

LAW

1875.

ASSAM SECRETARIAT.

JUDICIAL DEPARTMENT.

FILE No. 142J. of 1875.

Nos. 1-10.

Position of Khasi Chiefs.

not put in

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REFERENCE TO FORMER CASES.

File or Progs. No.	Subject.
1. Bengal Govt. File No. 305 of 1865-67.	Agreement with certain Khasi Siems.
2. Judl. Dept. File No. 154J. of 1874.	Position of the Khasi Chiefs in relation to the Government of India.
3. Genl. Dept. File No. 15J. of 1874.	Nomination of U Lorshai Sirdar to the Siemship of Bhowal State.
4. Ditto ditto No. 15J. of 1874.	Election of U Hajon Singh to the Chieftainship of Nongkhlaw.

REFERENCES TO LATER CASES.

File or Progs. No.	Subject.
1. Rev. Dept. File No. 156 of 1875.	Mr. Sarkies' claim to certain lime-quarries.
2. Genl. Dept. File No. 229J. of 1875.	Death of U Ram-singh, Siem of Cherra.
3. Ditto ditto No. 265J. of 1876.	Sanad to be conferred on U Hajon Manik, Siem of Cherra.
<p><i>open on 12.12.1875 = 43-44</i> <i>12.12.1875 = 1265-1267</i> <i>(To be continued on back, if necessary.)</i></p>	

PAPERS OTHER THAN PROCEEDINGS.

I.—Printed.

Notes and orders.

II.—Not printed.

Nil.

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LIST OF PAPERS.

Serial No.	From or to whom.	No.	Date.	Remarks.
1	From the Govt. of India, Foreign Department.	183P.	18-1-1875.	
2	To the Govt. of India, Foreign Department.	1106P.	2-4-1875.	
3	Enclosure.	
4	From the Govt. of India, Foreign Department.	1394P.	13-5-1875.	
5	To the Govt. of India, Foreign Department.	1711	21-5-1875.	
6	From the Govt. of India, Foreign Department.	1809P.	23-6-1875.	
7	To the Govt. of India, Foreign Department.	2434	12-7-1875.	
8	To the Deputy Commissioner, Khasi and Jaintia Hills.	2435	12-7-1875.	
9	From the Govt. of India, Foreign Department.	194R.	10-11-1875.	
10	Memorandum to the Deputy Commissioner, Khasi and Jaintia Hills.	4105	1-12-1875.	

[illegible]

NOTES.

FILE NO. 142J. OF 1875.

Nos. 1-10.

Position of Khasi Chiefs.

FROM THE GOVERNMENT OF INDIA, FOREIGN DEPARTMENT, No. 183P., DATED THE 18TH JANUARY 1875.

Insertion of a clause in the agreements taken from the Khasi Chiefs on their accession, binding them not to alienate the property of the State without the permission of Government.

Chief Commissioner will find this file except the two top letters printed in October's Proceedings.

India sanction our adding a clause to the sanad prohibiting alienations of State property.

India has also sanctioned elephants being added to minerals as a property, half the proceeds of which Government claims.

30th January 1875.

H. LUTTMAN-JOHNSON.

Good.

30th January 1875.

R. H. KEATINGE.

My dear Bivar,

India has approved our adding to the form of agreement of Khasi Chiefs (1) a clause making elephants subject to same conditions as lime-quarries (2) a clause forbidding them to alienate State property. See within. Will you draft. You might take the opportunity of suggesting verbal or other once.

4th March 1875.

H. LUTTMAN-JOHNSON.

Yes.

5th March 1875.

H. S. BIVAR.

My dear Johnson,

I have carefully looked over this agreement form now taken from the Seims, *i.e.*, the Presidents of the democratic Khasi States, and have introduced alterations for the wording of the document, which changes appear desirable. I send you the agreement as altered by me; and in reading over you will find that I have substituted for "and Territory" the expressions "country over which I preside," "jurisdiction," "State under my rule," and so forth, and I hope these changes will meet with approval.

5th March 1875.

H. S. BIVAR.

[To the Secretary to the Government of India, Foreign Department, No. 1106, dated the 2nd April 1875.]

FROM THE SECRETARY TO THE GOVERNMENT OF INDIA, FOREIGN DEPARTMENT, No. 1394P., DATED THE 13TH MAY 1875.

Approval of the revised form of agreement proposed to be taken from the Khasi Chiefs on their accession.

Chief Commissioner wishes to add to sanctioned agreement made with Cherra Seim a clause about forests. India's sanction is necessary—shall I go up?

