

FILE No. <sup>K</sup> — P. OF 1912.]  
29

1913.  
ASSAM SECRETARIAT.

POLITICAL DEPARTMENT.

POLITICAL—A.

March 1913.

Nos. 78-84.

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Certain addition to Rule 21 of the Rules for the Administration of Justice and Police  
in the Khasi and Jaintia Hills.

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# REFERENCES TO FORMER CASES.

Department, date, and Nos., or File No. and year.	Brief Title of File.
1. File No. 151J. of 1882.	Measures to be adopted in giving greater publicity to legislative measures.
2. Home, A, July 1893, Nos. 7-10 (L).	
3. Ditto, June 1896, Nos. 56-75 (L).	
4. Ditto, Apl. 1898, Nos. 21-24 (IM).	Exercise in Assam of powers under Bengal Council Acts.
5. Pol., A, Mar. 1907, Nos. 45-84 (P.M).	Revised Rules for the Administration of Justice in the Hill Districts.

P-106.

## REFERENCES TO LATER CASES.

Department, date, and Nos.	Brief Title of File.
PM P, 21 13 July 18-22 50. 7(18)-58 P. Pol A Dec 14, 11-18 Juc B. March 21 = 53-59 Pol B June 12 = 324-34.	

(To be continued on back, if necessary.)

## PAPERS OTHER THAN PROCEEDINGS.

I.—Printed.

Notes and orders.

II.—Not printed.

Nil.

[FILE NO. <sup>K</sup>—P OF 1912.]  
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## ASSAM SECRETARIAT.

### POLITICAL DEPARTMENT.

POLITICAL—A.

MARCH.

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Certain addition to Rule 21 of the Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills.

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# NOTES.

POLITICAL—A, MARCH 1913.

Nos. 78-84.

Certain addition to Rule 21 of the Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills.

FROM THE COMMISSIONER, SURMA VALLEY AND HILL DISTRICTS, No. 3613, DATED THE 6TH AUGUST 1912.

Under-Secretary,

The proposal is in accordance with section 413 of the Criminal Procedure Code. If it is decided to make any alteration in the existing rules it would be necessary to obtain India's orders in compliance with the instructions contained in paragraph 3 of Home Department letter No. 210,\* dated the 28th February 1898. Home Department letter No. 1083,† dated the 1st August 1906 (paragraph 2), may also be read in this connection.

\* Home, A, Apl. 1898, Nos. 21-24.

† Pol., A, Mar. 1907, Nos. 45-84.

In revising the rules in 1905 Mr. Kershaw, in his note,\* dated the 22nd November 1905, said that an appeal should lie as a matter of right to the District Officer against any decision of his assistants. Sir J. B. Fuller agreed with him and said that this should be explained to India, pointing out that the assistants are often young police officers of very little experience, and this was done in paragraphs 3 and 4 of Mr. Webster's letter No. 56\*8J,\* dated the 30th May 1906, to India, while the rules for the administration of justice in the hill districts were submitted. The rules regarding appeals to District Officers are the same in the case of all hill districts. It is for consideration whether the rules of the other districts should also be amended.

Nalini—16th August 1912.

Chief Secretary,

19th August 1912.

G. C. KERWOOD.

Chief Commissioner,

I fully sympathise with Mr. Allen and think that we might safely address India and ask for sanction to the proposed change in the rules. Mr. Allen's proposal amounts only to giving 1st-class Magistrates in the hills the same finality as regards their orders which is granted to Magistrates of similar standing in the plains. It seems a little anomalous that in areas where criminal justice is administered in accordance with a set of more or less elastic rules there should be far greater rights of appeal than is the case in settled areas where all the provisions of the Criminal Procedure Code are in force. It must be remembered too that, even if the right of appeal is taken away as proposed, the Deputy Commissioner and the higher authorities will still retain the right of revision in every single case.

Office have properly referred to Mr. Kershaw's note and Sir Bampfylde Fuller's orders in the Collection,\* but I do not think that Mr. Allen's proposals is at variance with the e orders. Sir Bampfylde Fuller had in mind the case of junior and comparatively inexperienced police officers vested for the first time with the Magisterial powers, but as a matter of fact such officers are never allowed to exercise 1st-class powers in the hills. Even such senior and experienced officers as Mr. Williamson and Mr. Dundas, when holding charge of the Mokokchang subdivision of the Naga Hills, exercised only 2nd-class powers. As Chief Commissioner is aware, an appeal lies to the Deputy Commissioner from every order passed by a 2nd-class Magistrate.

