

MADRAS RECORD OFFICE.

Government of Madras.

General DEPARTMENT.

G.O. No. 1415-

Press
Mis

1-2

Dated

1-11

19 1960

11/12
Not to be folded or roughly handled

*Proceedings of the Madras Government Judicial Department,
1st November 1860.*

No. 1. Read the following letter from W. GREY, Esq., Secretary to the Government of India, to T. PYCROFT, Esq., Chief Secretary to Government of Madras, dated Fort William, 28th September 1860, No. 2,156.

With reference to Act XXXI of 1860, which will come into operation from the 1st proximo, I am directed to state that the Governor General in Council thinks it desirable to communicate to the local Governments his views upon some points of the law, and to indicate some general instructions as to its application and enforcement which should be given to all Magisterial and Police Officers.

2. It should be first carefully pointed out to Magistrates and Police Officers what the objects of the Act are. If the Act is carefully examined it will be found that the objects of it are these:—

I. To regulate the manufacture and possession of cannon, the manufacture of and dealing in arms and ammunition, their importation, and transport for purposes of trade.

Sections II to XXV.

Sections XXVI to XXX.

II. To preventing the carrying of arms except by persons requiring them for lawful purposes, and who may be allowed to carry them without danger to the public peace.

Section XXXI.

III. To prevent arms or ammunition being accumulated for unlawful purposes.

Sections XXXII to XXXIV.

IV. To enable the Government to proclaim any district, and to disarm all persons therein who are not specially licensed to possess arms and ammunition.

3. Under the first head few instructions for carrying out the Act will be necessary, beyond a general caution against vexatious interference with ordinary retail dealers in such arms or ammunition as are commonly needed for the retail and necessary purposes.

4. There are whole classes of shop-keepers whose general dealings are confined to arms and ammunition used almost exclusively for sporting purposes. More interference than is necessary to ensure compliance with the provisions of the Act regarding licenses, would, in such cases, be alike unnecessary and vexatious, and even persons who deal in other descriptions of arms, or ammunition, should not be subject to more supervision than is necessary to enable the Magistrates and Officers of Police to judge when such arms are introduced into the country in unusual quantities, and to prevent their being disposed of to dangerous or disaffected classes.

5. Under the second head it should be carefully explained to all Magisterial and Police Officers that there are circumstances under which it is unnecessary and contrary to the spirit of the Act to interfere with persons carrying arms. Persons holding a license under Sections XXVIII to XXX are, by law, exempt from all interference, and such licenses should be freely given to all who can show reasonable cause for requiring habitually to carry arms for their amusement, or self-defence, or for any other lawful purpose. There are many parts of the country where the cultivators cannot, without arms, protect themselves and their crops or cattle, from wild animals; and, in all localities, care should be taken that the poorer and less intelligent classes find no difficulty in getting licenses which may enable them to carry and use, without vexatious interference, such arms as may be necessary for such lawful purposes.

6. The attention of all Officers charged with the execution of this law should be further carefully drawn to the concluding words of Section XXVI, from which it will be seen that even persons unprovided with licenses are not to be disarmed, unless "in the judgment of such Magistrate or other Officer as aforesaid, it is dangerous to the public peace to allow such person to go armed, or to carry arms." Care must be taken that this proviso is observed in good faith by all Subordinate Officers, and that persons who cannot reasonably be considered as endangering the public peace, are not harassed when carrying arms, for any necessary or lawful purpose, even should they be unprovided with a license.

*Proceedings of the Madras Government, Judicial Department,
1st November 1860.*

7. The ground for considering that it is dangerous to the public peace to allow the carrying of arms, may often be general—as for instance when the habit of going about armed leads a particular tribe or class to more frequent acts of violence than would occur in a population which went habitually unarmed. In such cases a very moderate but persistent use of the powers given by this section, and those which follow it, will suffice to alter the habit of the population, and to make it the general custom for all to go unarmed about their ordinary avocations. This is a result which the Government of India earnestly desires to bring about.

