

# THE INDIAN ARMS ACT MANUAL,

CONTAINING

THE INDIAN ARMS ACT XI OF 1878,  
AS AMENDED BY ACTS XX OF 1919 AND XLIX OF 1920,  
AND THE INDIAN ARMS RULES, 1924,

WITH

NOTES AND RULINGS OF THE HIGH COURTS

TOGETHER WITH

Rules and Orders of the Government of India and of  
Local Governments.

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BY

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The only work on the subject published with the permission of the Home Department, Government of India.

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**SIXTH EDITION.**

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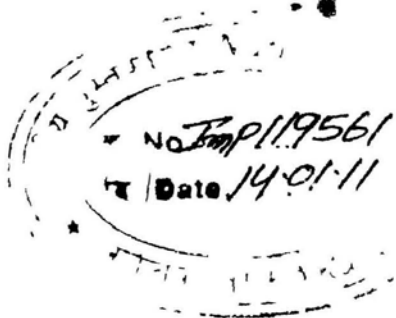
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# THE INDIAN ARMS ACT MANUAL.

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DEDICATED,  
with kind permission,  
TO  
His Excellency Sir Henry WHEELER, K.C.S.I., K.C.I.E., I.C.S.,  
Governor of Bihar and Orissa.

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# THE INDIAN ARMS ACT MANUAL.

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## PREFACE.

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The Compiler begs to express his deep sense of gratitude to the Local Governments and officials whose uniform courtesy and patronage have enabled him to present the Sixth Edition of the Indian Arms Act Manual in its present revised and enlarged form. Since the publication of the Fifth Edition, (of which only a limited number of copies were printed and ran out of stock in a little more than a year), several provincial Governments have issued their Local Manuals for the use of District Officers in their respective provinces. In view of this fact the Editor had some hesitation in getting out a new Edition without ascertaining whether a private publication would find acceptance with Government officials on whose support the production of the previous editions had mainly depended. The appearance of the present volume was therefore delayed, partly for this reason and partly on account of the change of arrangements with the original printer who gave up the undertaking after printing only a portion of the book in about four months. This delay has also led to a few errors and omissions which have been rectified by the *Note* and the *Addenda* and *Corrigenda* appended at the end of the Preface.

2. From the list of Contents it will be seen that the Manual has been extensively enlarged. The history of legislation which is [now only a matter of academic interest], and certain other matters of minor importance have been omitted. On the other hand a "Brief Explanation of Rules" published by the Government of India, and the Local Rules and Orders of the Governments of Bengal and the United Provinces, the Berar Arms Rules, 1924, and the revised Rules of the Government of the Central Provinces have been reproduced almost in extenso, though in some places they have been curtailed and the language altered to suit the purpose of the Manual.

The arrangement of the book has also been revised.—The Government of India resolution of the 21st March 1919, publishing the Arms Rules of 1920, has been retained, (pages 1-6), the Report of the Arms Rules Committee, formed in pursuance of the resolution moved in the Legislative Assembly by Baba Ujagar Singh Bedi, with the orders of the Government of India thereon (Resolution dated the 3rd November) are reproduced on pages 7-31. The importance of these orders has been emphasized by the Government of the Central Provinces (page xxii of Appendix) who have observed that—

"Officers responsible for the working of the Act should make themselves familiar with the orders passed by the Government of India on the Report of the Committee."

3. The Indian Arms Act, XI of 1878, (as amended by two later Acts) with the statement of Objects and Reasons, (pages 36 to 37) are supplemented with Notes (in smaller type) compiled from Law Reports and Digests, and from the Orders of the Imperial and Provincial Governments, and are grouped together under the relevant sections of the Act (and

paragraphs of the Rules). The references to the orders are indicated by territorial designations of Governments *e.g.* the term "India" for the Government of India, "Madras" for the Government of Madras, and so on. Certain abbreviations such as "Notns," "Resns.," "Jan., Feb." etc, are clear enough for the purposes of the reader. The text of the Schedules and their "notes" are both shown in smaller type.

4. Rules under section 16 of the Act (introduced by Act XX of 1919) framed by several provincial Governments are printed on pages 53—58, those under section 24 (confiscation of arms) on pages 69—71, and those under section 28, (information of offences and grant of rewards) on pages 73—75. In certain cases where considered more suitable, they have been retained in the rules and orders of the Local Governments.

5. The Indian Arms Rules, 1924, notified with the Home Department, notification No. F. 829-1-22 dated the 3rd November 1922, are corrected up to date with a few exceptions noticed in the annexed Note and Corrections. Following these Rules are the "Rules and Orders" of Local Governments. The first two sets of these—Madras and Bombay—are collected from the various Government publications, and those of Bengal and the United Provinces the Berar Rules of 1924, and the revised rules of the Central Provinces have been edited from their respective Manuals with such alterations as appeared suitable for the purpose of the Manual.

6. The compiler has spared no pains in making the Manual serviceable to Government officials, connected with the administration of the Act, and to members of the legal profession and lawyers who may wish to consult the law relating to arms and ammunition in British India. He will however be grateful if any errors or omissions detected are brought to his notice to enable him to include them in the first list of corrections to be issued on the 1st October 1926.

JUBBULPORE: }

*The 7th June, 1926.*

G. K. ROY.

## NOTE AND ADDENDA AND CORRIGENDA.

[*Vide paras. 1 and 5 of the Preface.*]

(1) PAGE 39. Section 1 of the Act was amended by Act XLIX of 1920--the words "or a member of either of the Forces constituted by the Indian Territorial Force Act, 1920" having been substituted for the words "or a volunteer under the Volunteers Act, 1869," Volunteers are no longer exempt from the operation of the Act, but they are entitled to a free licence in Form XVI under rule 46(8), (page 110) and entry (c) of Schedule VII, Page 146.

This section also gives a wide power to Government in regard to permitting their subordinates to carry or possess arms required for protection in execution of their duty,—Note 17 to Schedule I, (page 121), and Rule 46 of Bengal Rules, (page 179). Heads of Departments are however prohibited from granting permits or passes to their subordinates (Bombay rule 14 on page 229.)

(2) PAGE 41. Section 4 does not empower Government to define what is an arm for the purposes of the Act, (Note 11, page 43), but it is not clear whether this ruling had reference to *Dahs* mentioned in clause 9 (a) (v) of Schedule II, (page 129).

(3) PAGE 45. Section 5 prohibits the sale of arms, ammunition or military stores except under a licence and in the manner and to the extent permitted thereby. The only exception allowed is the sale of arms or ammunition possessed by a person for his private use which is permitted subject to the observance of certain conditions specified in the second para. of the section. This exception would not cover the case of an agent to whom arms are made over for sale on commission. Sale by an agent in such circumstances would be illegal except under a licence. (Burma. M. 135. Edn 1922).

(4) an officer or soldier who wishes to dispose of any arms or ammunition either by private sale or by public auction, should ascertain that the would-be-purchaser is entitled by law to possess the same. I. A. R. No. 12 of 3rd June 1900, India No. 902 dated the 20th Feb. 1901, Bombay rule 17, page 229, and U. P. rule 77, page 250. referred to in note (7) on page 45.

(5) Unclaimed arms, ammunition and military stores found in railway carriages should be sent to the nearest magistrate for sale and the sale proceeds credited to Government—*Vide* note 8 on page 46.

(6) PAGE 46, Note (9). In the first line for the words "N. W. F. T. admlu" read, "N. W. F. P.",

(7) PAGE 51. The rules of the Government of Bengal as contained in paras. 20 to 24 of the Bengal Manual have been superseded by the revised paras 20 to 24 A. The two Notes to section 15 of the Act, printed on pages 51 and 52 are accordingly cancelled and the revised rules substituted therefor, are shown below.—*Vide* also Notes 4 to 10 to Schedule II, pages 131-133.

"In exercise of the powers conferred by section 15 of the Indian Arms Act, 1878 (XI of 1878) and with the previous sanction of the Governor General in Council, the Governor in Council is pleased to extend section 15 of the said Act to all districts in Bengal and to declare that with effect from the 9th March 1923, no person of these districts

shall have in his possession any arms of any description except under a licence and in the manner and to the extent permitted there by. (Notns. No. 787 dated the 9th March 1923 and No 1121 dated the 31st March 1923)-

*N. B.* This notification under section 15 does not in itself supersede any exemption under section 27 of the Act in force at the time, exemptions in force remain in force; possession of arms become unlawful if the arms are among those notified under column 3 of schedule II of the Rules.—Letter No. 1835—1866 dated the 15 May 1922).

(8) PAGE 61. Section 19 (*f*) No proceedings under section 19 (*f*) can be instituted without previous sanction of the District magistrate as required under section 29 of the Act, and the procedure is explained in Bombay rule 33 (11), page 234. Also persons punishable under the section are not to be arrested without previous sanction of the District Magistrate.—*Vide* Bombay rule 33 (8), page 233.

(9) PAGE 68. Section 22 lays down an important responsibility on dealers in arms and ammunition.

(10) PAGE 71. Section 25. The grounds of belief should be recorded before a search warrant is issued. See also U. P. rule 92, page 253.

(11) PAGE 73, Section 28. All persons are bound to give information of offences under the Act. (Madras rule 27, page 219).

(12) PAGE 75. Section 30. Speculative searches are prohibited. (U. P. rule 92, page 253.)

(13) PAGE 77. With reference to the "Note" to section 33 of the Act, page 77, —*Vide* Foreign and Political Department Notifications Nos. 343—346-I, dated the 2nd July, 1924 printed as "[Rules Relating to Railway Lands, Punjab] on pages 300—307.

(14) PAGE 81. Note below No. (5) may be numbered ("5 a).

(15) PAGE 83. *Add* as Note (5 a)—"*Vide* Bengal Rule 58 A, (page 181) and C. P. Rule 52 page xxxviii, of Appendix I regarding the importation of weapons of prohibited bores."

(16) PAGES 86-87. Rule 15 (1) (*b*). *Substitute* the following revised rule published with Notn. No. F.—XLII-25, dated 14th Sep. 1925.

"(*b*) at the port of Calicut, Karachi, Dhanushkodi, Tuticorin or Aden—by the District Magistrate."

(17) Page 114. Schedule 1, item (*b*) (*h*) (*i*). *After* the words "The Tazimi Istimrardars" *add* the words "and non-Tazimi Sanadi Istimrardars" (Noti. No. F.-21 XXVII 26, dated the 29th April 1926).

(18) PAGE 135, Note 24 (2) *for* the words "leaders bullets" *read* "loaden bullets."

*In* Note (3) *for* the figures "1676" *read* "1878"

(19) PAGE 141 *Insert* the words "Schedule VI" before the words "See rule 17 (1) and Notes thereunder," and *for* the figure "(3)" of the first entry *substitute* the figure "(1)"

(20) PAGE 143, Schedule VI entry (11) (*d*) *omit* the word "and" *after* the word "Rajputana"

(21) PAGE 227. Para. 38 of the Madras Rules shows the procedure for reporting thefts, losses or recoveries of Arms and Ammunition. Since this page was printed the Government of the Central Provinces have issued, in correction slip No. 1, dated the 10th November, 1925, instructions on the subject based on the orders of the Government of India. These instructions will be found in para. 51 of the Central Provinces Local Rules and Orders—Page xxxvi of Appendix,

# THE INDIAN ARMS ACT MANUAL.

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*Resolution (No. 2125-C., dated the 21st March 1919), of the Government of India, Home Department.*

For many years past the administration of the Arms Act has been the subject of adverse criticism, mainly because European and East Indian subjects of His Majesty are exempted from the obligation to take out licenses for the possession of firearms while Indians, outside certain privileged classes, have to apply for licenses and even if successful in their applications, can, in most cases, obtain them only after enquiries as to their status and character. The Government of India have for some time past been anxious to remove this racial discrimination and to minimise the delays and inconvenience which necessarily attend the present system of administering the law, and they have had prolonged correspondence with local Governments on the details of this intricate and difficult subject.