14th May 1875.

H. LUTTMAN-JOHNSON.

Yes. You must explain the necessity.

15th May 1875.

R. H. KEATINGE

Secretary,

See draft. Is stipulation about forests to be inserted * in † "agreement"? ‡ I think not, as it is not in the printed form sent to India for approval. It should be a supplementary agreement? § Will not India's sanction be required?

* Added to—H. L.-J.

† Omit—H. L.-J.

‡ Probably—H. L.-J.

§ Yes—H. L.-J.

7th May 1875.

J. PEEB.

Yes, India's sanction will be necessary, but issue letter and then put up for Chief Commissioner's orders whether we shall go up.

7th May 1875.

H. LUTTMAN-JOHNSON.

Letters issued. Put up for Chief Commissioner's orders.

—13th May 1875.

[To the Secretary to the Government of India, Foreign Department, No. 1711, dated the 21st May 1875.]

FROM THE GOVERNMENT OF INDIA, FOREIGN DEPARTMENT, NO. 1809P., DATED THE 23RD JUNE 1875.

Authorising of the insertion of certain clause in the agreements to be taken from the Khasi Chiefs on their accession.

[To the Secretary to the Government of India, Foreign Department, No. 2434, dated the 12th July 1875.]

[To the Deputy Commissioner, Khasi and Jaintia Hills, No. 2435, dated the 12th July 1875.]

FROM THE SECRETARY TO THE GOVERNMENT OF INDIA, FOREIGN DEPARTMENT, NO. 194R., DATED THE 10TH NOVEMBER 1875.

Decision of the Government of India regarding the claims of certain persons to the lime-quarry of Malaichamat in the Cossyah Hills.

[Memorandum to the Deputy Commissioner, Khasi and Jaintia Hills, No. 4105, dated the 1st December 1875.]

ASSAM SECRETARIAT.

JUDICIAL DEPARTMENT.

FILE No. 142J. OF 1875.

Position of Khasi Chiefs.

No. 1.

No. 183P., dated Fort William, the 18th January 1875.

From—The Secretary to the Government of India, Foreign Department,

To—The Chief Commissioner of Assam.

I am directed to acknowledge the receipt of your Secretary's letter No. 999, dated the 30th November 1874, communicating your opinion as to the expediency of prohibiting the alienation of State property by Khasi Chiefs.

2. In reply, I am to state that His Excellency the Governor General in Council sanctions the insertion of a clause in the agreements taken from the Khasi Chiefs on their accession, binding them not to alienate the property of the State without the permission of Government. A copy of the clause, as eventually framed, should be forwarded to this office for record.

No. 2.

No. 1106, dated Shillong, the 2nd April 1875.

From—H. LUTTMAN-JOHNSON, Esq., Secretary to the Chief Commissioner of Assam,

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

With reference to the correspondence noted in the margin, which has taken place

To the Government of India, No. 33, dated the 18th August 1874.

To the Government of India, No. 140, dated the 2nd September 1874.

From the Government of India, No. 2139P., dated the 29th September 1874.

From the Government of India, No. 2461P., dated the 16th November 1874.

To the Government of India, No. 999, dated the 30th November 1874.

From the Government of India, No. 163P., dated the 18th January 1875.

between yourself and the Chief Commissioner, regarding the terms of the agreement to be taken from the Khasi chiefs on their accession, I am to forward, for the approval of His Excellency the Viceroy in Council, a draft of the form of agreement which the Chief Commissioner proposes to adopt. The new form follows, as much as possible, the terminology of the old form. Two new terms have been added—(1) the cession of the right to hunt and capture elephants on the same terms on which the right to lime-quarries has been ceded; (2) the undertaking not to dispose of the property of the State.

No. 3.

AGREEMENT.

I

, having been appointed by

[His Excellency the Viceroy and Governor-General of India, or by the Chief Commissioner of Assam (as the case may be.)]

to be Chief of the State of

in the district of Khasi and Jaintia Hills, do hereby agree and promise that I will, in the administration of the said State, conduct myself agreeably to the following rules:—

I.—I consider myself to be under the orders and control of the Deputy Commissioner of the district of the Khasi and Jaintia Hills. In the event of any dispute arising between myself and the Chief of any other Khasi State, such dispute shall be decided by the Deputy Commissioner of the Khasi and Jaintia Hills, or by any other officer duly authorized in that behalf by the Chief Commissioner of Assam or by the Government of India.

