M.R.O. 1—30,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1620 — Press — Mis.

5-6

Dated 7 — 11 — 19 40.

415

Not to be folded or roughly handled

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

No. 5. Read the following Proceedings of Government in the Military Department, dated 27th October 1860, No. 3,849.

Communicating for information Extract from the Proceedings of the Government of India, relative to attesting European Soldiers who desire to enlist or renew their service. (Vide Proceedings Military Department, dated 27th October 1860, Nos. 542 & 543.)

No. 6. ORDER THEREON, 1st November 1860, No. 1,420.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

No. 1324.

EXTRACT from the Proceedings of His Excellency the Governor General in Council, in the Military Department, under date the 29th September, 1860.

From the Secretary to the Government of India, Military Department, to the Adjutant General of the Army, No. 1323, dated Fort William, the 29th September 1860.

SIR,

No. 1555 dated 27th August 1860.
„ 1402 „ 31st ditto.

With reference to your letters as per margin, and to the correspondence therewith submitted, having reference to the refusal of the Depnty Commissioner of Jubbulpore to attest European Soldiers who desire to enlist or to renew their service, on the grounds that being a Military Officer, it was not lawful for him to do so, I am desired to acquaint you, for the information of His Excellency the Commander-in-Chief that, notwithstanding the provisions of the 51st Section of the Annual Mutiny Act for 1860, it is lawful for any Officer of Her Majesty's Indian Military Forces to enlist and attest for those Forces.

The power to do so is conferred by Section 48 of Act 20 and 21 Vic: Cp. 66 (Mutiny Act East Indies 1857) upon all Justices of the Peace, or Magistrate, in British India, whether Officers of the Army or not. That Act remains in full force, and there is nothing in the 51st Section of the Annual Mutiny Act of 1860 which repeals this particular provision of the Act of 1857. There can be no doubt, therefore, that in India, Officers of Her Majesty's Indian Forces being properly qualified as Justices of the Peace, or Magistrates, may lawfully enlist men for those Forces.

With reference, however, to Section 51 of the Annual Mutiny Act, and to Section 2, which declares all the provisions of the Act to apply to all Commissioned Officers, other than Officers of Her Majesty's Indian Military Forces, it is not considered that Officers of Her Majesty's British Army, even though they be similarly qualified as Justices of the Peace, or Magistrates, can lawfully enlist or attest men for either Army.

The recent determination, however, not to enlist any more men for Her Majesty's Indian Military Forces till further orders, renders it unnecessary to do more than inform the Local Governments of the state of the Law on the subject as declared in this communication, copy of which will be furnished to them.

Section 48, Act 20 and 21 Vic: Cp: 66, (Indian Mutiny Act of 1857.)

"XVIII.—It shall be lawful for any Justice of the Peace or Magistrate, or Person exercising the Office of a Magistrate, within the Territories under the Government of the East India Company

Enlisting and attesting Recruits.

or within any of Her Majesty's Dominions abroad, and for any Person l
the Office of British Resident or performing the duties of such Office
the Territories of any Foreign State, to enlist and attest any Persons d
of enlisting or any Soldiers or others desirous of re-enlisting into the S
of the said Company, and all such Persons shall have the same Powers i
behalf as by the Mutiny Act passed in the present year for Her Ma
Forces are given to Justices in the United Kingdom for the purpo
Enlistment and Attestation."

ORDERED that a copy of the above be transmitted for information t
Home Department, with an intimation that it has been determined tha
the present, no more men shall be enlisted or attested for Her Maj
Indian Military Forces.

(True extract)

(Signed) R. J. H. BIRCH,
Secy. to the Govt. of Indi

No. 2882.

COPY forwarded to the Government of Fort St. George for informatio
guidance.

COPY forwarded to the Foreign Department for information and for communication t
Administrations and Authorities under its control.

By order, &c.,

HOME DEPARTMENT,
The 10th October, 1860.

(Signed) H. W. Browne
Under Secy. to the Govt. of India

Proc 29th July 1859 - Nos 23 to 25.

Proc. Judicial 1860 Dept

Military Department.

Proc: of Govt in the Milty Dept 3849.

No 3849.-

Communicated to the Commander-in-Chief and Judicial Department.

Fort St. George 27th October 1860.

A. Maxwell Secy to Govt.

Dft 27th Oct 1860.
Fr 29th

No 1789.

Copy for information & transmit from the Proc: of the Govt of India relative to attesting European soldiers who desire to enlist or re-new their service.

Dft 29th Oct 1860

To The Judicial Department.

Rec'd 29th

No 1420 - 1 Nov 1860.

Recorded.

JP

5 & 6.

J. Harris.