deduction from the pay issued to the debtor under the Rules which follow.

XVI. And it is hereby enacted, that where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor and not otherwise. And  
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a certificate of the decree and direction or order thereon certified under the hand of the Commanding Officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always that no more than one-half of the pay and allowances of any Commissioned Officer, or than one-fourth of the pay and allowances of any non-Commissioned Officer or Soldier shall be stopped in any one month.

XVII. And it is hereby enacted, that in places beyond the Frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before such Military Courts as aforesaid against persons so amenable as aforesaid for any amount of demand: Provided that such Military Courts beyond the Frontier shall be composed of European Officers—and provided, that if the amount of claim shall exceed 200 Rupees an appeal shall lie to the Court of Sudder Adawlut of the nearest Presidency according to the rules in force with regard to appeals from subordinate Civil Courts.

XVIII. And it is hereby enacted, that this Act shall not affect the proceedings upon any suit heretofore commenced or which shall be commenced before the Tenth day of August next.

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