2. Some critics of the existing system demand the repeal of the Act, or in the alternative its administration on a purely fiscal basis, whereby any one desiring a license could secure it without question, on payment of the prescribed fee. The Government of India doubt whether the serious objections to so simple a solution of the problem have been fully realised by those who advocate it. In their responsibility for the maintenance of order and tranquillity the Government of India are bound to take into account the effect which an unrestricted dissemination of firearms throughout the country-side might have upon serious crime. They cannot overlook the likelihood of such weapons being freely used in the dacoities, faction fights, and agrarian and religious riots which figure so frequently in the records of our criminal courts. In more than one province firearms illicitly obtained have during recent years played an appreciable part in serious crime, and the Government of India cannot contemplate with equanimity the similar use of such weapons in other provinces. They apprehend that if there were no restrictions on the possession of firearms by lawless characters, such an increase in crimes of violence might ensue as would endanger the security of the country, and that it would be necessary largely to increase the number of armed police and to improve their equipment.

3. The Government of India have decided, therefore, that the question cannot be dealt with on these lines. They have considered the possibility of abolishing all exemptions and requiring every one from the highest authorities downwards to take out a license for the possession of firearms. Enquiries showed the objections to this course. There is every reason to believe that a general cancellation of exemptions would be regarded as withdrawing a valued privilege if not as a mark of mistrust.

4. After repeated examination of the question the Government of India decided that the best chance of solving the problem lay first in rigidly restricting the number of exempted persons and, secondly, in arranging that persons of

recognised status and character should, without distinction of race, ordinarily be entitled to obtain licenses for the possession of firearms without enquiry or delay. While details were still under discussion the following resolution was moved in the Imperial Legislative Council and accepted by Government on the 19th September 1918 :—

This Council recommends to the Governor-General in Council that a Committee of official and non official members of this Council be appointed to consider and report to the Governor-General in Council to what extent the Indian Arms Act and the rules thereunder can be amended.

The whole question was then laid before a Committee composed partly of official and partly of non-official members of the Council, and the Government of India are now in a position to formulate the conclusions reached after examination of the report of this Committee. These are as follows :—

(1) All arms other than firearms and also firearms of an obsolete character possessing a purely antiquarian value will be exempted from all the prohibitions and directions contained in the Arms Act, except in Burma, the Punjab and the North-West Frontier Provinces, provided that any local Government may retain the existing restrictions for particular weapons or in particular areas where such a course is necessary in the interest of law and order.

(2) All distinctions of a racial character will be abolished, but a restricted schedule of exempted persons as appended hereto will still be retained, the privilege being subject to the same restrictions in respect of the number and description of weapons as at present.

(3) Exempted persons will not be required to register their weapons but power will be reserved to the Government of India and the local Governments and Administrations to require the registration of rifles, revolvers and pistols in the possession of such persons where necessary.

(4) The great land-holders included in entry (6) of the schedule appended, who at present enjoy exemption in respect of weapons in the possession of their retainers, will in future be allowed exemption in respect of a fixed number of retainers whose weapons will be registered annually as retainers' weapons, their number and description only being specified.

(5) To persons of approved character and status licenses for the possession of rifles (other than those of prohibited bores) and smooth bores will ordinarily be issued on application and without previous enquiry. It will be for local Governments to prescribe for each province the qualifications entitling any person to this privilege, but subject to any such orders the Government of India consider that the following qualifications should be sufficient :—

(i) Membership of any order established by the Crown, or the possession of a title conferred or recognised by the Government of India or of the Kaiser-i-Hind Medal or a certificate of honour. (ii) Membership, past or present, of the Indian or a Provincial Legislative Council or inclusion in the list of Provincial Darbaris. (iii) Payment of not less than Rs. 1,000 per annum land revenue or Rs. 250 in road and public works cesses. (iv) Payment of income-tax on an income of not less than Rs. 3,000 for a period of three years. (v) Being a Government officer in receipt of not less than Rs. 250 per month. (vi) Being a commissioned or gazetted officer of His Majesty's Military or Naval Forces or His Majesty's Indian Marine Service or a commissioned Indian officer of the Imperial Service Troops in active service. (vii) Being a pensioned officer who before retirement was by virtue of his official position included in any of the classes described in (v) or (vi) above.

(6) Persons who have hitherto enjoyed exemption but are not included in the new schedule of persons exempted will be required to take out licenses, but it will be open to the local Government to treat them as entitled to the privilege described in clause (5) above, provided that there is no race discrimination.

(7). The following changes will be made in the rules regulating the issue of licenses :—

(i) Licenses for revolvers and pistols will be issued only in cases of real necessity and to persons of approved character, the fee being fixed at an enhanced rate of Rs. 10 except in the North-West Frontier Province where no change will be made. (ii) For a license in Form XVI the fee will be raised to Rs. 5 for each breech-loading weapon but will remain

unchanged for muzzle-loaders. (iii) Licenses will be granted, if so desired, for an extended period of three years on a compounded fee subject to the existing conditions regarding the report of loss and transfer of the weapon, and subject further to the proviso that the local authorities shall have the right to enquire whether the weapon for which a license has been granted is still in the possession of the license-holder. (iv) Special instructions will be issued to afford facilities to agriculturists to obtain licenses for the protection of crops or cattle and to secure that they are not withheld without good cause. (v) Licenses, other than those for the protection of crops or cattle when issued at the license-holder's place of permanent residence will be valid throughout British India, except Burma, Assam and the North-West Frontier Province, subject to any restrictions that may be necessary in regard to any particular province. (vi) Licenses will not only be issued by District Magistrates but also by such Sub Divisional officers as the local Government may specially empower in this behalf. For the purposes of enquiry preliminary to the issue of a license, other agencies will, where possible, be employed in addition to or in substitution for the police.

The necessary modification of the rules and schedules in order to give effect to these decisions is now being undertaken, but in order to give persons, who are exempted at present but will not be exempted in future, time to adjust themselves to the new conditions, the changes in the list of exempted persons and the enhancement of fees will not take effect until 1st January 1920.

#### DRAFT SCHEDULE OF EXEMPTED PERSONS.

The persons or classes of persons specified or described in the first column of the subjoined table are exempted, in respect of the arms and ammunition described in the second column, when carried or possessed (save where otherwise expressly stated, for their own personal use, from such prohibitions and directions contained in the Act as are indicated in the fourth column, subject to the provisos and restrictions entered in the third column, and to the further condition that the Government of India or the local Governments within their respective jurisdictions, may require the registration of rifles, revolvers, pistols and ammunition for the same.

THE TABLE.

Persons or classes of persons.	Arms and ammunition.	Provisos and restrictions.	Prohibitions and directions.
(1) The Viceroy and Governor-General of India, the Commander-in-Chief in India, the Governors of Madras, Bombay and Bengal, the Lieutenant Governors of the United Provinces of Agra and Oudh, the Punjab, Burma and Bihar and Orissa, the Chief Commissioners of the Central Provinces, Assam and Delhi, members of the executive Councils of the Governor-General, Governors and Lieutenant-Governors, * First Class Residents, Chief Justices and Prising Judges of High Courts, Judges of Chief Courts and Judicial and Additional Judicial Commissioners	All except— (a) Cannon. (b) Articles designed for torpedo service. (c) War rockets. (d) rifles of '303 or '450 bore other than rifles of such bores lawfully imported into British India, and ammunition which can be fired from the same. (e) Machinery for the manufacture of arms or ammunition. (f) Appliances the object of which is the silencing of fire-arms.		Those contained in sections 13 to 16.

\* (1) Hyderabad.  
(2) Mysore.  
(3) Central India.

(4) Rajputana & Ajmer-Merwara. (This omits the Political Resident in the Persian Gulf, who is outside India.)  
(5) Baluchistan.  
(6) North-West Frontier Province.







## SCHEDULE—(Contd.)

Persons or classes of persons.	Arms and ammunition.	Provisions and restrictions.	Prohibitions and directions.
<p>(e) Shan Sawbwas and other Chiefs in Burma.</p> <p>(f) (i) The Zamundars of the scheduled districts of the Central Provinces.</p> <p>(ii) The Dewan of Seoni.</p> <p>(iii) The Bhuskute of Timarni and Burhanpur.</p> <p>(iv) The senior representative of the family of the Rao of Sangor, and</p> <p>(v) The head of the junior branch of the Bhonsla family, known as the Kuar Sahib.</p> <p>(g) Rao Udaibir Singh of Gopalpura, Jalaun, in the United Provinces.</p>	<p>All arms except rifles, pistols, revolvers and daggers.</p>	<p>When pursuing raiders or members of trans-border tribes or Balochis who have committed or attempted to commit any offence in British India.</p>	<p>Those contained in section 13.</p>
<p>(7) Any of the undermentioned persons, not being members of trans-border tribes:—</p> <p>(a) any Baloch belonging to any organized tuman while within the limits of the Dera Ghazi Khan district of the Punjab;</p> <p>(b) armed guards accompanying sheep, goats, asses and cattle under the provisions of the Frontier Grazing Regulation, 1874 (I of 1874); or</p> <p>(c) villagers residing in—</p> <p>(i) the North-West Frontier Province; or</p> <p>(ii) the Dera Ghazi Khan district or the Isakhel Tahsil of the Mianwali district of the Punjab.</p> <p>(8) Any of the persons described in sub-heads (b) and (c) (i) of entry (7).</p>			
<p>(9) Every officer holding a commission from His Majesty the King-Emperor (whether in Staff, Departmental or Regimental employ, or of the Indian Land Forces, every person who has been registered under the Registration Ordinance, 1917, and every warrant officer or Staff Sergeant of the British Unit of the Army (including a Staff Sergeant or warrant officer who is an instructor of an Indian Defence Force Corps.</p>	<p>Single barrel rifles of 303 bore required for match-shooting purposes.</p>	<p>1. Only one such rifle at a time shall be imported or used by any person hereby exempted.</p> <p>2. The rifle shall be sighted to a range of over 1,000 yards.</p> <p>3. The rifle shall, in the case of regimental officers, warrant officers, non-commissioned officers, and persons appointed to corps of the Indian Defence Force become part of the equipment of the corps to which the owner for the time being belongs.</p>	<p>All.</p>

## SCHEDULE—(Concl'd.)

Persons or classes of persons.	Arms and ammunition	Provisions and restrictions.	Prohibitions and directions.
<p><i>Explanation.</i>—The term "commission" as used in this clause does not include a commission conferring honorary rank.</p> <p>(10) Every warrant officer, non-commissioned officer and soldier in his Majesty's Army who is in possession of a pass granted and signed by his Commanding Officer.</p> <p>NOTE.—Warrant officers, non-commissioned officers and soldiers, British or Indian, must take out licenses for any private arms, but so long as they are in service, they will not be charged fees for such licenses.</p>	<p>Such arms, if any, as are provided by Government for sporting purposes.</p>	<p>4. The owner shall at the time of importation, produce a certificate from the Commanding Officer of the Corps, senior officer or Head of Department to which he belongs, to the effect that in the case of regimental officers, warrant officers, non-commissioned officers, and persons appointed to Corps of the Indian Defence Force, the weapon will be brought on to the equipment ledger of a corps and in the case of Staff and Departmental officers will be brought on to the equipment ledger of a Corps in the officer's command or office inventory of stores and will be accounted for in the same manner as other equipment.</p> <p>5. This exemption shall, in the case of persons appointed to a Corps of the Indian Defence Force, cease to have effect on removal of the owner from the force: provided that if he departs from India immediately after so being removed, he may take the weapon with him.</p> <p>6. Any person hereby exempted may dispose of his rifle to another person so exempted, provided that the rifle becomes part of the equipment of the corps to which the latter belongs and is accounted for as such.</p> <p>This exemption shall apply only in respect of weapons and ammunition entered in the pass and to the arms and for the dates specified in the pass.</p>	<p>Those contained in sections 13 to 16.</p>

INDIAN ARMS RULES COMMITTEE'S *Report dated Simla the 27th Sept. 1922.*  
6th Nov.