8. General insecurity ought never to be allowed to continue as a valid excuse for a general fashion of going armed, whether such arms are specially needed or not. It is a reproach to a civilized Government to permit such a state of things to exist, and wherever such a cause can be alleged with any shew of reason, the true remedy is to improve the Police and general administration and to give efficient protection to all men in going about their ordinary avocations, without entailing on them the necessity for self-defence by force of arms.

9. There are no doubt certain localities where our own territories are much intermixed with those of native states, in which the practice of carrying arms still prevails; and in such localities it may be difficult to enforce a change in the habits of our own subjects, unless accompanied by a similar change in the habits of their neighbours; but such cases are not very common, and might be made still more rare by a good understanding with our independent neighbours. Where real security exists, even a native Government has no objection to forbid the ordinary habit of carrying arms, except by servants of the State and by men of rank and their immediate retainers.

10. Section XXVII exempts from the operation of the preceding Section, soldiers, sailors, volunteers, Police and Revenue Officers of Government, and “such other persons as the Local Government may think fit to exempt.” This exemption may be made generally applicable to all classes and races which, from their exemplary and uniform loyalty, and general good conduct and obedience to the law, cannot be considered as endangering the public peace by going armed. ~~There are, in nearly every District, classes which have always been exemplary for their general~~ loyal conduct and obedience to the law, who do not habitually carry arms for any illegal purpose, and very rarely misuse them. Such are the European and Eurasian communities, the Armenian, the Parsee, and other communities of foreign Asiatic origin. There are, too, whole nations of Her Majesty's Indian subjects who have to a man behaved with conspicuous fidelity to the British Government. Regarding these, some special cause of suspicion must in the case of each individual exist to overcome the presumption, due to their general character, that no person belonging to them will carry arms except for a necessary and lawful purpose.

11. The Governor General in Council is glad to believe that there is no Local Government in India under which such races and classes are not to be found, and that they often form a vast majority of the population; but it must be left to each local administration to determine what particular classes are so notoriously and habitually loyal and well behaved, that a general permission to them to carry arms without license may be given.

12. But even persons exempted under this clause who are not distinguished by any uniform, or official badge, should be generally advised to provide themselves with licenses under Section XXVIII, with a view to secure themselves from being stopped and questioned where they are not known to the local Officers.

13. Special exemptions may also under this same clause be made by name in favor of persons of rank, to whom it is considered desirable to extend the privilege of exemption.

14. It is to be observed that in consequence of the transposition of a Section which originally stood between the present twenty-sixth and twenty-seventh Sections, the exemptions in the latter Section are made to extend to Section XXV, to which when the Act was first drafted they were never meant to apply. This is of little or no moment as regards the soldiers, sailors, Volunteers, and Government servants enumerated in the first three paragraphs of the specification of the exempted classes; but it was never intended, and it would be obviously inexpedient, indiscriminately to exempt from Section XXV, all persons or classes who may be exempted from Section XXVI, under the general power of exemption vested

*Proceedings of the Madras Government, Judicial Department,
1st November 1860.*

in Government by the last clause of Section XXVII. Every exemption therefore should be carefully and specifically limited to carrying arms without a license, and not extended so as to cover the suspicious or unlawful carrying or conveying of arms, or ammunition, under the circumstances contemplated in Section XXV.

15. Under the third head, it is only necessary to remark that Section XXXI will require little more than a general caution against the indiscriminate use of the large powers given, without good ground for suspecting that the arms or ammunition are accumulated for “an unlawful purpose,” or to the “danger of the public peace,” such as to justify the search authorized in this Section.

In regard to the fourth head, it is hardly requisite for the Governor General in Council to offer any specific caution on the subject of disarming a district under the powers given in Sections XXXII to XXXIV. The measure should be resorted to only in case of serious risk to the public tranquillity from the existence of large masses of disaffected population, who have hitherto managed to retain their arms, and no district should ever be proclaimed till the means of carrying out the disarming promptly and effectually have been secured, and every care should be taken to avoid needless harassment of the peaceably disposed.

