

[L. & M.]
[1,000-12-9-98.]

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 1604 Pmis

DATED 19.12.98.

[Despatch Abstract.]

Prosecution of Mr. Curtis.

Submitting to the Government of India a detailed
report on the — for infringement of the plague regulations.

Again G.O., No.	, dated	189 .
Current No.	of 189 , dated	from the
Current No.	of 189 , dated	from the

Please see my note against
 para 10 at the end. *Yours truly*
 M. G.

SUBJECT.
 Mr. Curtis' Case.

Hon. Mr. Arnold. *Order no 1606 P mis of 19-12-98*
 H.E. The Governor To the Secy to the Govt of India
 despatched Home Dept.
 24/12/98
 Sir,

Sir,

I am directed to reply to
Your letter n^o-4384, San^y,
dated 14th Nov^r.

2. In that letter the G. of I.
ask for a full report on the
Case of Mr. Curtis, Postmaster
Pew. Madras, prosecuted for
infringement of the plague
regulations. ^{It is also} suggested for the
consideration of this Gov^t
that the regulations should
be worked with as little in-
convenience as possible to
the public Service; & the
example of the Gov^t of Bombay
is quoted with approval in
treating respectable persons

with Consideration in administering the System of Surveillance recently introduced into that Presidency. It is finally remarked that, wherever practicable, similar consideration should be shown to inoculated persons.

3. Before proceeding to give the facts in Mr. Curtis' case, I am to observe that the lines of conduct indicated above in ~~not~~ regard to public servants & respectable persons have always been acted upon by this Gov^y. As an illustration I am to cite the proviso printed on the back of the passport (Enclosure 1.) which has to be taken out by a person who by arriving from an infected area renders himself liable to Surveillance for ten days. This provides that the Munic. Pres^y or Health Officer may exempt any person from personal attendance, & permit him to be inspected at his residence. This power of exemption is freely

used in favour of public servants & other respectable persons who apply for it, & would have been employed as a matter of course in favour of Mr. Curtis on his mere request.

4. The question ^{whether} ~~whether~~ ^{arriving from an infected area} inoculated persons, should be exempted ^{from} the necessity of taking out passports & submitting to ten days surveillance has only recently arisen. In August, the Gov^t had under consideration Surg^l Maj. Genl. Harney's proposal (made in his Confidential Note of 18th April last) that they ^{should} be exempted "from detention in Segregation Camps when

travelling by rail xxx provided their clothing is disinfected before starting xxx and they are kept under surveillance

for a few days after arrival at destination." This Gov^t had on the 20th July telegraphed to the G. of I. that it accepted Dr. Harney's view that inoculated persons should be exempt from detention; & it had

* Printed in G.O. 774
9-8-38.

Page 89
10/1/38

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Subsequently received a copy of Mr. Hewett's letter dated 4th August to the Secy to the Govt of Bengal, in which the view of the Govt of Bengal was accepted, that inoculation should exempt persons from detention when travelling. It had also received Mr. Hewett's letter n^o. 2062 of 19. August, communicating the decision of the Govt of I. That inoculated persons "shd be exempted from observation when travelling, subject to disinfection of clothes." I am to point to the use of the word "Observation Camp" in para 11 of the Govt of I's Resⁿ of 3rd Feby & the definition of the word Observation (as ^{the} including equivalent of Segregation) in the Madras Marine Plague Regⁿ (Plague Pamph. p. 47), as justifying the interpretation that what the Govt of I. aimed at in exemption from Observation when travelling, was exemption from Detention in an Observation Camp. With this understanding His Excell^{ty}

in C. now dealt with the effect of inoculation on R⁹ travellers, & on the 17. Aug. directed the issue of a Notifⁿ authorizing exemption of such persons from Segregationⁿ and also from detention when tra-
^{It was not then intended,}
 -velling. I am to explain, that they should be exempted from the necessity of taking out passports when arriving from an infected area, & submitting to the resulting surveillance; though this further concession has been lately granted, subse-
 -quently to the disposal of Mr. Curtis' case.