**Introductory.**—A resolution was moved in the Assembly on the 8th of February 1922 by Baba Ujagar Singh Bedi, to the effect that a Committee with a non-official majority should be appointed by the Governor-General in Council to examine the new Arms Rules, 1920, and to submit a report before the next session making specific recommendations with a view further to amend them. The Resolution was carried and was accepted by the Governor-General in Council subject to adherence to the principles, (1), that there should be no racial discriminations in the rules, and (2), that the Government must retain the power to impose restrictions to prevent arms and particularly firearms from falling into the possession of lawless or dangerous persons. In accordance with the instructions contained in Resolution No. F.-57-1-Police, dated the 1st June 1922, we have examined the Arms Rules, 1920, and submit our recommendations to the Government of India for such action as they think desirable.

2. Our conclusions have been reached after an exhaustive examination of the views of local Governments, the recommendations of the Committee appointed in 1919, to advise as to the principles on which the rules should be framed, and a large number of memoranda submitted to us by various members of the public, many of which were sent in response to a general invitation issued by the Government of India to those interested in the subject under discussion to communicate their views to Government for the information of the Committee. We have examined orally 13 official and 16 non-official witnesses including representatives of the army and the trade, whose evidence was taken in public of which much has already appeared in the columns of the press. We commenced our sessions in the month of July and spent ten days in recording evidence. We were unable to conclude our work then and for unavoidable reasons were compelled to postpone our deliberations until the September Session of the Legislature. For this reason there has been some delay in the submission of our report.

**Exemptions.**—We propose to deal first with the question of the retention, extension, or contraction of the list of exemptions. Their total abolition has been advocated generally as a counsel of perfection, and the majority of the Committee would prefer this course if it were practicable. Local Governments, however, are of opinion that at this stage the entire abolition of exemptions would create grave dissatisfaction amongst the classes hitherto exempted and would be unwise and inexpedient. With this conclusion the majority of the Committee are in agreement. A large number of non-official Indians both in their oral evidence and in their written memoranda maintain that the Schedule of Exemptions should be enlarged. After careful consideration of the views put before us and after examining in detail the entries in Schedule I, we are of opinion that the existing list of exemptions contained in that Schedule is imperfect in some respects and we make the following recommendations regarding it :—

Under entry 1 (a) we would include Ministers and Members of the Imperial Legislature during their terms of office and Privy Councillors. The Committee by a majority do not recommend a similar concession to Members of the Provincial Legislatures.

In regard to *entry 6 (d), 6 (f), (i) and 6 (g)* we doubt whether the terms Great Sardars or Zamindars are sufficiently precise and we do not know what interpretation is placed upon them by the local Governments concerned, namely the Punjab, the United Provinces and the Central Provinces. We therefore recommend that enquiries should be made from these local Governments whether they maintain lists of these categories, whom they include, and whether they are sufficiently elastic. It has been represented to us that in some cases gentlemen who are in fact big Zamindars are excluded because they are not on the provincial Durbar List. If this is so, we think that it is an undesirable restriction. We are further of opinion that due regard should also be paid to lineage and family position and the lists revised accordingly. If such lists of exemptions under this entry are not maintained we recommend that they should be prepared after the terms in question have been more precisely defined. We append a note by our colleague, Baba Ujagar Singh Bedi, making certain suggestions in this connection which we think may suitably be placed before the local Governments concerned for consideration.

*Entry No. 7*—We are impressed with the evidence of Khan Bahadur Muhammad Saifullah Khan, Khan of Isa Khel, who explained that the proviso in Column 3 rendered this privilege to a large extent ineffective and we accordingly recommend the removal of the proviso. We are also of opinion that the same privilege should be extended to the districts of Campbellpur, Rawalpindi and any other districts adjoining the North-West Frontier Province which are exposed to raids and dacoities, unless the local Government take exception to this course.

*Entries 11, 11 (a) and 11 (b).*—We consider that it is unnecessary to retain these exemptions in the actual Schedule of Exemptions. These items were included with a view to protecting what may be termed the vested rights of the classes named, on the 1st of January 1920, and we are of opinion that these rights should continue to be protected. We therefore recommend that all the present exemptees in the entries 11, 11 (a) and 11 (b) should be granted a life license conferring on them the same privileges in respect of arms exempted from license and fee which they now possess. The majority of the Committee do not recommend that this privilege should be extended to title-holders who received titles after the 1st January 1920.

*Entry 13.*—We recommend that an addition should be made to provide for the gift of swords or other arms by the Commander-in-Chief or on his behalf. A similar addition should also be made in Schedule II entry 3 (*vis.*). Our colleague, Baba Ujagar Singh Bedi, has pointed out that some confusion exists in regard to entry 11 (d) and entry 13. He considers that it should be made clear that entry 13 relates only to those who were presented with swords and arms after 1920. This follows as a matter of course if our recommendations are accepted, as entries 11, 11 (a) and 11 (b) will be omitted, and entry 13 will be renumbered. We are content to leave this point of drafting to the special officer who, we propose, should be appointed for the purpose of redrafting the rules.

4. We considered the proposal that all stipendiary and honorary magistrates should be included in the list of exemptions; but we are of opinion that a firearm cannot be regarded as a necessary part of the equipment of a magistrate as such and are unable to recommend this. The case of the police is sufficiently met by the fact that a revolver is already a part of the equipment of police

officers above the rank of head constable. While in our view it is reasonable that all Government servants who in the opinion of the local Government require arms for the adequate discharge of their duty should be exempt from the payment of fees, we cannot recommend that all Government servants should be included in Schedule I among the exempted classes.

5. In the case of all exemptees we consider it of the highest importance that they should register all the arms they have in their possession; and we recommend that registration should be compulsory. In regard to the limit imposed by certain local Governments on the number of arms which may be possessed we have no evidence that such restrictions are irksome and indeed from the rules we have seen we are convinced that the scale allowed is generous. We therefore recommend no interference with the restrictions at present imposed by local Governments on the number and kind of arms which can be possessed by exempted persons. It follows that we do not recommend a fixed scale which shall be uniform throughout India. Conditions vary in different provinces and under the rules framed by the various local Governments exemptees can carry as many weapons as they reasonably require for purpose of protection or other legitimate purposes.

6. A proposal has been put before us that the power of cancelling individual exemptions should be given to local Governments. We consider that the existing rules by which this power is vested in the Governor-General in Council should remain.

7. Our colleagues Mr. Bajpai, Mr. Reddi and Mr. Faiyaz Khan favour the adoption of a system by which licenses should be issued without restriction to all applicants on payment of the prescribed fee save in the case of undesirable persons specified in a list kept for the purpose. This proposal, however, does not commend itself to the majority of the Committee, who regard it as entirely outside the scope of practical politics. It is not only exposed to the objections we have urged to the total abolition of exemptions, but is open to the serious criticism that a suitable or proper classification of undesirable persons would be impossible.

8. **Entitled Class.**—We next come to the entitled class. The evidence on the question whether licenses are often withheld from those who belong to this class is divided, but we would recommend removal of restrictions in two directions. In our views eligibility to be included in the entitled class should be considerably extended, and the existing procedure in the matter of enquiry is susceptible of material relaxation.\* As to the eligibility we recommend that the payment of Rs. 500 land-revenue, Rs. 100 in roads and public work cesses, any payment of income-tax and, in the case of a Government servant, receipt of a pay of Rs. 100 a month and over should be sufficient qualification. In the case of the Punjab, Madras and the Central Provinces we suggest that enquiry should be made whether the limit of land-revenue should not be Rs. 250 instead of Rs. 500. Further the heads of Joint Hindu families should be included in this class, and the adult brothers and sons of entitled persons living jointly with them should be similarly regarded as belonging to it. As to the relaxation of the procedure of enquiry we think that lists of entitled persons should be maintained and that any member of the entitled class applying for a license should be granted one immediately without enquiry unless the District Magistrate has some definite reason to think that the applicant is an unfit

person, in which case he may for reasons to be recorded in writing, refuse the grant of a license or cause enquiry to be made: in cases of refusal we would recognize a right of revision by the Commissioner or some officer of equal status nominated in this behalf by the local Government. In the existing rules no mention is made of the entitled class, the principles regarding it being contained in a Resolution of the Government of India No. 2125-C.-Police, dated the 21st March 1919. We are of opinion that it would be more satisfactory to the general public if the provisions regarding the entitled class with the modifications we suggest were embodied in the rules and we strongly recommend that this should be done.

**9. Licenses.**—We have given careful consideration to the various questions which arise in connection with the grant of licenses, especially licenses for the possession of arms. Complaints have been made to us regarding the administration, in practice, of the Rules, especially as regards the delays in dealing with applications, the irksome nature of the enquiries sometimes instituted, the difficulty of securing renewal of licenses already granted, and the difference in the restrictions imposed by the various local Governments. Indeed we are constrained to place it on record that in our opinion the vigorous criticism which has been directed against the Arms Rules in some quarters is due not so much to inherent defects in the rules themselves as to the method in which they have been put into practice. We have therefore given our particular attention to methods of improving the executive machinery.

**10. Enquiry.**—We have referred above to the unnecessary inconvenience caused in some respects to would-be license-holders by reason of the delay in issuing licenses. We recognise that this delay is frequently caused by the necessity for making enquiries about the fitness of a person to possess a weapon, and while we do not recommend that enquiry can be dispensed with in every case, we believe that the present practice by which enquiries are almost entirely carried out by the police is open to objection by the public and should as far as possible be abandoned. We suggest that in any case in which a previous enquiry is necessary, particularly in cases of entitled persons, the District Magistrate should make it, if possible, by any agency, official or non-official, he may choose other than the police, and whenever possible through a Magistrate. In any case in which it is found necessary to have an enquiry made through the agency of a police officer we are strongly of opinion that a license should not be refused merely on the strength of the report of such an officer alone but that the District Magistrate should order a magisterial enquiry also before coming to a final decision.

**11. Limitation of Number of Licenses.**—In some provinces we have found that the custom obtains of limiting the number of licenses issued. We have even found that the practice of individual District Magistrates in the same province varies. Any arbitrary limitation of the number of licenses issued in a district or province may clearly lead to the refusal of a license to a fit and proper person and we can see no justification for the adoption, save in exceptional circumstances, of this practice. In our view the normal practice should be that no limit should be placed on the number of licenses which may be issued in any district or province. We recognise, however, that circumstances may arise in which a rapid increase in the number of arms in a particular area may be fraught with danger and we think it advisable that local Governments should have discretionary power, without being compelled to resort to the extreme measure of

disarming, to limit the number of arms in any area or district if there is reason to apprehend serious danger from the free grant of licenses and if such restriction is necessary for the maintenance of the public tranquillity.

**12. Revision and Prosecution.**—We would recognise a right of revision in the case of refusal to grant a license, but we would not disturb the existing rule which requires the sanction of the District Magistrate to a prosecution.

**13. Duration of License.**—The period covered by the license varies in different provinces, but we recommend that it should now be the calendar year. The scale of fees is discussed in paragraph 21 below. Persons should be allowed as at present to take licenses for three years on payment of a composition fee. We gather this rule is not widely known at present, and we think it would be desirable that the necessary steps should be taken to ensure its publicity.

**14. Temporary Licenses.**—In some quarters the criticism has been made that persons desirous of purchasing a weapon are put to inconvenience because they cannot produce the weapon when applying for the license necessary for its possession, and it was therefore recommended that a temporary license should be given to cover such purchase pending the grant of a license for possession. We do not agree with this, and in our view a permanent license should be issued at the time the applicant applies for a license and the number and description of the weapons purchased should be filled in by the firms from whom the purchase is made and communicated by them to the District Magistrates concerned. In this matter a uniform practice should be adopted throughout India.