No. 2. ORDER THEREON, 1st November 1860, No. 1,415.

In a telegram received on the 22nd September last, the Government of India requested that no General Order of exemption under Section XXVII of Act XXXI, 1860, or the Arms Act, should be issued until instructions were received from them. In the above letter they communicate to the local Government their views upon some points of the Act and indicate some general instructions as to its application and enforcement which should be given to all Magisterial and Police Officers.

2. His Excellency the Governor in Council remarks that the observations and instructions thus communicated have been in a great measure anticipated, as respects the Madras Presidency, by the Orders of Government of the 18th September last, Judicial Department, No. 4,198, which have been drawn up in the same spirit, and render the issue of any further General Order unnecessary.

3. In paragraph 13 of their Order above quoted, this Government desired “that it should be understood that although the possession of a license under Section XXVI of the Act would protect the grantee from all interference as respects the Arms entered in it, yet that persons carrying Arms without a license should not be molested, if the Arms are in number and character only such as may fairly be presumed to be carried merely for self-defence, and there be nothing suspicious in the circumstances under which they are carried.” They now resolve to instruct all Magistrates and Officers of Police, that the Order contained in this paragraph, while it applies also to Natives of character and respectability, is more especially to be observed as regards Europeans, Americans and East Indians, and that persons of these three classes are not to be stopped and called on to produce their license, when they may be carrying Arms, nor are the Police ever to interfere with them on account of their going armed, unless they create a disturbance, or commit or attempt to commit an offence.

4. This Government learn from the Government of India, that, in consequence of the transposition of a Section which originally stood between the present XXVI and XXVII Sections, the exemptions in the latter Section are made to extend to Section XXV, to which when the Act was first drafted they were never meant to apply; while therefore the effect of the instructions given in the preceding paragraph will be practically to bring all Europeans, Americans and East Indians under the fourth class of exempted persons under Section XXVII of the Act, the exemption will be limited only to Section XXVI; and Magisterial and Police Officers will still be free to act against persons of these classes under Section XXV, and to give a full effect to its provisions in the case of any of them who may be found “carrying or convey-

*Proceedings of the Madras Government, Judicial Department,
1st November 1860.*

"ing Arms or Ammunition in such a manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by such persons with intent to use the same, or that the same may be used for any unlawful purpose dangerous to the public peace."

(Signed) T. PYCROFT,
Chief Secretary.

I am of opinion that we
 had not at the time
 taken from the Secretary
 to the Govt of India
 a sufficient number of
 the selected the Price
 2. and the the Price
 about 1000. I think
 a report authorized
 to whom they are

approachable, acc:
in accord with
the instructions
contained in this
letter - nothing more
is therefore called for.
As to price 10¢ -
the act has called for
this merchandise
excepted

2. Next - the one
used by the train
as per order the
act of every one is
freely guarded
your order from
the list of merchandise
- the - from the
registered - a
followed

exemption would
do no more - If
an exemption were
to be issued by us
it must be a general
one applicable to
all classes, & must
necessarily meet
as much trust.
I would therefore have
no objection as they are
if in receipt of any

Under the discretionary
power now given to us I
think that Magistrates &
Superdts of Police ought to be
instructed that Europeans
& East Indians are not
to be stopped & asked whether
they have a license when
they may be seen carrying
arms & that the Police
are never to interfere
with them on this account
unless they create a dis-
turbance or commit an
offence - *Edw*
I think this would be a good
plan. *Edw*

Remarks by the Members of Gov^t

I am of opinion that we need not act on this letter from the Secretary to the Gov^t of India, relative to Act 31 of 1860. The detailed instructions ^{which} we have already issued to the different authorities to whom they are applicable, are in accord with the instructions contained in this letter. nothing more is therefore called for. As to paras 10 & 11, the Act has really in this Presidency excited little or no comment. no one need Register their Arms under the Act, and every one is sufficiently guarded by our orders from the risk of molestation, from not being Registered. A formal exemption could do no more. If
an

an exemption order were to be issued by us, it must be a general one applicable to all classes, and this proceeding might be misconstrued. I would therefore leave matters as they are. If in Bengal any classes are under these orders exempted, then we could act and as I before said, we should issue a general order of exemption.