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- II.—I will adjudicate and decide all civil cases and all criminal cases, not of a heinous kind, which may arise within the limits of the State, in which my subjects alone are concerned. I will report the occurrence of heinous offences within the limits of the State immediately to the Deputy Commissioner of the Khási and Jaintiá Hills, and will arrest the persons concerned in them, whom I will deliver up to be dealt with by the Deputy Commissioner or by any other officer appointed by him for that purpose. I promise to refer all civil and criminal cases arising within the limits of the State, in which the subjects of other Khasi States or Europeans or natives of the plains may be concerned, for adjudication by the Deputy Commissioner of the Khási and Jaintiá Hills or by any other officer appointed by him for that purpose.
- III.—In case of my using any oppression, or of my acting in a manner opposed to established custom, or in the event of my people having just cause for dissatisfaction with me, the Chief Commissioner of Assam may remove me from my Chiefship and appoint another Chief in my stead.
- IV.—I will surrender to the Deputy Commissioner of the Khasi and Jaintia Hills, on demand, all civil or political offenders coming to or residing within my jurisdiction.
- V.—I will supply any information relative to the country under my control and its inhabitants whenever I may be required to do so by the Deputy Commissioner of the Khási and Jaintiá Hills. I will always use my best endeavours to maintain the well-being of the people subject to my rule, and I will give aid and protection with all my might to officers of the British Government and travellers passing through, also to people of other jurisdictions residing in, my jurisdiction. I will also endeavour to facilitate free intercourse and trade between the people of the State under me and the people of other districts and States.
- VI.—I acknowledge the right of the British Government to establish Civil and Military Sanitaria, cantonments and posts in any part of the country under my control and to occupy the lands necessary for that purpose rent-free. I will give to the British Government every assistance which may be required in opening roads within the State of
- VII.—I will implicitly obey all orders issued to me by the Deputy Commissioner of the Khasi and Jaintia Hills or other officer duly authorized in that behalf by the Chief Commissioner of Assam or by the Government of India. In case of my violating this rule, I shall suffer fine or such other penalty for my misconduct as such officer may think fit to inflict.
- VIII.—I hereby add my agreement to the cession by my predecessors of the natural products of the soil of the State, *vis.*, lime, coal, and other minerals and of the right to hunt and capture elephants within the State, on condition that I shall receive half the profits arising from the sale, lease, or other disposal of such natural products or of such right. On the same condition I agree to the cession of all waste lands, being lands at the time unoccupied by villages, cultivation, plantations, orchards, etc., which the British Government may wish to sell or lease as waste lands.
- IX.—I will not alienate to any person any property of the State, moveable or immoveable, which I possess, or of which I may become possessed, as Chief of the State.

No. 4.

No. 1394P., dated Simla, the 13th May 1875.

From—The Secretary to the Government of India, Foreign Department,

To—The Chief Commissioner of Assam.

In reply to your letter No. 1106, dated the 2nd April 1875, I am directed to state that His Excellency the Viceroy and Governor General in Council approves of the revised form of agreement proposed to be taken from the Khasi Chiefs on their accession.

2. The main points in which the revised agreement differs from those hitherto taken consists in the abandonment of the right to hunt and capture elephants within the State

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and in the stipulation providing against the alienation of property, whether moveable or immoveable belonging to the State.

No. 5.

No. 1711, dated Shillong, the 19th May 1875.

From—The Secretary to the Chief Commissioner of Assam,
To—The Secretary to the Government of India, Foreign Department.

With my Notification No. 1106, dated the 2nd April 1875, I forwarded for the approval of His Excellency the Governor General in Council a draft of the form of agreement which it was proposed to take from the Khasi Seims on their accession. That agreement contains a general stipulation that the Seim will maintain the well being of his people. It also contains a stipulation that the Seim will obey the orders of the Deputy Commissioner of the Khasi and Jaintia Hills. In one point it would be well, the Chief Commissioner thinks, to make these stipulations more precise. The attention of the Government of India has already been called to the want of wood in the Khasi Hills. In many States the supply of wood will shortly be a question to which of all others the Seim's attention must be given. Accordingly in the interest of his subjects the Chief Commissioner would, when necessary, add a clause to the agreement in the following form.* Colonel Keatinge does not propose to add this clause in all cases; he merely desires to have the power to add it when he thinks it necessary to do so.

* I will have defined areas set aside for the growth of trees to supply building timbers and fire-wood to the inhabitants of the State, and I will take efficient measures to secure these areas against destruction by fire and by jhooming.