**15. Licenses for Persons arriving by Sea.**—Another instance in which the present system has been shown to operate to the inconvenience of the license-holders or would-be license-holders is that of persons arriving at Bombay, Madras or Calcutta, etc., by sea, who are not in possession of licenses and are therefore compelled to deposit their weapons with their agents or in the Customs House until a regular license can be obtained. We therefore recommend that customs and police officers should be permitted to issue a temporary license for fourteen days on payment of the full fee, a receipt being given to the licensee. On receipt of the proper license from the authority empowered to issue the same no further fee should be payable.

**16. Loss of Weapons.**—We attach some importance to the stricter enforcement of condition 7 of the conditions under which a license for the possession of arms and ammunition is granted. It has been suggested to us that the procedure in the case of failure to report the loss of firearms should be tightened up. But we are of opinion that the contingency is provided for by the conditions of the license, and all that is required is its more rigid enforcement. We recommend however that the license should also specify the penalty laid down in the Act for breaches of this or any of the conditions under which the license is granted.

**17. Crop Protection Licenses.**—The question of a freer issue of crop protection licenses was raised by a number of witnesses. The evidence given by official witnesses goes to prove that crop protection licenses are issued freely but in some cases conditions are imposed, such as annual production of evidence of the purpose for which the license is required, before renewal is granted. We recommend the freer issue of such licenses and particularly on applications by or recommendations of landlords who are well acquainted with the local conditions and the extent to which damage is done to crops by wild animals.



18. **Form of License.**—We have been impressed with the fact that licenses are frequently granted on flimsy paper which quickly perishes, and we recommend the universal adoption of the Calcutta form. There the license is printed on stout paper, and is enclosed in covers such as is used in the case of passports. To the license, a leaflet of instructions, in the vernacular of the province or in English at the option of the licensee, should be annexed. These instructions should indicate the procedure laid down for the renewal of the license and the restrictions to which the licensee is subject. In this matter we plead for uniformity throughout India. It has been suggested that the all India, the provincial, and the district license form should bear distinctive marks, and a different colour for each has been proposed. We do not regard this suggestion as of vital importance, but pass it on to the Government of India for consideration.

19. **Single License.**—A single license form should be used for all the weapons licensed and not a separate license for each arm. We have found diversity of practice in the different provinces in this respect and we recommend that there should be uniformity.

20. **Renewal of Licenses.** As regards the renewal of licenses we are of opinion that the existing procedure is susceptible of improvement. We see no reason why, when a license has once been issued, it should be necessary for a District Magistrate to sanction renewal. The licensee may have changed his district or he may live in an inaccessible locality. The inconvenience then caused is considerable and easily avoidable. We therefore recommend that licenses should be renewed by any Magistrate or any Sub-Divisional Magistrate in the district in which the licensee is residing or in any other district in which he is known. In the case of a renewal of a license in a district other than that in which the license was originally issued we recommend that the original license should be renewed and the authority which issued the original license supplied with information of renewal. The production of firearms should not in our opinion be a precedent condition to the renewal of a license.

21. **Fees.**—In regard to the scale of fees we find that there are indications that the present fees are regarded as too high (except for a provincial license in the North-West Frontier Province) especially in the case of breech-loading guns. We recommend the following scale in all provinces except for provincial or district licenses in the North-West Frontier Province and possibly frontier districts of the Punjab) :—

*Initial Fee*—Revolver Rs. 10; Rifle Rs. 5; Breech-Loading Gun and .22 bore Rifle Rs. 3; Muzzle Loading Gun or Air Gun requiring a license, annas 12; the enhancement of the fee from annas 8 to annas 12 being intended to meet the cost of the improved and more expensive form of license. *The fees on renewal* should be reduced and we recommend that they should be respectively Rs. 5, 2-8-0, 1-8-0 and annas 8; but if renewal applications are not made within a month after the expiry of the period covered by the license we recommend that it should be open to the District Magistrate in lieu of prosecution to levy the initial fee in full. No reduction of fee on account of composition is required.

Payment of fees should be by non-judicial stamp and applicants should be allowed to send their applications for licenses or renewal of licenses by post.

**Exemption from Fees.**—As stated earlier in our report all Government servants who are, in the opinion of their local Government, required to possess



arms for the adequate discharge of their duty, and all members of the Auxiliary and Territorial Forces, should be permitted to possess two arms without payment of fees. Exemptions should as at present pay no fees and those who will, if our recommendations are accepted, receive a life license should similarly pay no fees for the arms which they are entitled to possess. We consider that the question of the extended issue of firearms free of fee in the North-West Province and Frontier districts should be carefully examined by the local authorities and we strongly recommend that, subject to such enquiries, action on these lines should be taken. We sympathise with the view of the arms dealers that the existence of a separate fee for a license for import into India and transport to destination is a distinct hardship, and in our opinion there should be a single fee only.

## 22. Restriction on limit of possession of Ammunition.—

Under the rules no limits are placed on the amount of ammunition which may be possessed; but local Governments have themselves imposed limitations. From the evidence before us we consider that these restrictions are in some cases unnecessary and calculated to inconvenience the *bona-fide* sportsman. A uniform procedure in this respect is desirable throughout India and we accordingly recommend that no limit of ammunition should be fixed in the case of shot guns or .22 bore or target rifles. In the case of revolvers we recommend a limit of 100 rounds and in the case of rifles a limit of 200 rounds *per* rifle. Any person who can prove that he needs more than 100 rounds for a revolver or 200 rounds for a rifle should be given a license for a larger number. At the time of the purchase of revolver and rifle ammunition the license should, in our judgment, be produced. We are also of opinion that measures should be taken to facilitate the export of arms and ammunition to persons residing in feudatory states.

## 23. All-India Licenses and more expeditious procedure.—

We have discussed in some detail questions affecting the issue of licenses because we feel that the public have legitimate grievances, and we believe that improvements can be effected for their benefit without in any way impairing the efficiency of the Arms Act administration. We desire now to make two proposals which we think may have material effect in allaying whatever dissatisfaction may remain. In the first place, we recommend that the issue of all-India licenses should be as unrestricted as possible and should be generally encouraged, and that certainly every member of the entitled class to whom a license is not refused should get an all-India license if he desires it. Further, we see no sufficient reason why Assam and Burma should be excluded from the all-India license and would recommend their inclusion. In this connection we also recommend with reference to entry No. I in Schedule II that enquiry should be made from the Punjab, Burma, North-West Frontier Province and Delhi whether the retention of these provinces in column I is really required, and whether the power given in column 3 is not sufficient to meet all reasonable requirements. Secondly, we strongly advocate greater expedition in dealing with applications for licenses and renewals. We have dwelt already on the possible inconvenience caused to the public. With the object of remedying the existing state of affairs it has been proposed that in each district a special department or a local advisory board should be established to deal exclusively with matters connected with the administration of the Arms Act. We are not in favour of the establishment of such a department or board, as the result would probably be even greater delay than at present, but we recommend that local Governments should be asked to issue instructions to district officers that they should appoint additional staff when necessary to deal expeditiously

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with applications for licenses and renewal when applications are received in such numbers that the District Magistrate is not able to deal with them promptly with his ordinary staff.

**24. Points of detail.**—We now come to a number of miscellaneous points of detail and we propose merely to give a brief record of our conclusions.

**25. Restrictions on Revolvers.**—It has been suggested by the military authorities that the restrictions on the possession of revolvers should be tightened up. We recognise that the unrestricted possession of revolvers might be a menace to the public tranquillity; nevertheless, we do not recommend any tightening up of the existing restrictions which seem to be adequate. At any rate they have not been shown to have failed. The existing restrictions should, however, remain.

**26. Revolvers of .303 and .450 bore.**—Enquiry has been made whether the import into India of .303 bore revolvers should be prohibited. The military authorities see no necessity for the prohibition and we do not recommend it. There are, however, good reasons why the import of .450 bore revolvers which take service ammunition should be prohibited, and we recommend that such prohibition should be included in the rules.

**27. Rifles of prohibited bore**—In regard to rifles of prohibited bore, we recommend that no prohibition is necessary in the case of those rifles for which service ammunition cannot be used and the ammunition of which cannot be used for service rifles, but we make this recommendation subject to any objections which the military authorities may wish to place before the Government of India.

**28. Import of Arms through Post.**—It has been suggested that the import of arms should be permitted through the post office, but we think any general rule such as this would be dangerous, and accordingly we are opposed to the adoption of this practice.

**29. Retainers**—The rules regarding retainers have been represented as inadequate, but no specific instances of hardship have been brought to our notice, and we are of opinion that no change is required.

**30.—Carrying of arms on journeys by female members of licensee's family.**—A proposal was made to us that licenses granted to the head of a family should be held to cover the carrying of arms by dependent members of the family, particularly in the case of adult female members travelling alone. We are of opinion that the acceptance of this principle in such general terms might be dangerous. We think, however, that there is much to be said for the wife of a licensee being permitted to carry a weapon for purposes of protection on a railway journey, and we recommend that to this extent the proposal should be accepted.

**31. Sale by Agents**—We agree that the practice hitherto followed by licensed dealers of employing assistants to conduct their business in their temporary absence should continue, and that it is unnecessary to take further steps to legalise it.

**32. Reciprocity with Indian States.**—As regards reciprocity with Indian States, it has been proposed that reciprocal arrangements should be

made in all matters connected with arms administration. We recognise that unrestricted reciprocity is clearly impossible. Some States have no Arms Act or Rules, and in others the administration of their rules proceeds on different lines from those which obtain in British India. We could not with equanimity contemplate a large number of persons from Indian States coming into British India in possession of arms on the ground that they are exempted in their State. On the other hand our exemptions provide for the exemption in British India of a number of high officials belonging to Indian States, and we therefore recommend that the Government of India should endeavour to secure reciprocal arrangements with any State which can satisfy the Government of India that they have properly administered Arms Rules.

**83. District Authorities, Karachi.**—We recommended that the same power be given to the Commissioner in Sind and the District Magistrate, Karachi, in respect of the grant of licenses for the export of arms and ammunition to Indian States by dealers in Karachi as are at present possessed by particular officers named in Schedule VI in respect of arms exported from elsewhere in India.

**84. Appointment of a Special Officer to revise the Arms Rules.**—We have not considered a number of technical points and minor errors and omissions in the existing Rules to which reference has been made in the correspondence or the evidence we have examined. Our object has not been so much to revise the Arms Rules from the point of view of draftsmanship as to suggest improvements which will benefit the public. As regards the technical defects of draftsmanship we are not qualified to express an opinion, nor is it our duty to do so. We recommend, however, that an officer might profitably be placed on special duty to redraft the Rules, in the light of the recommendations made in this report and that an expert from the trade should be invited to assist him. In our opinion it would enable the ordinary license-holder to get a grasp of the Rules which are of importance to him, namely, those relating to the issue and renewal of licenses, the fees payable, and the restrictions imposed, if these Rules were issued in a self contained section. The Rules as they stand are very confusing and are so comprehensive that the average licensee finds it difficult to disentangle those which concern him from those which are in the nature of technical instructions.

*Letter dated September 20th, 1922 — From Baba Ujagar Singh Bedi, M.L.A.*

As suggested by the Arms Rules Committee to elicit opinions of certain Provinces on Schedule I of the Arms Rules 1920, for which the Punjab Government have also been called upon to submit their view regarding clause (d) section 6 of Schedule I; in which connection I was also asked to suggest some definition which might be helpful to the Punjab Government in their this effort.

I may be permitted to submit the following few suggestions which might be taken into account both by the Punjab Government as well as the Government of India, before giving it a legal shape.

Although the Punjab Government has defined the Great Sardars and Jagirdars of the Punjab as those who are Provincial Durbaris, yet it seems to me that there is no well-defined criterion which governs the creating and selecting of Durbaris. It entirely rests with the arbitrary choice and recommendation of District Magistrates. Hence the definition is not for Great Sardars and Jagirdars. There may be certain Provincial Durbaris who may be regarded as Great Sardars and Jagirdars and yet may not be paying such high revenues as are paid by, or bearing such traditional qualifications as are enjoyed by, those with are neither Provincial Durbaris nor regarded as Great Sardars and Jagirdars by the Punjab Government. Therefore it has become imperative that a comprehensive definition should be provided for in the Law. Not even to ignore the idea of the Punjab Government, let Provincial Durbaris be regarded as Great Sardars and Jagirdars.