5. The Notifⁿ above mentioned appeared in the Gazette of 6th ^{as City Regⁿ 21,} Sept^r, along with one intending the passport system (Pamph. ^{City Regⁿ 22,} p. 29. A.) to the City of Madras, ^{to}
 A few days later a Gov^t ^{Dated 7. Sept.} order, reprinting Mr. Hewell's letter of 19. Aug., was laid upon the Editor's Table, & it became matter of common knowledge that

the Gov^t of India desired inoculated persons were

^{to be} "Exempted from observation when travelling". It will be seen later that Mr. Curtis relied upon this expression as exempting him from the necessity of taking out a passport for the purpose of surveillance; understanding the term Observation in this literal, restricted sense.

6. After these preliminaries, I am to report that on the 14th Oct^r Mr. Curtis, who had been inoculated, arrived ^{by train} from Bangalore at Perambore, the Madras City Inspection Station, & refused to accept a passport either for himself or his peon (who also had been inoculated.) Finally, however, a passport was given to the peon. Mr. Curtis ~~wrote~~ at once telegraphed to Gov^t. (copy enclosed) suggesting issue of early orders exempting inoculated persons from the need of taking out passports. On the next day he wrote to the Plague Commⁿ. protesting against the Contention of

(that he must take out a passport)
the local Staff, on the ground
that he had undergone inocu-
-lation "Simply to avoid this
few days attendance". On the
19th he wrote to the Health
Officer stating that he had
forbidden his boy to go
for inspection. The following
passage occurs in this letter;

"Now if you are going to
prosecute any one, I beg that
you will prosecute me, as I am
responsible for his not attending
hospital & I am entirely to
blame for what he has done.

I consider myself fully
exempted by the terms of the
Gov^t order regarding inocu-
-tion which had not been
modified in any way up to
Monday last."

7. ^{On this} The Pres^t of the Munic.
Commⁿ. consulted the Plague
Commⁿ., who considered that
Mr. Curtis had rendered himself
liable to prosecution for having
refused to receive a passport.
The Pres^t now ordered prose-
-cution of Mr. Curtis for

* Referring apparently
to C. of 7th Sept. referring
to Mr. Hawell's letter
of 19. Aug.

Flog. 11.

Or, taking the word in its literal sense, it may be said that Reg²¹ did authorize some actual detention of inoculated persons, previous to release on passport, because it rendered them liable to have their clothes disinfected when travelling, which entails a temporary detention.

Judgment of the

* Judgment para. 3. "I cannot construe Reg²² without ref. to 21, the operation of which will be in effect nullified if regard is to be had only to the terms of Reg²²: that this is obvious, will be at once proved by reference to the terms of Reg²¹ which enacts that no inoculated person shall be detained while travelling."

provisions of x x x shall be bound to appear at a place provided for the purpose & obtain a passport." But in the Reg²¹ in force in Oct: the form was as follows; last word ran "shall be released with a passport." Counsel argued that release implied previous detention, & inoculated persons could ^{under Reg²¹} not be detained; hence the Reg²² did not apply to them.

9. In the opinion of the Court, the answer to this contention is ^{merely} somewhat of a verbal quibble, & is answered by construing release as ^{not from actual detention but} release from the liability to detention. The Mag² however accepted the argument of Counsel, & held that the Reg²¹ was not necessarily applicable to inoculated persons, and acquitted Mr. Curtis of the offence of not obtaining a passport. The Pres² of the Munich Comm² applied to Gov² to move the High Court to revise the order of acquittal. ^{in consequence} but when this

application was received, His Ex^{ty} in C. had decided to exempt inoculated persons ~~explicit~~ formally from the passport system & its Surveillance. Hence, it was not thought advisable to move the High Court in revision, though there are ^{more than one} ~~points~~ in the Mag^s judgment which appeared to this Court to be unsustainable.

10. In conclusion I am to say that all the facts of Mr. Curtis' Conduct for the ^{informs} of the G. of I., having been detailed, this Court does not consider it necessary to express any opinion upon the propriety of his behaviour.