\* Pol., A, March 1907, Nos. 45-84.

25th August 1912.

W. J. REID.

Probably there were but few 1st-class Magistrates in the hills in 1906 when the reference was made. In any case the proposal is sound and may be recommended.

30th August 1912.

A. E[ABLE].

Must we refer to India?

Please see paragraph 2 of India's letter in Political, A, March 1907, Nos. 45-84, and consider this point further. Is no reference is required, must we publish the proposed amendment in the rules for criticism?

31st August 1912.

W. J. REID.

Under-Secretary,

Instructions regarding reference to the Government of India were first issued in 1878\* (Home Department letter No. 574, dated the 7th May 1878, and No. 677, dated the 30th May 1878) and these were reiterated in 1896† and 1898.‡ All these orders have been quoted in paragraph 2 of Home Department No. 1083, dated the 1st August 1906,§ referred to by the Chief Secretary. From this letter it appears that, owing to the formation of the Province of Eastern Bengal and Assam it was no longer

\* File No. 1221, of 1878.

† Home, A, June 1896, Nos. 56-75.

‡ Ditto, Apl. 1898, Nos. 21-24.

§ Pol., A, Mar. 1907, Nos. 45-84.

necessary to submit draft rules to India. But now the circumstances have been changed. Instructions regarding measures to be adopted in giving greater publicity to legislative measures were issued in Home Department Resolution No. 49—1791-1807, dated the 8th November 1882, and these were repeated in that Department letter No. 13Pub.—707, dated the 20th May 1893.

Revised rules for the administration of the Garo Hills were submitted to India with Assam Secretariat letter No. 261, \* dated the 20th February 1880, and they were published after they were sanctioned by India. But from Mr. Lyall's note, † dated the 24th January 1881, it appears that it was unnecessary to refer these rules to India. On the 25th January 1881 and 10th February 1881 certain alterations were made in the rules for the Khasi and Jaintia Hills and the Naga Hills, but they do not appear to have been sanctioned by India or previously published for criticism. In 1898 ‡ also certain alterations were made in the Khasi and Jaintia Hills rules, but these were not referred to India nor published for criticism first. The alterations made by Notification No. 3825J., § dated the 2nd September 1907, were not referred to India. Again alterations to the hill districts rules were published for criticism in 1905 || (Notification No. 1989J. of 15th December 1905) and submitted to India with Mr. Webster's letter No. 5633J., dated the 30th May 1906, and in reply the Government of India in their Home Department letter No. 1083, dated the 1st August 1906, said that it was not necessary to submit these alterations to them for sanction.

It thus appears that in some cases the rules were published for criticism and referred to India and in others no such thing was done. It will perhaps be well to follow the instructions contained in paragraph 3 of Home Department letter No. 110, \* dated the 23rd February 1893, and in that Department letter No. 13Pub.—707, † dated the 20th May 1893, i.e., to publish for criticism and refer to India.

Please also see Commissioner, Surma Valley and Hill Districts' memorandum No. 1193T, dated the 4th September 1912, regarding appeals in "Political cases." The rules for the administration of justice in the Khasi and Jaintia Hills deal with Police, Criminal Justice and Civil rules. There are no rules for "Political cases" and the Commissioner asks for an executive order limiting the period within which an appeal in such cases should be preferred.

Nalini—9th September 1912.

Chief Secretary,

12th September 1912.

Issue draft.

14th September 1912.

G. C. KERWOOD.

W. J. REID.

TO THE SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, NO. 2188P., DATED THE 17TH SEPTEMBER 1912.

FROM THE SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, NO. 1950, DATED THE 11TH OCTOBER 1912.

Under-Secretary,

Government of India's orders conveyed in Home Department letter No. 13Pub.—707, \* dated the 20th May 1893, may be read. The proposed amendment should be first published for criticism as directed in India's Resolution No. 49—1791-1807, dated the 8th November 1882.

Attention is also invited to paragraph 2 of Home Department Resolution No. 13Pub.—707, \* dated the 20th May 1893. A draft notification in proof is submitted for approval. This notification may be published in any of the three monthly Khasi newspapers :—

1. *U Nongphira.*
2. *U Jaintia.*
3. *U Nongialam Kristan.*

If it is decided to publish the notification in any of the Khasi newspapers, it would perhaps be well to have it translated in the Khasi language.

Nalini—1st November 1912.