But over and above that, it may be pointed out that although the evidence given by the non-official witnesses from the Punjab and also certain other Provinces presses Rs. 500 as annual land revenue as a definition of Great Sardars and Jagirdars, yet to make it more restricted, I beg to propose that a man whose land is assessed to land revenue of Rs. 1,000 annually, or at the most Rs. 1,500, or is a Jagirdar of the same value, and is also from the Punjab Chief's Family, in both cases, may also be regarded as a Great Sardar and Jagirdar within the meaning of the clause referred to above.

Might I here elucidate the matter: the Punjab Government itself has considered the highest value of the revenue tax-payer to be Rs. 1,000 as given in the Electoral Rules to qualify a person as an elector to Landholders' Constituency in the Punjab for the Legislative Assembly and that is the highest limit in the Punjab. It is, therefore, obvious that such revenue payers in the Punjab are very limited in their number. The definition that I have given above will remove the trouble. There seems no reason why the persons who come of high families of the Punjab Chiefs and are Jagirdars and still pay high revenues, are excluded from this privilege and merely persons picked up by the sweet will of District Magistrates should alone be and are regarded as Great Sardars and Jagirdars.

I presume that I have made the point clear, and that it will invite the attention of the Government: and I may be informed at an early date of the decision which may be arrived at by them.

I think that in view of the fact that land-revenue in the Punjab is very low landlords paying Rs. 1,500 per annum as land-revenue in the Punjab may be exempted. (Sd.) S. P. BAJPAI, M.L.A.

While approving the view of my friend Mr. Bedi, I would also suggest to define the word or expression 'Ancient zamindar' in Madras also. (Sd.) M. K. REDDI, M.L.A.

I agree with these views for Punjab. (Sd.) H. A. J. GIDNEY. ABUL KASEM.

For the reasons pointed out above I am of opinion that in the special circumstances of the Punjab landholders in the Punjab paying an annual land-revenue of Rs. 1,500 who are at the same time Punjab Chiefs should be exempted. (Sd.) HARCHANDRAI.

*Minute of dissent by Rai Bahadur S. P. Bajpai, M.L.A., Member, Arms Rules Committee, dated the 27th September 1922.*

Paragraph 7.—I do not agree with the majority of the Committee that my proposal to issue licenses to all applicants on the payment of the prescribed fee save in the case of undesirable persons specified in a list to be kept for the purpose is outside the range of practical politics. The policy of the Government of India in regard to the administration of Arms Rules has all along been a subject of hostile criticism in the country. It is urged that innumerable restrictions and limitations imposed on the possession of firearms have led to the emasculation of the Indian manhood. Those of us who were connected with the recruiting work during the great war know with what difficulty recruits could be procured for combatant strength in the army. The reason is obvious. People in the interior who have seldom seen a breech-loading gun would hardly agree to become soldiers and fight in the trenches. I think it is not impossible to prepare a schedule of exclusions. The Police maintain a register of bad characters, and a list of persons convicted of heinous offences can be obtained from the office of the District Magistrate. Bad characters, persons convicted of heinous offences and members of criminal tribes may be excluded. I think the time has now come for the Government of India to take courage in both their hands and adopt my suggestion, which I believe, will not only disarm criticisms levelled in season and out of season against the Government but also prove a source of considerable strength to the British Empire in the hour of need.

Paragraph 3 entry 1 (a).—I think it is only fair that the members of the Provincial Legislatures should also be exempted. To me it appears an invidious distinction to exempt members of the Central Legislature and to deny the same

privilege to Provincial Legislators. After all a considerable body of both the Legislators is drawn from the same class of citizens. This distinction, I am sure, will lead to considerable bitterness and heartburning. I shall, therefore, recommend to the Government of India to exempt the members of Provincial Legislatures as well.

Entry 6 (g).—(a) In Oudh all Taluqdars as such are exempt. Some of them pay nominal land revenue, while non-Taluqdar Zamindars to enjoy the privilege of exemption are required to pay twenty-thousand rupees land revenue. I think, with a view to assuage feelings which are running very high with regard to the exemption of Zamindars in the Provinces of Agra and Oudh, I shall suggest that all Zamindars who pay Rs 3,000 or over as land revenue should be exempted. My recommendation coincides with the recommendation made by the United Provinces Landholders' Conference which met at Lucknow in July last.

(b) Heads of Joint Hindu families who pay Rs 3,000 or upwards as land revenue should also be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it.

Entry 11, 11 (a) and 11 (b).—I do not agree with the majority of the Committee in their recommendations to grant a life license to exemptees falling under these categories. I am not convinced that the removal of these entries from Schedule I will satisfy title holders who received these distinctions after the year 1920. They will continue to feel that, while their more fortunate brethren are exempt to all intents and purposes, they are called upon to apply for licenses. Most of the title-holders who received these decorations after 1920 feel that a rare privilege is denied to them.

Big landholders and a large number of title-holders have got large stakes in the country. I, therefore, see no reason why they should not be exempted. Consequently I recommend that entries 11, 11 (a) and 11 (b) should not only be retained but that all future title-holders, etc., should also be exempted.

Paragraph 4.—I do not agree with the majority of the Committee when they recommend that Magistrates, etc., should not be exempted. I think all Magistrates, Stipendiary or Honorary, Honorary Munsifs and Honorary Assistant Collectors should be exempted. Magistrates do need firearms to protect themselves when they are put in charge of processions, etc.

Paragraph 5.—I think it unnecessary to place restrictions on the number of firearms to be possessed by an exemptee. I shall, therefore, recommend that no restrictions be placed on the possession of firearms by exemptees who are almost always loyal and law-abiding citizens.

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*Minute of dissent by Mr. Muhammad Faiyaz Khan, M.L.A., Member of the Arms Rules Committee, dated the 18th October 1922*

I am sorry that I have disagreed on some points in the Arms Rules Revising Committee, which run as follows :—

(1) I do not agree on the ground of principle that the Members of the Imperial Legislature should be exempted from the operation of the Arms Act only so long as they continue to be the members.

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A person may not enjoy any concession, but if he does, he should not be deprived of it during his life-time, unless there is something to prove that he has become less trustworthy. A Member of the Imperial Legislature does not lose any part of his worth or his sense of responsibility by ceasing to be a member. Membership is only an apparent proof of a man's qualities, and his retirement does not involve any kind of turpitude at all. I therefore strongly hold that the Members of the Imperial Legislature should enjoy this privilege during their life-time.

(2) I fail to understand why the entitled class should only be based on money consideration. A person may not be a Government servant or may not be paying the prescribed sum to the Government as revenue or taxes, but still he may be as good or even a better citizen than many of the Government servants and those paying the prescribed sum to the Government as revenue or taxes. The professor of a Communal College is an instance in point, who is neither a Government servant nor paying anything as tax. Again, the son or sons of a Zamindar may be thoroughly satisfactory men for keeping a weapon and still may not be paying any revenue or income-tax in their name.

I really do not see why education be not also regarded as a sufficient qualification for coming under this class. Wealth may lead a man astray and may even bring him down to the position of a beast, but education alone is a sure agent for ennobling character. I would therefore suggest the inclusion of the following to the entitled class :—

- (a) Barristers, Pleaders, Vakils of High Court of 5 years' standing ;—
- (b) Professors, Readers and Lecturers at Colleges affiliated to an Indian University ;—(c) M.A.'s. ;—(d) B.A.'s. of seven years' standing ;—
- (e) Government Pensioners drawing Rs. 100 and over per month.

(3) It should be expressly provided in the Arms Act that the licences will not be held back on the basis of the individual political views, and those who come under entitled class will get their licences as a right and not as a favour. What justification was there for the forfeiture of licences and arms of such revered, noble and peace-loving citizens as Pandit Motilal Nehru, Lala Bhagwan Das, Khwaja Abdul Majid and S. Asif Ali, etc. The refusal to issue or renew a licence to Indians of this position, though a proof of the "frame" being made of "steel" has the inevitable effect of lowering the prestige of the Government in the country. Big Zamindars and money-lenders paying a large revenue to the Government have been refused licences on the ground of their wearing "Khaddar."

On the refusal or the forfeiture of licences, I have received a good many letters from respectable people ; and the following are the copies of a few interesting letters in my possession which will reveal the methods some time adopted by some of the District Magistrates. A gentleman who is paying as much as rupees twenty-five thousand as Government revenue, who is also a Municipal Commissioner and the Secretary of an important orphanage and a girls' school, writes :

The local officials simply on account of the reason that I wear Khaddar in response to the country's call have forfeited my licence of Arms. I do not know what justification there is, the licences are being granted to my petty cultivators only if they say that they are the members of the Aman Sabha, but without giving any reason whatsoever they have done that against me, and together with me other very big and prominent Baises of.....whose fathers and they



themselves are held in great esteem for no reason apparent except to suit their own wishes. .... As far as I could ascertain and my knowledge goes the licences were introduced that undesirables should not get licences, and should not possess firearms, but everyday experience will show that murders and dacoities are being committed every day and Badmaashes never show in wanting, they always have it and people of my social status do not get a licence. We have to travel to go to our villages which are apart some 40 miles, and travel with that money unsafe absolutely at the mercy of robbers and all, and nothing to protect us. I hope you will do something to relieve the present situation in the country and save gentry from these Bureaucrats who are pleased with a few on flattery.

In another letter the same gentleman writes.

As regards myself, we are followers of Swadeshi and wear 'Khaddar,' I manage my estate, cases go to the courts, but certainly I am Congressman and so is my friend..... But my friend..... does not even wear Khaddar and still wears English suits, though of course he has also committed the crime of being a Congressman.

But I will quote you a most important example that the licence of..... had been forfeited, and the reason of this forfeiture I shall explain in full (instead of the explanation from the writer of this letter the very gentleman referred to in the above letter, wrote me the reason why his licence was forfeited, which runs as follows): His name is....., Rais and Talukdar of..... he is one of the very big landholders of the United Provinces and is a confirmed loyalist, always dancing before the Collector and the Commissioner of..... so timid as afraid of wearing Khaddar because that displeases the officials so he must wear Christy's cap. Here is what he himself says about the reasons of the forfeiture of his licence.

The whole estate is in the name of my father who pays the revenue of about Rs. 5,000 to the Government, my father is supposed to be one of the big zamindars of this place, his name is..... as he has practically retired from all worldly cares and anxieties, so I am carrying the whole business from the last 8 years, and hence the licences of firearms were in my name, which have been forfeited, and the forfeiture of arms has caused me very great inconvenience. I had to shift my residence from ..... to..... permanently, as it was not quite safe at ..... owing to the dacoities and robberies, though it is not quite safe over here too. I was never taking any part in politics, and why I was a prey of Bureaucrats, I shall explain to you in detail. The remote reasons of displeasure of the Bureaucrats was that when I was residing in ..... a few Congress Volunteers came for subscriptions, and I also paid a sum, but that was not the immediate cause of displeasure, I was serving as a Panch in the Tehsil of ..... and I was called upon by the Collector to resign my seat from there, which as a gentleman I could not do so, as I had given my words that I will serve as a Panch for a month, this was the immediate cause of displeasure and he said that if you do not resign your seat from village "Panchayat" I shall forfeit your arms, and on my refusal the arms were forfeited. I at least was under the impression that Panchayats were no cause of displeasures to the Government, and on the other hand they were encouraged.

