

PM

1905.

ASSAM SECRETARIAT.

GENERAL DEPARTMENT.

FOREIGN—A.

May.

Nos. 1-3.

Jurisdiction of Criminal Courts in Native States over Native Officers and Soldiers of the Indian Army.

Governor's Secretariat
States Records.

1905.

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REFERENCES TO FORMER CASES.

| Department, date, and Nos., or File No. and year. | Brief Title of File. |
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REFERENCES TO LATER CASES.

| Department, date, and Nos. | Brief Title of File. |
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| Pol A. Sept 106 = 141-16 | |

(To be continued on back, if necessary.)

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- No. 3.—Memorandum to the Political Agent in Manipur and Superintendent of the State, No. 2070J., dated the 11th May 1905.

PAPEES OTHER THAN PROCEEDINGS.

I.—Printed.

Notes and orders.

II.—Not printed.

Nil.

NOTES.

FOREIGN—A, MAY 1905.

Nos. 1-3.

Jurisdiction of Criminal Courts in Native States over Native Officers and Soldiers of the Indian Army.

FROM THE UNDER-SECRETARY TO THE GOVERNMENT OF INDIA, FOREIGN DEPARTMENT, No. 1391I.A., DATED THE 18TH APRIL 1905.

Forwards copy of a Foreign Department letter, No. 1389I.A., dated the 18th April 1905, to the Resident in Mysore, regarding the jurisdiction of criminal courts in Native States over Native officers and soldiers of the Indian Army.

Personal Assistant,

The Foreign Department letter No. 3357I.A., dated the 9th September 1904, in Foreign Confidential, A, December 1904, Nos. 20-22, apparently is the letter referred to in the Foreign Department present memorandum. As Manipur is the only Native State in direct relation with this Administration, we may send a copy of India's letter to the Political Agent in Manipur for information?

Mahendra—8th May 1905.

Secretary,

For information.
9th May 1905.

P. G. ROGERS.

Chief Commissioner,
10th May 1905.
11th May 1905.

L. J. KERSHAW.

J. B. FULLER.

[To the Political Agent in Manipur and Superintendent of the State, No. 2070J., dated the 11th May 1905.]

ASSAM SECRETARIAT PROCEEDINGS.

FOREIGN—A.

May 1905.

Jurisdiction of Criminal Courts in Native States over Native Officers and Soldiers of the Indian Army.

No. 1389-I.A.

FROM

THE UNDER-SECRETARY TO THE GOVERNMENT OF INDIA
in the Foreign Department,

TO

THE HON'BLE SIR JAMES BOURDILLON, K.C.S.I.,
RESIDENT IN MYSORE.

Dated SIMLA, the 18th April 1905.

SIR,

I am directed to reply to Mr. Tucker's letter No. 4947, dated the 4th October 1904, regarding the jurisdiction of criminal courts in native states over native officers and soldiers of the Indian Army.

2 The Mysore Durbar have been informed that the jurisdiction of such courts is limited to:—

- (i) the case of a native soldier who while on leave within a native state commits an offence which renders him subject to arrest,
- (ii) that of a native soldier who while on leave within a native state is arrested for an offence committed by him in that state on some previous occasion; provided that the offence so committed is one of those entered in the schedule of the Indian Extradition Act.

They now enquire what is the correct procedure in the following cases:—

- (a) when a native soldier of the Indian Army commits within a native state, while not on leave, an offence which does not subject him to arrest;
- (b) when a native soldier of the Indian Army commits within the state, while on leave, an offence which does not subject him to arrest;
- (c) when a native soldier of the Indian Army commits within the state, while not on leave, an offence which does subject him to arrest;

they also desire to know:—

- (d) whether an offence previously committed in a native state [(ii) *supra*] means an offence committed by such soldier when not on leave or when on leave; and
- (e) what steps they can take when the offence referred to under (d) is not included in the schedule to the Indian Extradition Act.

3. I am to inform you that as regards (a) the courts of native states have no jurisdiction over a native officer or soldier of the Indian Army who, while not on leave, commits any kind of offence within their territories.

As regards (b) the native officer or soldier who, while on leave in a native state, commits an offence of any kind against the law of such state is amenable to the jurisdiction of the state courts.

As to case (c) the Durbar should be informed that the offender may be arrested by state authority in any case in which the law of the state permits of such arrest, but that he should be handed over forthwith to the nearest military authority.

With reference to (d) the words "an offence committed by him in that state on some previous occasion" [paragraph 2 (ii) *supra*], may be interpreted in their broadest sense, the meaning of the phrase not being restricted to offences committed while on leave. The jurisdiction of the native state courts will not, however, extend to the case of a native soldier, who has been charged with an offence previously committed while on duty, and who has already been tried and either acquitted or punished by the British authorities for such offence.

As regards (e) I am to say that the Government of India are prepared to waive the restriction imposed by the words "provided that the offence so committed is one of those entered in the schedule to the Indian Extradition Act" [paragraph 2 (ii) *supra*].

I have the honour to be,

SIR,

Your most obedient servant,

V. GABRIEL,

Under-Secretary to the Government of India.

No. 1390-I.A.

A copy of the foregoing correspondence is forwarded to the Military Department for information, in continuation of the endorsement from the Foreign Department, No. 3360-I.A., dated the 9th September 1904.

FOREIGN DEPARTMENT,

SIMLA;

The 18th April 1905.

By order, &c.,

V. GABRIEL,

Under-Secretary to the Government of India.

No. 1391-I.A.

*The Chief Secretary to the Government of Madras.
 †The Secretary to the Government of Bombay, Political Department.
 †The Chief Secretary to the Government of Bengal.
 †The Chief Secretary to the Government of the United Provinces.
 †The Chief Secretary to the Government of the Punjab.
 †The Chief Secretary to the Government of Burma.
 †The Hon'ble the Chief Commissioner of the Central Provinces.
 †The Hon'ble the Resident at Hyderabad.
 †The Hon'ble the Agent to the Governor-General in Central India.
 †The Hon'ble the Agent to the Governor-General in Rajputana.
 †The Hon'ble the Agent to the Governor-General in Baluchistan.
 †The Hon'ble the Agent to the Governor-General in the North-West Frontier Province.
 †The Hon'ble the Chief Commissioner of Assam.
 †The Resident at Baroda.
 †The Resident in Kashmir.

A copy of the foregoing letter is forwarded to* in continuation of the letter from the Government of India in the Foreign Department No. ³⁵⁵⁷¹/₃₅₆₈₁-I.A., dated the 9th September 1904.

By order, &c.,

V. GABRIEL,

FOREIGN DEPARTMENT,

SIMLA;

The 18th April 1905.

Under-Secretary to the Government of India.

Jurisdiction of Criminal Courts in Native States.

F. 3.

No. 3.

No. 2070J., dated Shillong, the 11th May 1905.

Memo. by—The Offg. Secretary to the Chief Commissioner of Assam.

Copy of memorandum No. 1391L.A., dated the 18th April 1905, forwarded to the Political Agent in Manipur and Superintendent of the State, for information, in continuation of this office memorandum No. 148Confdl.—4497P., dated the 12th October 1904.