A. T. C.—1st November 1912.

Chief Secretary,

A notification for approval following precedent.\* As regards the time to be allowed for criticism the period seems to be optional. In the case of the precedent Mr Kershaw suggested 2 months and Sir J. B. Fuller cut the amount down to 6 weeks.

As regards publication in local papers, please see Section 2 of Home Department Resolution No. 49—1791-1807, dated the 8th November 1882, and Mr. Lyall's letter No. 13Pub.—709, dated 20th May 1893.

2nd November 1912.

Issue the notification as amended. We need not publish in the local papers.

2nd November 1912.

G. C. KERWOOD.

W. J. REID.

NOTIFICATION NO. 3037P., DATED THE 4TH NOVEMBER 1912.

Chief Commissioner,

India's ruling is an important one and leaves us a fairly free hand with such rules.

11th November 1912.

W. J. REID.

14th November 1912.

A. E[ABLE].

Under-Secretary,

Six weeks have expired, but no objection has been received. The draft notification may now be issued.

Nalini—17th December 1912.

Chief Secretary,

17th December 1912.

G. C. KERWOOD.

17th December 1912.

W. J. REID.

NOTIFICATION NO. 8350P., DATED THE 18TH DECEMBER 1912.

TO THE COMMISSIONER, SUBMA VALLEY AND HILL DISTRICTS, NO. 52P., DATED THE 7th JANUARY 1913.

Under-Secretary,

A draft correction slip put up for approval.

#### LOCAL RULES AND ORDERS, ASSAM.

*Correction slip to be pasted on page 86.*

Add the following to Rule 21 of the Rules for Administration of Justice and Police in the Khasi and Jaintia Hills :—

" Provided that no appeal shall lie against the following sentences when passed by a Magistrate of the first class, viz. :—

- (1) sentence of imprisonment only, when the term does not exceed one month ;
- (2) sentence of fine only, when the amount of fine does not exceed Rs. 50 ;
- (3) sentence of whipping only. "

Nalini—15th February 1913.

17th February 1913.

G. C. KERWOOD.

# ASSAM SECRETARIAT PROCEEDINGS.

## POLITICAL DEPARTMENT.

### POLITICAL—A.

MARCH 1913.

Certain addition to Rule 21 of the Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills.

No. 78.

No. 2613, dated Silchar, the 6th August 1912.

Memo. by—The Offg. Commissioner, Surma Valley and Hill Districts.

The following extract from letter No. 1778, dated the 6th July 1912, is submitted to the Chief Secretary to the Hon'ble the Chief Commissioner of Assam. Khasias are very litigious and prone to appeal. I agree with the Deputy Commissioner that it is desirable to strengthen the rules in the manner indicated. It is only adopting the corresponding section of the Criminal Procedure Code.

No. 79.

Extract from letter No. 1778, dated Shillong, the 6th July 1912, from B. C. Allen, Esq., I.C.S., Deputy Commissioner, Khasi and Jaintia Hills, to the Commissioner, Surma Valley and Hill Districts.

I have the honour to address you on the subject of the appeals in this district.

Under Rule 21 of the Rules for the Administration of Criminal Justice, an appeal lies to the Deputy Commissioner from any order passed by his assistants, and as a matter of fact appeals are submitted in very trivial cases. In the regulation tracts section 413, Criminal Procedure Code, lays down that there shall be no appeal against a sentence of imprisonment not exceeding one month, or of fine not exceeding Rs. 50, or of whipping only, when passed by the Magistrate of first class. The first class Magistrates now serving in this district are not inferior to the average first-class Magistrate serving in the plains, and I am not aware of any reason which would render it advisable to accord the residents of this district greater facilities for appeal than are granted to the residents of the plains. The power of revision given under rule 17 provides ample facilities for reviewing orders when such review is really necessary and the existing rules under which appeals can be lodged against fines of Rs. 5 and Rs. 10 imposed by a first-class Magistrate appear to me merely to cause unnecessary work and to lower the prestige of the court of first instance. I would therefore suggest that the following addition should be made to rule 21—"provided that no appeal shall lie against the following sentences when passed by a first-class Magistrate—(1) sentence of rigorous or simple imprisonment not exceeding one month only, (2) fine not exceeding Rs. 50 only, (3) whipping only."

No. 80.

No. 2188P., dated Shillong, the 17th September 1912.

From—W. J. REID, Esq., I.C.S., Chief Secretary to the Chief Commissioner of Assam,

To—The Secretary to the Government of India, Home Department.