Another letter gives quite a different method adopted by a District Magistrate, which runs as follows :

I have also a stubborn grievance against the licence regulations which seem to exist only in name. We are told that the reform scheme had given the honourable zamindars an opportunity to apply for licences for firearms such as rifles, revolvers, etc., but we have fully experienced the Reform Scheme to be dead letter. For this I may quote instances: I am a big landholder of..... my father is paying a considerable Government revenue of Rs. 8,000. When I applied for the licence of a rifle in the Collectorate, the Collector disposed of the case to the Deputy Collector, and I was called, and I appeared before him and he told me that if I gave Rs. 200 as a contribution to a Government fund I could be given the licence applied for. I had already contributed a considerable amount and that this has no concern with the present matter, whereupon he said that if I were not ready to comply with his order, I should not insist for the said licence. Dismayed and embittered I left the court. Such measures I say can never compel us to co-operate. Leaving aloof my own case there are hundreds that will readily attract your attention. The whole district is seething with discontent on account of the severity in granting the licences. It is better that I do not quote more instances of the same nature.

A cousin of the above writer, also writes.

My case is a bit different because I have not been refused the licence of a pistol which I require, but I have every reason to preconclude that if I were to apply for it I should have been

flatly refused. The statement of mine is not without foundation and validity, because my cousin who applied for the licence of a rifle was not given the licence he asked for. We are one of the greatest zamindars of our district, our family is paying Government revenue of Rs. 8,000 (the whole family jointly paying Rs. 25,000 Government revenue) and myself exclusively paying Rs. 2,000. We really regret that being supporters of British Raj we are not so much trusted as to allow us to keep firearms. These measures instead of creating amicable relations with the Government bring about the greatest breach of fair connection with the landholders.

The above are a few of the typical cases I have selected, and I would only like to give one more letter from a person holding a responsible Government post in judicial line which will show how the other party thinks of the present arms rules. The letter runs as follows :

As for the Arms Rules in my opinion either the exemptions should be totally abolished or Gazetted Officers of 1st class must be exempted. You can well imagine the anomaly that a common man who has been hanging at the coat tails of a District Magistrate and thus becomes a Khan Bahadur prior to 1920 is exempted whilst a sub-judge who is entrusted with the decision of the Rais cases of the value of crores is not ..... In my opinion if enquiry is at all necessary it must be entrusted to a District Committee comprising officials and non-officials and their decision should be binding.

Before I finish quoting examples, let me quote one more recent amusing example of the decision of a queer District Magistrate. A leading practising Vakil in a District recently applied for a licence of a Double Barrel Breech-Loading shot gun, and the license was duly granted with the following note on the application :

A licence for a Double Barrel Breech-Loading gun for British India has been sanctioned in the name of the applicant, now he deposits the stamps for fee of the licence. Submitted for orders. The applicant is a pleader practising in the District.

After a month or so the gentleman happened to go and see the District Magistrate. No one knows what conversation was passed between them, but one can pretty accurately guess what conversation could have passed between these two, which led the District Magistrate to write the following amusing and entertaining remarks on his application. The remarks ran as follows :

Deposit meanwhile. I have seen the gentleman, who seems very uncertain whether he is an enemy of the established Government or not.

Curiously one would like to know from the District Magistrate whether he himself is "The enemy of the established Government or not," because by forfeiting the license of such a respectable gentleman, has he not sown the seed of hatred and discontent with the established Government? One who sows the seeds of discontent with the established Government, then who should be called the "enemy of the established Government, the Magistrate or the licensee?"

There is one more and the last example of the misuse of the Arms Act by a District Magistrate which I would like to show, and I believe these examples to be enough to throw some light on the actual working of the Arms Act. A few months ago at Kashipore the shopkeepers observed Hartal on a particular day, the District Magistrate got enraged and issued an order of the forfeiture of the arms of some of these shopkeepers who observed Hartal, and the order of the District Magistrate with the reply of the shopkeepers runs as follows :

ARMS ACT RULES—A KASHIPUR CASE.—(From a Correspondent).—True copies of the order of the Deputy Commissioner and the reply of nine gentlemen upon whom the order was served are sent herewith :

All these gentlemen are either zamindars or wholesale cloth-merchants. They are men of respectable families. None of them is a non-co-operator. Even then the bureaucracy would force them to be so. Well, Sir, was it any sin to close the shops on the 13th of April? Is that Hartal.

- IMPERIAL -



declared to be an illegal act? Can Government force a man to either become a co-operator or a non-co-operator? Is it not coercion, intimidation? Are the peace-loving citizens to be thus deprived of their lawful activities? It is rumoured that a gentleman is going to be deprived of his honorary magistrateship if he does not soon publicly do some work for the Aman Sabha.

**DISTRICT MAGISTRATE'S ORDER.**—On 18th April 1922, a *Hartal* was observed at Kashipur in pursuance of the non-co-operation movement. A number of those who closed their shops on that day are in possession of arms licences. Some of these have apologised. Other have not. The names of the latter are given below.

By observing *Hartal* these persons showed their sympathy with the non-co-operation movement and also showed themselves undeserving of holding arms licences granted by the Government.

I therefore hereby suspend the licences of the persons named below and a notice will be served on each of them accordingly to deposit his weapons in the police station forthwith.

If within one month of service of the notice the licensee files a petition in my court expressing his regret and assuring me of his non-sympathy with the non-co-operation movement, the weapon will be restored. Otherwise the licence will be cancelled on the expiry of one month.

(1) Lala Sukhdeo Prasad Khatri, Honorary Magistrate, Kashipur; (2) Lala Raghbir Saran Khatri, Kashipur; (3) Lala Kunj Behari Lal, son of Lala Sukhdeo Prasad, Kashipur; (4) Lala Brij Kishore Khatri, cousin of Lala Sukhdeo Prasad; (5) Lala Puran Pershad Khatri; (6) Lala Shiv Lal Khatri; (7) Lala Ganga Prasad; (8) Lala Chheda Lal Khatri; (9) Lala Shyam Saran Har Saran Khatri; (10) Lala Sudama Lal Raghbir Saran; (11) Lala Shiva Lal Vaish; (12) Lala Hazari Lal Vaish; (13) Chaubey Amar Nath, Chairman Municipal Board, Kashipur.

**THE REPLY.**—To THE DEPUTY COMMISSIONER, NAINI TAL.—SIR, In compliance with your order dated 7th June 1922, some of us have deposited our weapons in the police station, Kashipur, and others with Sheikh Abdul Wahid, a local licensed dealer in arms. As under the law both the courses are open to us, those of us who have elected the latter have done so in the hope that it will facilitate the disposal of these arms and enable us to realise a part of their value in case you are not pleased to rescind the above mentioned order.

2. Under resolution No. 2125C of the Government of India, Home Department, dated the 21st March 1919, payment of not less than Rs. 1,000 per annum as land revenue, or payment of an income-tax of not less than Rs. 3,000 for a period of three years as well as under the United Provinces Government, Resolution No. 5572-X-844, dated 10th November 1919, payment of the above sums as land revenue or income-tax, respectively, or being an honorary magistrate, etc., is to be regarded as a sufficient qualification for entitling a person to obtain licences for the possession of firearms, including rifles, smooth bores, etc. In accordance with these statutory rules every one of us is duly qualified and entitled to a licence and some of us are possessed of more than one qualification.

3. The law for the suspension and cancellation of licences is clearly laid down in the Arms Act. Under section 18 a licence is liable to be suspended or cancelled only if the licensee is convicted of an offence against the Arms Act or the Rules or if it is necessary to do so for the security of the public peace. None of us has been so far convicted of such an offence, nor has it been alleged by anybody and it is not stated or even suggested in your order that it is necessary to suspend or cancel our licences with a view to preserve public peace. So, we venture to submit that court order is quite illegal and *ultra vires*. We have, jointly as well as severally, a profound concern in the maintenance of public peace. Even if we were unmindful of the public weal, our own self-interest as well as self-regarding instinct would constrain us to discountenance everything that may tend to disturb the public peace even remotely or indirectly. We cannot help stating that we have a distinct stake in the land as each one of us is connected either with a *zemiindari* or with a decent business concern, or with both, and such we have everything to loose and nothing to gain by any breach of the public peace at any time. We beg leave to submit that the closing of the shops on the 13th of April last—whether all of us did so or not; and though some of us, namely Lala Chedalal, Lala Brijkishor, and Lala Sukhdeb Prasad have no shop in any bazar and Lala Hazarilal none in Kashipur, so that it was not possible for them to close any—has no bearing in the matter of our licences and the suspension thereof on this account is not warranted by the law of the land.

4. As a condition precedent to the restoration of the weapons you want an assurance of non-sympathy with the non-co-operation movement from each of us. We are at a loss to understand the full import of these words. As we have stated above, we have to come in contact occasionally, if not frequently, with public servants for various purposes, such as the determination or payment of land revenue or income-tax, or for purposes of irrigation or settlement, and in connection with proceedings in courts, and the like. The very fact of our being in possession of these arms is significant enough. Besides we are rendering public services, however humble they may be, in various other spheres, e.g., in the municipality, in the furtherance of the co-operative credit movement, in the management and maintenance of the aided high school in our town, and one of us

Lala Sukhdev Prasad, also, as an honorary magistrate. Under these circumstances it would not be impertinent to enquire what we are required to undertake by giving an assurance of non-sympathy with the non-co-operation movement. Unity among all races and creeds, uplift of the depressed classes, encouragement of cottage industries and indigenous manufacture of cloth, revival of the purity and simplicity of Oriental living, social and temperance reform, cultivation and development of the individual and national sense of self-respect, and above all, the realisation of the paramount necessity of the maintenance of public peace and order under all possible conditions and circumstances and an immutable determination to adhere to the above principles and to cultivate feelings of personal amity and goodwill among individuals are some and by far the main planks in the contemporaneous non-co-operation platform. Are we required to run in a counter direction and to turn our stiff backs against one and all of these and, if so, would our conduct be of public advantage and conducive to the progress of the State? Further, is any of these activities prohibited by law and, if not, is one to be deprived of his legal rights and privileges because of his legitimate actions and lawful actions if he cannot succeed in persuading his conscience to accept the executive view of the matter or to disregard its counsel?

5. There is a still graver aspect of this question, and we can only hope that it did not strike you at the time you passed the preliminary order suspending our licenses. As was well known to your predecessor in office, Kashipur sub-division and its vicinity is infested with dacoits as well as wild animals and their ravages have rendered serious havoc—villages have been deserted, land has gone waste and population is steadily dwindling—dacoities have never been scarce in these parts while during the last two or three years arson, pillage, assassination and inhuman outrages have been the order of the day and a reign of terror has been supreme for a considerable period as even one having no local knowledge can easily gather from the Sub-divisional Magistrate's judgment in a recent case (K. E. vs. Umraosingh of May 1922). The report of the land revenue administration in these provinces just published also bears testimony to this 'Agriculture in the Naini Tal talai was hampered by the prevalence of dacoity, and the Commissioner remarks that dacoity was disastrous and the police were helpless' (vide paragraph 60 of the report.) It is reported that a public spirited citizen offered to lead the police in March last to the dacoits' camp in the neighbourhood of Kashipur town and in response to this the superintendent of police did proceed to Kashipur and reached the railway station with a force of about a hundred strong one evening but,..... he retraced his steps and returned back to his headquarters with his party by the next train. Presumably he did this out of regard for public interests, and you will see from this how very irksome is our position, specially as some of us have already received threatening letters purporting to have been written to us by the members of the gang. In a case in which a person was convicted for being in possession of a pistol without a license at Kashipur, the High Court held in revision that a serious view should not be taken of the matter as 'the applicant was living in a part of the province where dacoities had been fairly numerous of late years' and there was a presumption that any person found in possession of such a weapon had obtained it for the purpose of self-protection, (Revision No. 680 of 1918.)

Under these circumstances we beg leave to admit that possession of such weapons as we have surrendered in obedience to your orders is absolutely essential for purposes of self-defence for persons of our status, and we hope that on reconsideration you will be pleased to cancel your orders under reference so that our arms may be restored to us.

It is unfortunate indeed that some time the zamindars and other respectable people are deprived of the right of possessing firearms by license, while Anglo-Indians of the position of a railway-guard are being granted licenses, even for revolvers. The Government of India, whose vision is certainly broader than most of the District Magistrates may not, perhaps, like them, be so narrow-minded, but their impetuosity has no limit. Let us, therefore, put a brake upon their rashness and local prejudices by an express provision of the Act.

