

ACT NO. IV OF 1917.

[PASSED BY THE INDIAN LEGISLATIVE COUNCIL.]

(Received the assent of the Governor General on the 28th February, 1917.)

An Act to authorise the suspension of certain sentences passed by Courts-martial under the Indian Army Act, 1911, and for other purposes.

VIII of 1911. **W**HEREAS it is expedient to authorise the suspension of sentences of imprisonment or transportation passed during the present war on persons subject to the Indian Army Act, 1911, and to make provision for other matters connected therewith; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Army (Suspension of Sentences) Act, 1917, and shall be construed as one with the principal Act. Short title, construction and duration.

(2) It shall remain in force during the continuance of the present war, and for a period of six months thereafter.

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

(1) "committed" includes committal to prison and confinement in military custody, and "imprisonment" includes such confinement;

(2) "competent military authority" means a superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority;

(3) "principal

- (3) "principal Act" means the Indian Army VIII of 1911 Act, 1911;
- (4) "sentence" means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation; and "sentenced" has the corresponding meaning;
- (5) "superior military authority" means any of the following, namely:—the Commander-in-Chief in India or the Officer Commanding the Army, Army Corps, Division or independent Brigade in which the offender, at the time of his conviction, was serving, and includes the Officer Commanding-in-Chief of any force employed on active service, or any General Officer Commanding an army comprised in that force.

Suspension of sentences.

3. (1) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the President of the Court-martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed or dismissed from the service (if liable to such dismissal) until the orders of a superior military authority have been obtained.

(2) A superior military authority may, in the case of any such offender so sentenced,—

(a) direct that such offender shall not be committed until his orders have been obtained;

(b) suspend the sentence whether or not the offender has already been committed.

(3) Where a sentence is suspended under this Act before the offender has been committed, he shall be released if in custody, and, notwithstanding anything in

in the principal Act, the sentence shall not begin to run until the offender is committed under that sentence.

(4) Where a sentence is suspended under this Act after the offender has been committed, he shall be discharged, and the currency of the sentence suspended until he is again committed under the same sentence.

(5) An offender, whose sentence has been suspended under this Act, whether or not the sentence is subsequently remitted, may be required to serve in a corps or department other than that in which he was serving when sentenced.

(6) Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than three months, be reconsidered by a competent military authority, and if, on any such re-consideration, it appears to the competent military authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall remit it.

(7) A superior military authority may, at any time whilst a sentence is suspended under this Act, order that the offender be committed, and thereupon the sentence shall cease to be suspended, and the prisoner, if liable to be dismissed from the service under section 15 of the principal Act, shall be forthwith dismissed from the service.

(8) Where an offender whilst a sentence on him is so suspended is sentenced for any other offence, then, if that sentence is also suspended under this Act, the authority ordering the suspension may direct that the two sentences shall run either concurrently or consecutively, provided that the aggregate term of imprisonment to be served under two or more sentences shall not exceed fourteen consecutive years; and where the sentence for such other offence is a sentence of transportation, then, whether or not that sentence is suspended, any previous sentence of imprisonment which has been suspended shall be avoided,

avoided, in so far as the period of such imprisonment does not exceed that of the transportation.

(9) The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section 99 of that Act.