I am directed to invite a reference to Mr. Marris's letter No. 1083, dated the 1st August 1906, regarding certain rules framed by the Lieutenant-Governor of Eastern Bengal and Assam for the administration of criminal justice in the hill districts of

Assam. The Government of India held that it was unnecessary any longer to require their previous sanction to the issue of rules under section 6 of the Scheduled Districts Act, 1874 (XIV of 1874), in Eastern Bengal and Assam, but as the Chief Commissioner is uncertain whether this ruling applies to the reconstituted Province of Assam, he has decided, following former precedents, to submit the following proposed amendment for the approval of the Government of India.

2. In paragraph 3 of Mr. Webster's letter No. 5633J., dated the 30th May 1906, it was argued that an appeal should lie to the Deputy Commissioner of a hill district from every decision of an assistant, and in paragraph 4 it was explained that assistants in the hill districts are often young police officers of little judicial experience. The amendment which the Chief Commissioner proposes to adopt is that, following the practice of the Criminal Procedure Code, there should be no appeal against a sentence of imprisonment not exceeding one month, or of fine not exceeding Rs. 50, or of whipping only when passed by the Magistrate of the first class. The powers of a Magistrate of the first class are given sparingly to assistants in the hill districts and only when they have proved themselves fit to exercise these. It seems somewhat-anomalous that, in areas where criminal justice is administered in accordance with a set of more or less elastic rules, there should exist a far greater right of appeal than is the case in settled areas where all the provisions of the Criminal Procedure Code are in force. It must be remembered that, even if the right of appeal is restricted as proposed, the Deputy Commissioner and the higher authorities may still exercise the power of revision in any case.

No. 81.

No. 1950, dated Simla, the 11th October 1912.

From—C. W. E. COTTON, Esq., Deputy Secretary to the Government of India, Home Department,

To—The Hon'ble the Chief Commissioner of Assam.

In reply to your letter No. 2188P., dated the 17th September 1912, I am directed to say that the Government of India do not consider that it is necessary to require their previous sanction to the issue of rules under section 6 of the Scheduled Districts Act, 1874 (XIV of 1874), in the reconstituted Province of Assam, and in the circumstances refrain from offering any criticism of the proposed amendment.

No. 82.

No. 3037P., dated Shillong, the 4th November 1912.

Notification by—The Chief Commissioner of Assam.

The Chief Commissioner is pleased to publish, for general information, the following draft notification amending the Rules for the Administration of Justice in the Khasi and Jaintia Hills.

The draft notification will be taken into consideration on the expiry of six weeks from the date of this notification.

*Draft Notification.*

In exercise of the powers conferred by section 6 of the Scheduled Districts Act, 1874 (Act XIV of 1874), the Chief Commissioner is pleased to direct that the following addition shall be made to Rule 21 of the Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills, published under Eastern Bengal and Assam Government Notification No. 12521J., dated the 29th November 1906:—

“Provided that no appeal shall lie against the following sentences when passed by a Magistrate of the first class, *viz* :—

- (1) sentence of imprisonment only, when the term does not exceed one month;
- (2) sentence of fine only, when the amount of fine does not exceed Rs. 50;
- (3) sentence of whipping only.”

No. 83.

No. 3850P., dated Shillong, the 18th December 1912.

Notification by—The Chief Commissioner of Assam.

In exercise of the powers conferred by section 6 of the Scheduled Districts Act, 1874 (Act XIV of 1874), the Chief Commissioner is pleased to direct that the following addition shall be made to Rule 21 of the Rules for the Administration of Justice

and Police in the Khasi and Jaintia Hills, published under Eastern Bengal and Assam Government Notification No. 12521J., dated the 29th November 1906 :—

“ Provided that no appeal shall lie against the following sentences when passed by a Magistrate of the first class, *viz* :—

- (1) sentence of imprisonment only, when the term does not exceed one month ;
- (2) sentence of fine only, when the amount of fine does not exceed Rs. 50 ;
- (3) sentence of whipping only.”

No. 84.

No. 59P., dated Shillong, the 7th January 1913.

Memo. by—The Under-Secretary to the Chief Commissioner of Assam, Political Department.

Copy of Notification No. 3850P., dated the 18th December 1912, together with 15 spare copies, is forwarded to the Commissioner, Surma Valley and Hill Districts, for information, with reference to his memorandum No. 3613, dated the 6th August 1912.