(4) The present Arms Act requires or it is at least a practice in some of the districts, to bring or send the arms, after having bought it, to the collectorate to have the number of the arms endorsed on the license, and I know a good many instances of a few Englishmen of higher service—District Judge and Joint Magistrate—who instead of sending or bringing their arms to the collectorate, they just send a letter or a chit to the collectorate and give the number of arms in it for endorsement. I am of opinion that nobody should be required to bring or send his arms for endorsement to the collectorate, he should just mention the number of the arms in a letter addressed to the authority concerned, or if it is necessary at all that the arms should be presented before the endorsement

authority, then each and every one, whatever position he may hold, should be required to present his arms before the endorsement authority and no letter or chit should be permitted to any one.

(5) The limit of 200 cartridges per rifle is one of the most important questions from the sportsman's point of view; if this limit means 200 cartridges per rifle per year then certainly it will be most objectionable; 200 cartridges will never be sufficient even for a month in a sporting district, but if it means that not more than 200 cartridges can be bought or kept at one time then there is not much objection. But why limit the number of ammunition at all? When the Government relies on a person for an arm with a certain limited number of ammunition, then I fail to understand why the same person should not be relied upon for an unlimited number of ammunition. Why should the Government of India be responsible for this sort of act and restriction, which is bound to create discontent in the country, or at least among the sportsmen, and make the Government unpopular. I know of no country in the world putting such sort of restriction on the amount of ammunition to be possessed by a licensee.

(6) There is one more important point to which I would like to draw the attention of the Government, which is about the punishment meted out to the holders of unlicensed arms and ammunition. Cases have been known where an Anglo-Indian has been fined a few rupees, and his arm confiscated, for unlawfully possessing an arm, while an Indian had to undergo a few months simple or rigorous imprisonment for even unlawfully possessing a sword. In the eye of law there is no such distinction between an Englishman, Anglo-Indian or an Indian, then why the distinction in the punishment. There is no reason why should an Englishman or an Anglo-Indian escape by merely paying a few rupees as fine and a poor Indian has to undergo simple or rigorous imprisonment for the same offence. If I am right there is a provision in the Government Order No. 454-VI-989, dated 14th March 1887, which clearly says that the offences against the Arms Act "would as a rule be sufficiently punished by fine." I am afraid this order of the Government is never acted upon. There must be a uniformity in the punishment of an Englishman, Anglo-Indian or an Indian under this Act, and this will undoubtedly allay the bitter feeling of the racial distinction.

There is every probability that under the new rules, more applications for licenses will be coming in. If, then, the reforms are in reality the first step on the road to self-government, then these applications should be dealt with in the spirit of real justice and right and not as a favour. There are no doubt several District Magistrates whose attitude towards such applicants has been reasonable, but unfortunately the majority of them are still too proud and not yet prepared to consider themselves as servants but always pose themselves as masters, and do not feel that a new era has set in. They ought to be told in plain words that the grant of a license to an entitled person is never a special favour or a privilege but they deserve it as a matter of right. Let me quote here a sentence from the speech of Mr. Iswar Saran, M.L.A., delivered in the Legislative Assembly on the 8th September 1922 at Simla, who in other words truly represents the public opinion and this applies in each and every case, he says: "We do not want the white man to be our perpetual ruler, our perpetual trustee, our perpetual guardian. We have had enough of this everlasting trust."

We extend to the white man, and I speak with absolute truth and sincerity, the hands of fellowship and good comradeship, but I do resent and as long as there is the last breath of life in me, I shall continue to resent the perpetual domination of the Civil Service or any other service....."

Unless the principle is accepted by the Government and faithfully acted upon by the District Magistrates any improvement upon the present Arms Rules will be a farce. I cannot emphasise upon this point too much. The entitled class should never be debarred from holding the license except on the only ground of moral turpitude. I must, however, make it clear that I do not regard any attempt on the part of an Indian to criticise the policy or the official of the Government or any desire on his part expressed in words or act to bring about a fundamental change in the policy of the Government, as amounting to moral turpitude. The District Magistrates must not allow themselves to be carried away by what they hear from the police or those unfortunate class of non-official people who are called the flatterers, official favour seekers, title and job hunters and sycophants, who as a matter of fact have taken on themselves the duty to always misrepresent the true spirit and condition of the country and the individuals, simply to satisfy their personal aggrandizements, and those unfortunate officials who are misled by this class of people, not only ruin their own reputation and position but that of the Government, too, along with them. They should always coolly form their own opinion, and without the least fear of contradiction I can say that this class of people,—who are never considered anybody in public eye, who always mislead the officials and hence the Government—are unfortunately the chief and the only root cause of all the present discontent and situation in the country. The personal considerations would defeat the ends of justice and fair play and bring a bad name to the Government.

With due respect to the President of the Arms Rules Revising Committee, I may say that I do not for a moment accept the arguments some times put forward before the witnesses, that the presence of too many arms may prove dangerous to the public on such occasions as the Arrah or Katarpore riots. I wonder why no such riots ever take place or have ever taken place in any of the Indian States, although the use of arms there is almost freer than in British India. It entirely depends, if I may say so, on the temperament of the people and the way in which delicate situations are handled by the Government. In the Indian States, there is no such thing as quarrels between the Hindus and the Musalmans, probably because their rulers do not seem to have yet adopted the unwise policy of the "divide and rule"

If I remember it right the Committee had decided that the powers of fixing the number of licenses in any district, in the case of necessity should still remain with the local Governments. May I just say a few words about this—and finish this minute of dissent with the hope that these new rules will be dealt with a new and a broader vision—I do not think there is any harm if the local Governments be given such powers, but, before limiting or reducing the number of licenses in any particular district, I hope the local Government will kindly announce through their local gazettes—at least a month before—the name with the date of the district where this new order is to be enforced, and also the reasons for doing so, with the opinion, if possible, of some of the leading officials and non-officials of the district concerned, then and then alone should the local Governments be empowered to enforce this order.

*Government of India, Home Department, Resolution, No. F.—829-1-22, dated the 3rd November 1923.*

In pursuance of a resolution moved in the Legislative Assembly on the 8th of February 1922 by Baba Ujagar Singh Bedi, a Committee was appointed by the Governor-General in Council to examine the Indian Arms Rules, 1920, and to make recommendations with a view to their amendment. In accepting this resolution the Governor-General in Council had made it plain that there could be no departure from the two principles :—

(1) that there should be no racial discrimination in the rules, and (2) that the Government must retain the power to impose restrictions to prevent arms and particularly firearms from falling into the possession of lawless or dangerous persons.

The Committee submitted its report in November 1922. On the 15th of February 1923 the Hon'ble Home Member stated in the Legislative Assembly that subject to enquiries from local Governments and other authorities concerned on certain points of detail the Government of India were prepared to accept the main recommendations of the Committee. They could not, however, announce their decision on all the recommendations made without prior consultation with local Governments who are in charge of the detailed administration of the rules. Local Governments accordingly were asked for their views and at the same time were requested to give effect as far as possible to the principles adopted by the Committee where this was feasible pending the modification of the rules of 1920. The replies of local Governments have now been received and have been fully examined by the Government of India. The Indian Arms Rules, 1920, have been amended where necessary and are now republished as the Indian Arms Rules, 1924 : but many recommendations accepted in whole or in part involve no amendment of the rules, and on these the Government of India are now pleased to announce their decisions.

2. In paragraphs 3 to 7 of their report the Committee deal with the question of exemptions. The Government of India agree with the general principle adopted by the Committee that the confinement of the privilege of exemption is in the special circumstances of India preferable to its total abolition. They accept the conclusions regarding entry 1-(a) and entries 11, 11-(a) and 11-(b) of the schedule of exemptions, but they only agree to the proposal that members of the Imperial Legislature should enjoy exemption for their term of office with some reluctance. It is opposed by local Governments on the one hand, as creating an invidious distinction between the members of the Central and of Provincial legislatures, and on the other hand certain members of the Central legislatures claim a life exemption and not merely exemption for their terms of office. As regards entry 6 (d), 6 (f), 6 (i), and 6 (g), enquiries have been made from the local Governments concerned. They are averse from the preparation of lists in the sense recommended by the Committee. It is pointed out with justice that exemption is not conferred on certain Great Sardars or Zamindars as a right but as a privilege and that if the term were precisely defined and a list of all persons who came within that definition were maintained the fact of inclusion in the list would encourage claims for exemption as a matter of right. Moreover, the compilation of lists on a logical and uniform basis throughout India would present difficulty and would inevitably result in anomalies. The most expedient course, therefore, and that which will secure the maintenance of the principle that



exemption is a privilege and at the same time minimise the inconvenience referred to by the Committee is to attempt no definition of the terms Great Zamindars or Great Sardars or the like in the rules and the schedule, but to leave it to the several local Governments themselves to determine what persons or classes of persons should be included in this categories. The schedule has therefore been amended accordingly.

3. The Government of India after consultation with the local Government on the Committee's observations on *entry* No. 7, are of opinion that there is no necessity to retain *entries* 7 (c) and 8 of schedule I in view of *entries* 8 and 9 of schedule IV. The proviso therefore to *entry* 7 (c) in column 3 automatically disappears. As regards the recommendation that the same privilege should be extended to the district of Campbellpur, Rawalpindi and other districts adjoining the North-West Frontier Province, the local Government after careful consideration, have reported that no extension of this privilege is required, but in order to meet the danger of raids in the Attock District, suggest that power be given to them to issue licences for going armed in that district without payment of fee. The Government of India accept this suggestion and have accordingly amended the heading of the appropriate licence form. As regards *entry* 13, after careful consideration, they have decided that the words "or the Commander-in-Chief" should be added.

4. The Government of India accept the recommendation made in paragraph 4.

5. In paragraph 5 the Committee recommend that all exemptees should register the arms in their possession in respect of which they enjoy exemption and that registration should be compulsory. The Government of India accept the principle of registration but have decided that registration should be confined to firearms, and that no fee should be charged. In practice, they consider it would suffice if every exemptee were required to furnish the District Magistrate with information as to the weapons in his possession, failure to do so rendering him liable to the cancellation of his exemption.

6. To give effect to the recommendation regarding *entries* 11, 11-(a) and 11-(b), the Government of India have decided that those entries will be deleted from the Schedule and that no mention will be made of these classes in the revised rules. Every person now enjoying the privilege of exemption under these entries in the rules of 1920 or under *entry* 12 thereof, since the same considerations apply in their case also, will, on application, receive free of all fees, a licence in form XVI, specially made valid for the lifetime of the licensee in respect of any arms now in his possession and hitherto exempt from licence provided he applies within six months of the coming into force of the rules of 1924. The privilege will not of course extend to titleholders who received titles after the 1st of January 1920, who unless otherwise exempt will, as before, be required to take out a licence under the rules.

7. In paragraph 8 the Committee recommend that in extension of the classes described in Home Department resolution No. 2125-C., dated the 21st March 1919, the payment of Rs 500 land revenue, of Rs. 100 in roads and public works cesses, any payment of income-tax, and in the case of a Government servant receipt of a pay of Rs. 100 a month and upwards should be the qualifications constituting eligibility for what is commonly known as the "entitled class." The Governor-General in Council accepts the principle underlying this recommendation that the

grant of licenses should be less restricted, and more free from irksome enquiries, than was represented to be the case by many witnesses examined by the Committee and agrees with the qualifications suggested by the Committee as providing sufficient *prima facie* justification for the possession of arms. He is unable, however, to accept the recommendation that provisions recognizing and constituting an "entitled class" should be embodied in the rules. Conditions vary greatly in different provinces in India. In some quarters a practice is in force more liberal than that recommended by the Committee; but in others it is necessary in the interest of law and order to secure that arms do not fall into the possession of lawless or disaffected persons, and therefore they are unwilling to embody in statutory rules any provision which would have the effect of curtailing the power or discretion of the District Magistrate in ordering enquiries. The term "entitled class" is somewhat unfortunate. The rules as now framed contain no provisions inconsistent with the principle underlying the recommendation of the Committee, but the term "entitled class" has created the erroneous impression that there is a special class, enjoying fewer privileges than the exemptees, but greater than those who are neither exemptees nor members of the "entitled class." There is of course no such special class. The term is merely intended to comprise all those whose means and status *prima facie* connote respectability and therefore justify the presumption that they are fit and proper persons to possess arms. While therefore no mention will be made of an "entitled class" in the statutory rules, at the same time the Government of India are anxious that the qualifications recommended by the Committee should be generally adopted by the local Governments and should be made widely known. Where, however, a local Government has laid down more liberal qualifications, these should not now be abandoned. They cannot support the recommendation that lists of the "entitled class" should be maintained; the qualifications are so low that each district list would be voluminous, and its preparation and maintenance would involve the appointment of a special staff. The expenditure and labour involved would be wholly incommensurate with the results obtained.