11. Copies of ^{material} ~~unfor~~ documents are enclosed according to the accompanying list.

H.T.
28 4 28

I do not agree with this. The Court evidently question the propriety of the process and I think we should express a distinct opinion on this point and on Mr C's conduct.
H.A.

* Para 10. should I think run thus: In conclusion I am to say that Mr. H. in C., taking into consideration the deliberate infringement of the Plague regulations by Mr Curtis as regards both himself and his people, is of opinion that the President of this Municipality acted.

rightly in ordering Mr. Curtis's
prosecution, and regrets that
a gentleman occupying a high
position in the public service,
whose cordial cooperation with
the local authorities in combating
the spread of plague, might
confidently have been anticipated,
should have set himself in
open opposition to the regulation
issued by law for his guidance.

AKH 16.12.98

Transmit the above amendment.

A.H. 18.12.98

Enclosures

- A
1. Passport prepared for issue
to Mr. Curtis
 2. G.O. No 1023 P. d/7-9-98.
 3. S.O. No 2090 P. d/24-8-98
 4. S.O. No 837 P. d/17-8-98
 5. S.O. No 1314 P. d/12-10-98.
 6. Telegram to Govt from Mr. Curtis
d/14-10-98
 - X 7. Mr. Curtis' letter to Plague Commr.
d/15-10-98
 8. Mr. Curtis' letter to the Health
officer Madras dated 19-10-98
 9. Report of the Plague Officer Serampore
d/14-10-98.
 10. Magistrate's judgment.
- t.

Local & Munl. (1898) Department.

CURRENT No. 2525P

From The Govt of India
Similar

Order

No. 4384

Dated 14-
Received 19-
Registered 19- } Novr 1898.

Enclosures

Spare copies. 7 of each.

SUBJECT.

stating that the Govt of India
will be glad to receive the full
report on the case of Mr Curtis
and suggesting on the importance
of the plague regulations being work-
ed in such a way as to cause
little inconvenience to the public
services.

BACK PAPERS.

G.O.	No.	Department.	Date.
1402P.			
4-11-98			

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 4384.

CNo 2525P

SECRETARY TO GOVERNMENT
19-NOV-1898
LOCAL & MUNICIPAL DEPARTMENT

19 NOV 98

FROM

A. H. L. FRASER, Esq., C.S.I.,
Offg. Secretary to the Government of India,

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
LOCAL AND MUNICIPAL DEPARTMENT.

Home Department
Sanitary.

Simla, the 14 November 1898.

SIR,

I AM directed to refer to the correspondence ending with your telegram dated the 4th instant regarding the prosecution of Mr. G. S. Curtis, I.C.S., Post Master General, Madras, for an alleged infringement of the plague regulations.

2. I am to say that, as Mr. Curtis holds a high office in an Imperial Department, the Government of India will be glad to receive a full report on the case when it is concluded.

3. The Governor General in Council does not desire to make any remarks on the case, but wishes to suggest, for the consideration of the Government of Madras, that it is very important that the authorities entrusted with the execution of the plague regulations should endeavour to work them in such a way as to cause as little inconvenience as possible to the public service. It has been ascertained that the Government of Bombay have enjoined that plague officers must show consideration to respectable persons in administering the surveillance rules prescribed in the orders* issued by the Local Government on the 17th

* Paragraph 12 of the Bombay Government's Resolution No. 5772, dated the 27th October 1898, and clause (d) of their Circular No. 5774, of the same date communicated to the Government of Madras by Home Department endorsement No. 4326, dated the 8th November 1898.

October last. For instance, it has been ruled that such persons may be visited in their houses, or need only appear on the tenth day, or even certify as to their movements and health by letter. Inspection by the ward officer is sufficient in such cases. Collectors and plague officers are expected to show similar consideration to inoculated persons, wherever this is practicable.

I have the honour to be,

SIR,

Your most obedient Servant,

A. H. L. Fraser

Offg. Secretary to the Government of India

See back of passport

Given for copying
Copied
Examined
Signed

189 .

IN G.O., No. , DATED
189 .

RE TO C. No.

OF GOVERNMENT

A A A A A A A

OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
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