No. 6.

No. 1809P., dated Simla, the 23rd June 1875.

From—The Under-Secretary to the Government of India, Foreign Department,
To—The Chief Commissioner of Assam.

I am directed to acknowledge receipt of your letter No. 1711, dated the 21st May 1875, proposing that a clause should be added to the form of agreement to be taken from the Khasi Chiefs on their accessions in order to prevent the indiscriminate destruction of timber.

2. In reply, I am to state that His Excellency the Viceroy and Governor General in Council considers it advisable that the authority by whom the reserved forest is to be defined should be more explicitly stated.

"I will cause such areas as may be defined by the British Government for that purpose to be set aside for the growth of trees to supply building timber and fire-wood to the inhabitants of the State. I will take efficient measures to secure these areas against destruction by fire and by jhooming."

3. The clause has therefore been amended as noted on the margin, and if you see no objection to the alteration, you are authorized to insert the clause thus amended in future agreements whenever you may deem it desirable to do so.

No. 7.

No. 2434, dated Shillong, the 12th July 1875.

From—The Secretary to the Chief Commissioner of Assam,
To—The Secretary to the Government of India, Foreign Department.

I am directed to acknowledge the receipt of your letter No. 1809P., dated the 23rd June 1875. In reply, I am to state that the Chief Commissioner accepts the amendment of the clause which, in order to prevent the indiscriminate destruction of timber, he had proposed should when expedient be added to the form of agreement to be taken for the Khasi Chiefs.

No. 8.

No. 2435, dated Shillong, the 12th July 1875.

From—The Assistant Secretary to the Chief Commissioner of Assam,
To—The Deputy Commissioner, Khasi Hills.

I am directed to forward herewith a copy of the timber preservation clause as sanctioned by the Government of India to be added when necessary to the agreements to

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be taken from the Khasi Chiefs on their accession. I am to say that the Chief Commissioner expects your proposal as to the areas to be reserved in Cherrapoonjee.

No. 9.

No. 194R., dated Fort William, the 10th November 1875.

From—The Secretary to the Government of India, Foreign Department,

To—The Chief Commissioner of Assam.

I am directed by the Honourable the President in Council to address you on the subject of your letter No. 2556, dated the 25th August 1875, to the Department of Revenue, Agriculture and Commerce, regarding the claim of Sheikh Alim Ullah to quarry 15,000 maunds of limestone from the Malaichamat lime-quarry in the Cossyah Hills.

2. The circumstances of the case have been clearly stated in the letter from the Department of Revenue, Agriculture and Commerce, to your address, No. 372, dated the 11th May 1875, and it is unnecessary to recapitulate them here. His Honour in Council, however, observes that there is an important distinction between the claim preferred by Alim Ullah and that preferred by Mr. Sarkies, namely, that while the latter makes no claim, except to a lease of 20 years' duration, the former claims title under an *absolute* sale of the right to quarry a certain amount of stone every year.

3. The question then arises whether the Chief of a Cossyah State has power to alienate absolutely the property of the State in favour of private parties; and looking to the constitution of the Cossyah Hill States, the succession of Chiefs by election, and the renewal of engagement by the British Government with each Chief as he succeeds, His Honour in Council has no hesitation in answering that question in the negative.

4. His Honour in Council is therefore not prepared to admit the perpetuity of Alim Ullah's lease, but seeing that a quarry over which the right is asserted forms part of the estate excepted from the agreement concluded by the Seim on the 11th October 1859, His Honour in Council is of opinion that the lease should be recognized temporarily either for the period of the lease held by Mr. Sarkies or for the life time of the lessee Alim Ullah, or for the life time of the ruling Seim, and if Alim Ullah is ousted, he must be paid compensation accordingly.

✓ 5. Much confusion and difficulty will in future be avoided if on the succession of a Cossyah Chief the terms on which his succession is recognized by the British Government are thrown into the form of a *sunnud* conferred upon the Chief instead of an agreement taken from him, and when it is necessary to exclude any property under lease from the operation of such terms, it should be expressly provided in the *sunnud* that on the expiration of the lease the property excluded will thenceforth be subject to the general condition.

No. 10.

No. 4105, dated Shillong, the 1st December 1875.

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

Copy of Foreign Department No. 1809P., dated the 23rd June 1875, relative to the form of agreement to be taken from the Khasi Chiefs on their accessions, forwarded to the Deputy Commissioner, Khasi Hills, for information and guidance