Signed W. M.
20th

Under the discretionary power now given to us, I think that Magistrates and Superintendents of Police ought to be instructed that Europeans and East Indians are not to be stopped and asked whether they have a license, when they may be seen

seen carrying arms, and that the Police are never to interfere with them on this account unless they create a disturbance or commit an offence.

Signed E. M.

I think this would be a good plan.

Signed P. G.

G. M. M. M. M.

Proceedings of the Madras Government.

Read the following letter
from the Secretary to the
Government of India

/Here enter 28th Sept: 1860 No 2156/

Order Madras 4 November 1860 No 1415.

In the above letter, the
Government of India, com-
municate to the Local Govt.
their views upon some points
of the XXXI of 1860 or the Arms
Act, and indicate some
general instructions as to
its application and enforce-
ment which should be
given to all Magisterial
and Police Officers.

2 His Excellency the
Governor in Council remarks
that the observations and
instructions thus communi-
cated have been in a
great measure anticipated,
as respects the Madras
Presidency, by the orders of
Government.

1. In a telegram received
on the 22nd Sept. last, the
Govt. of India requested
that no general order
of exemption under
Section XXXII of
Act XXXI '60 or the
Arms Act should
be issued, until instructions
were received from them.

Government of the 18th Sept:
last, Ind^l Depart^t No 1198,
which have been drawn
up in the same spirit, and
under the impression of any fur-
ther general order unneces-
sary.

2. In para 13 of the
order above quoted this Gov^t
desired, ~~that it should~~ ^{that it should} be under-
stood that altho' the pos-
session of a license under
Section XXVI of the Act
would protect the grantee
from all interference as
respects the arms entered
in it, yet that persons
carrying arms without a
license should not be
molested, if the arms are
in number and character
only such as may fairly
be presumed to be carried
merely for self defence, and
there be nothing suspicious
in the circumstances, under
which they are carried.
They now resolve to instruct
all Magistrates and Officers
of

Police, that the order
contained in this para,
while it applies also to
natives of character and
respectability, is more
especially to be observed
as regards Europeans,
Americans and East Indians,
and that persons of these
three classes are not to be
stopped and called on to
produce their license, when
they may be carrying arms,
nor are the Police ever to
interfere with them on
account of their going
armed, unless they create
a disturbance or commit
or attempt to commit
an offence.

3. This Government
learn from the Government
of India, that, in consequence
of the transposition of a
Section which originally
stood between the present
XXVI and XXVII Sections,
the exemptions in the latter
Section are made to extend
to Sec: XXV, to which when
the

the Act was first drafted
they were never meant to
apply; while therefore the
effect of the instructions
given in the preceding
para will be practically
to bring all Europeans, Ame-
ricans and East Indians
under the fourth class of
exempted persons under
Sec: ~~XXXIV~~ of the Act, the exemp-
tion will be limited only
to Sec: ~~XXXI~~; and Magistrates
and Police officers will still
be free to act against persons
of these classes under Sec: ~~XXX~~,
and to give a full effect
to its provisions in the case
of any of them who may
be found "carrying or
conveying Arms or Ammu-
nition in such a manner
or under such circumstances
as to afford just grounds
of suspicion that the same
are being carried by such
persons with intent to use
the same, or that the
same may be used for
any

"any unlawful purpose
"dangerous to the public
"peace."

J.P.

To, The Magistrate of
" Commissioner of Police }
" Inspector General of Police } Depd 1st Nov/60

W.H.K.

Thos J. P.

Pro of 2472

india 1800 Definite

2/12/46

Proceeding of Govt

Deliberate Prosecutor 185

Communicate to
the several Judicial Office
and with certain measures
the views of the Govt of India
with reference to the 19th
1800 when some amount of
the law and administration
have general instructions and
no ill effects of the law and
information.