

Judicial ¹⁸⁸⁰ (193) Department.

God SERIES.

G.O. No. 41

DATED 7-1-1880

Conf.

[Despatch Abstract.]

Rangoon Commission Fraud.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

5th January, 1880. 1880 was, 6th January, 1880.

Dear Mr. Master,
 I return Mr. Sullivan's
 letter as requested having
 replied to all his questions.
 Commisariat-Clarks can
 not I think be considered
 amenable to the articles
 of war in time of peace.
 Yours Sincerely
 P. O'Sullivan

P. O'Sullivan
 General.

Secretary to Government
 St. George.

to forward on the other
 question whether Commissa-

is to the Articles of War as

ving with the Army, and

of Government No 3325

or attention

I have the honor to be
 Sir

Your Most Obedient Servant

P. O'Sullivan

Advocate General.

Madras 2nd January 1880

My dear Mr. Master

With reference to the
question whether Com Missariat
Clerks are amenable to the
Articles of War the answer
seems to depend upon the
following considerations.

Who appoints and dismisses
them?

Are they enlisted Enrolled
or attested?

Are their names entered on
the roll of any Regiment?

Are they in fact
treated as soldiers, followers,
or persons attached to
or serving with the army,
or as persons in the
Civil Employment of the
Government?

I understand they are paid
and pensioned as Civil
Servants -

The Commissary General
can no doubt give the
needed information on the
above matters, and if you
will kindly ask him to
communicate with me I
shall be in a position to
answer the question put by
Government.

Yours very sincerely
P. J. Sullivan

G.O.	No.	Department.	D.

G.O.	No.	Department.	F.

[Faint handwritten text, likely bleed-through from the reverse side of the paper.]



Madras, 6th January, 1880.

From
The Honorable P. O'Sullivan
Advocate General.

To
C. G. Master Esq.
Acting Chief Secretary to Government
Fort St. George.

Sir,

I have the honor to forward on the other side my opinion on the question whether Commissariat clerks are amenable to the Articles of War as being "attached to and ^{or} serving with the Army," and referred to me by the order of Government No. 3325/9 dated 31st December 1879.

I have the honor to be
Sir
Your most obedient servant

P. O'Sullivan
Advocate General.

Opinion.

With reference to the Proceedings of Government, Judicial Department, Dated the 31st December 1879, No. 3325₉, asking whether Commissariat Clerks are amenable to the Articles of War as "being attached to or serving with the Army," I think the answer is that they are not amenable in the present case. They are not enlisted, attested or enrolled. They are appointed and dismissed by the Commissary General and are pensioned under the Civil Rules. It would probably be rightly held that Commissariat Clerks, employed with the Army in the field would be subject to the Articles of War, but I do not understand that the offences alleged in the present case were committed by them when employed with the Army in the field. In these circumstances and considering the nature of the offence alleged the trials ought, I think, to take place before the ordinary Criminal Courts.

W. Sullivan
Advocate General.

Madras
6th January 1880.

Act V of 1869

Articles of War for Native
Officers Soldiers and other persons
in Her Majesty's Indian Army

Part 2. Preliminary

The Articles are applicable to
Settlers, Followers, whether public or
private and all other persons
attached to or serving with any
portion of the said Army.

A and B. are ^{Native} 2nd Class Clerks
attached to and serving with the
Commissariat Department in
British Burmah. They are transferred
from station to station as required by
the exigencies of the public service
their duties are connected with the
supply of provisions forage and
other articles required for the use of
the troops. They draw public pay
which is included in Estimate for
Army Services and they qualify
for Pensions. (Paid by Civil Dept?)

The commissariat Dept. deals
with private contractors to furnish
supplies, the bills being checked by
the commissariat Office established.
Commissariat Clerks are forbidden

They are Civil
Pensioners

Confidential

Jan 21 1880. Deptt

Commissariat Dept

Madras

The Advocate General

The Chief Secy to Govt

Fort.

Dated 6th January.

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Forwarded opinion on
the question whether the
Commissariat Clerks are am-
enable to the Articles of
War as being attached
to and serving with the
Army.

With order

ORIGINAL.

WLL

5 G.O. 31 Dec 1879 No 3325.

Communicated to the Military
Dept with reference to paragraph 9

Order of 7 Jan'y 1880 No 11

W. Wilson
Military Secy
Attest: Secy

Copy submitted
by Mr. G. M. C. M. C.

Forwarded 1880 Deptt

So. No 41 dated 7th Jan'y

Keep accounts or make out
for contractor - or being
in any way concerned in contracts
relates."

And B. are accused of having
various times received illegal
payments both in money and
from a contractor - the
payments taking the form of
regular monthly allowance of
money and goods to secure general
work, and assistance in making
bills - Communicating the con-
tents of official correspondence -
taking no notice of the non-existence
of the required reserve stock which
contractors are bound to keep &c.
Special money payments were
also made from time to time for
special services such as allowing
the contractor to deposit less than
the proper amount of security -
making refunds of deposits - ob-
taining advances of money from
the commissariat Office &c.

There is no doubt that A. and B.
would be liable to punishment
on prosecution and conviction
by the ordinary Civil Court.

Chap. IV^x }

but there are objections to so
deciding them if they can be
with by a Court-Martial.

Query. Are these Clerks amenable
to trial by Court-Martial
all for any offence?

Ans. Assuming their amenability
what charge will the facts support?

Could they be charged under Article
64. which runs -

"Who does any other thing with
intent to defraud, or to cause wrong
loss to one person or wrong gain
to another person" -
or under Article 70?

"All offences not punishable with
death, all neglects to obey any
garrison or other orders and all
acts and omissions of which any
person subject to these Articles
is accused shall, though not specified
in these Articles, if they be prejudicial
to good order and military
discipline, be taken cognizance of
by the Court-Martial."

Would the conduct specified be,
in the case of commissariat Clerks
prejudicial to good order and
military discipline?

The expediency of trying them by

about martial, if the power
is a separate Jurisdiction.

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79 }

Madras 8th January 1880

From The Honorable P. O'Sullivan
Advocate General

To C. G. Maister Esq.
Acting Chief Secy. to Govt.
Fort St. George.

Sir,

I have the honor to return herewith
Col. Welles's minute on the Articles of War
for Native officers, soldiers and "other
persons" in Her Majesty's Indian Army,
which I omitted to forward with my
letter dated the 6th January 1880.

I have the honor to be
Sir

Your most Obedient Servant

P. O'Sullivan
Advocate General.

Journal 1880. Sept 20

From (Commissioner of Customs)

The Advocate Genl.

Masses.

To

The Chief Secy: to Genl.

Fort.

Dated 8th January.

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1875.

Returns Col. Nelson's

minute on the Articles

of War for native offi-

cers, soldiers and other

persons in Her Majesty's

Indian Army.

CONFIDENTIAL
CONFIDENTIAL
Judicial {1880} department

ORIGINAL.

Ex. n° 41 dated 7th Jan^y
1880

Rangoon Commissariat
Hawds Case -