8. In paragraph 10, the Committee recommend that where enquiry is necessary the agency of the police should not, if possible, be employed; but that if no other agency of enquiry is available a licence should not be refused on the strength of a police report alone but only after a further magisterial enquiry. The Government of India are unable to concur in this recommendation and are constrained to deprecate a reflection on the good faith of the police. The replies of local Governments indicate that it is impossible to eliminate enquiry by the police in the cities and that owing to the shortage or absence of suitable revenue staff, no other agency is available in many district areas. At the same time the replies show that enquiry is frequently carried out by other agencies where these are available. The Government of India are of opinion that the agency of enquiry is really a matter for local Governments and are accordingly averse from imposing any restriction on the choice of agency. They leave the matter in the hands of local Governments who will, they are confident, take all steps necessary to secure that wherever previous enquiries are necessary they are promptly carried out, and in a manner which is neither inquisitorial nor calculated to wound the self esteem of the applicant.

9. The Government of India are in complete agreement with the recommendation made in paragraph 11 that ordinarily no arbitrary limit should be imposed on the number of licences issued in a district but that local Governments

should have the discretionary power of limiting the number of licences in any area or district in which the number of arms justifies the apprehension of serious danger or in which such restriction is deemed necessary for the maintenance of public tranquillity. They accept the recommendation in paragraph 12 and have provided for the right of appeal by an amendment of the rules. The recommendation in paragraph 13 is accepted subject to a partial reservation as to the proposal that the duration of the licence should be for the calendar year. Local Governments have pointed out that in practice inconvenience would arise and would prefer that licences for possession and going armed and for protection of crops or destruction of wild animals should run from the date of issue, but have no objection to other licences being issued for the calendar year. The Government of India agree with the views of the local Governments.

10. In paragraph 14 the Committee have dwelt on the inconvenience to which persons desirous of purchasing weapons are put because they cannot produce the weapon when applying for the licence necessary for its possession. The Government of India agree with them that it is not necessary to provide for the issue of temporary licences in such cases and accept the recommendation that a regular licence should be issued at the time the applicant applies for a licence, if the application is granted. Provision has been made in the conditions attaching to the appropriate licences for the details of purchases to be filled in on the form by the dealer from whom the purchases are made and also, to meet criticism offered in this respect, for details to be furnished to the licensing authority by the licensee himself in any case in which he purchases arms and ammunition from any person who is not a licensed dealer.

11. The Government of India accept the principle of the recommendation made in paragraph 15 that a temporary licence for 14 days should be given to persons arriving in India by sea and not in possession of a regular licence on the payment of full fee by the Customs authorities. It is however open to objection in detail. The period clearly will in many cases be too short for the object in view; the payment of the full fee to the Customs authorities will deprive local Governments of their legitimate revenue; and finally it is doubtful whether the agency of the Customs authorities is altogether suitable for the purpose. The Government of India have therefore decided that a temporary licence for the period of the journey to destination should be granted by the Commissioner of Police at Bombay, Madras, Calcutta, Rangoon, or the District Magistrates at other ports, on a special form on the payment of a fee of Re. 1 for each weapon and that on arrival at destination a regular licence should be taken out in the ordinary way. No practical difficulty need be anticipated. It will be made clear in the form of temporary licence that it does not cover possession after arrival at destination. Travellers arriving in India possessing no regular licence and desirous of obtaining one should inform their agents beforehand of the weapons they intend to import and instruct them to obtain the necessary temporary licence. On arrival at destination they should apply for the licences required in the ordinary way.

12. The Government of India accept the recommendations made in paragraph 16. The conditions of the licence forms have accordingly been altered so as to make it compulsory to report the loss of firearms. A note has also been appended to the licence forms explaining that the breach of any of the conditions of the licence renders the licensee liable to the penalties which may be imposed under the Act.



13. The Government of India accept the recommendations made in paragraphs 17, 18, 19 and 20 and trust that local Governments will give effect to them both in the letter and the spirit. As regards paragraph 20 they agree that the District Magistrate or any Magistrate in charge of a sub-division in the District in which the licensee is residing or in any other district in which he is known should be empowered to renew a licence. In any case of doubt it is always open to such Magistrate to make enquiries from the licensing authority which originally granted the licence.

14. In paragraph 21 the Committee state their recommendation in regard to fees. There is some diversity of opinion in the replies received from the local Governments, some accepting the proposal, some recommending no change and others putting forward variants of their own. The principal objection is the loss of revenue which will result from the adoption of the scale proposed by the Committee; in some quarters, too, it is suggested that the large number of arms licences issued does not justify the belief that persons who require weapons are deterred from purchasing them by the high cost of the licence. The Government of India are impressed by the substantial loss of revenue which complete acceptance of this recommendation will entail. On the other hand they cannot overlook the fact that stress was laid on the desirability of reducing the fees before the Committee, particularly in the case of breech-loading weapons, by many of the witnesses who were examined. They have accordingly decided that the initial fees should remain unchanged but that half these fees should be chargeable on renewal provided applications are made within a month following the expiry of the period covered by the original licence. In their opinion this reduction of the renewal fees will afford substantial relief, and is the most they can agree to in the present financial stringency. They accept the recommendation in regard (1) to the payment of fees by non-judicial stamp, but consider that an applicant should have the option of paying them in cash, (2) the application for licences, (3) the renewal of licences by post, (4) exemption from payment of fees in the circumstances stated in the concluding portion of paragraph 21, and (5) the payment by dealers of a single fee for import into India and transport to destination.

15. As regards the limit on possession of ammunition, the Government of India agree with the recommendation of the Committee and trust that local Governments will, if they have not already done so, issue suitable instructions on the lines recommended.

16. They accept in principle the recommendation made in paragraph 23 that the issue of all-India licences should be as unrestricted as possible. They agree that Assam and Burma should no longer be excluded from the all-India licence; but they consider it necessary to make a provision that anyone who has secured an all-India licence in one province shall if he enters another province be subject to such restrictions as may be imposed by that province, as for example that an all-India licence granted in one province should be endorsed by the District Magistrate of the district of another province visited by the holder of the licence. Enquiries as recommended have been made from the Punjab, Burma, the North-West Frontier Province and Delhi whether the retention of these provinces in column I of Schedule II is required; the North-West Frontier Province agree to exclusion, but the Government of India are unwilling at present to adopt this suggestion in the case of the Punjab (with which Delhi may be included) or Burma. On the proposal made in paragraph 23 regarding greater expedition in dealing with applications for licences it is impossible and

indeed unnecessary for the Government of India to issue any general orders. They are aware that local Governments are fully alive to the necessity of prompt attention to applications for the grant and renewal of licences. They trust that no avoidable delays will occur; that if at any time the pressure of work in connection with licence applications becomes abnormal special measures will be taken to cope with it; and that if in any case unnecessary delay has occurred steps will be taken to prevent its recurrence in future.

17. The Government of India accept the recommendations made in paragraphs 25, 26, 28, 29 and 33, but are unable, in view of the strong objections placed before them by the military authorities that there is no difficulty in converting such rifles to take Government ammunition, to accept the recommendation contained in paragraph 27. As regards the recommendation in paragraph 31, the Government of India are of opinion that it is advisable to regularize the practice followed by licensed-dealers of employing assistants to conduct their business in their temporary absence, and the licence form granted to dealers has accordingly been amended so as to include a column for the names of duly authorized assistants.

18. The recommendation contained in paragraph 30 does not commend itself to the Government of India. They apprehend that the carrying of firearms by females might have dangerous results, and would only expose such females to attack from lawless persons desirous of stealing weapons. In their opinion it should be possible to meet the situation which the Committee appear to have had in mind by the entry of certain specified members of the licensee's family as retainers.

19. On the recommendation made in paragraph 32 urging reciprocity with Indian States the Government of India are not in a position to make any announcement. They have taken up the matter with the various States, and negotiations are proceeding.

20. The changes in the rules necessitated by the acceptance of these recommendations have been made; and the rules are now published as the Indian Arms Rules of 1924. It has not been found possible to accept *in toto* the recommendations of the Committee in regard to the form in which the rules should be published. They advised a separation of the technical directions intended for dealers from the rules governing the grant of licences for possession of firearms for private purposes. An attempt was made to draft the rules on this principle, but it was wholly unsatisfactory, and was accordingly abandoned. The Indian Arms Rules of 1920 follow the order of the sections of the Act; this is obviously the logical arrangement of the rules and it is clearly convenient on administrative grounds that the sections of the Act and the rules should be in the same sequence. Moreover, the difficulties of interpretation to which the Committee have adverted are due far less to inherent obscurity or to the incorporation of technical directions, than to the fact that they are not self-contained. To be properly understood they must be read in conjunction with the Act and with the schedules and such difficulties as the ordinary member of the public feels will not be solved by the publication of a paraphrased or abbreviated edition of the rules but by the dissemination of information as to the correct procedure of applying for and securing a licence. The Government of India have accordingly prepared for such use as local Governments may consider suitable a short pamphlet in popular language, describing the procedure regula-

ting the application for licences for the possession of firearms for purposes of sport, protection, show and the like. They trust that this pamphlet will be translated into the various vernaculars and that publicity will be given to it.

21. In conclusion the Governor-General in Council wishes to express his appreciation of the labours of the Committee. The Indian Arms Rules of 1920 evoked much criticism and many defects were removed as they were pointed out. But much remained to be done when the Committee was appointed in 1922, and their businesslike and practical recommendations coupled with a sympathetic administration of the rules by the local Governments should go far towards removing any dissatisfaction which may still remain.

*The Indian Arms Rules, 1924—A brief explanation of the rules affecting the possession of arms by private individuals.*

1. **Introduction.**—Complaints have been made that the Indian Arms Rules are not easy to understand. They contain many technical directions of no interest to the private person who desires to possess arms for private purposes; they have been modified from time to time and have been considerably revised this year (1923-24) and as they have to be read in conjunction with the Act and the schedules, the layman sometimes finds it hard to ascertain the procedure he should follow in order to secure a licence and to understand the conditions on which he may keep arms. This pamphlet has been prepared, therefore, with a view to explaining to the public the procedure laid down for obtaining and renewing arms licences, purchasing ammunition, carrying weapons on journeys, importing or exporting weapons for private use and the like. It does not purport to be an exhaustive paraphrase of the Rules but merely sets forth in language free from legal technicalities, what the procedure is without touching on matters connected with the manufacture, import, export and sale as affecting dealers.

2. **Persons who require licences and those exempt.**—Every person who is not specially exempt from the operations of those sections of the Act which prohibit the keeping or carrying of arms without a licence must take out licences to cover any arms or ammunition which he possesses or wishes to purchase. A list of the persons and classes of persons so exempt will be found in the Appendix. [Schedule I.] Persons exempt however are subject to the following conditions:—

(i) the number and description of arms in respect of which exemption is enjoyed may be restricted under separate orders issued by each local Government. Where such orders are in force arms in excess of the prescribed numbers or descriptions must be covered by licences; (ii) all firearms [and ammunition] in a person's possession must be registered in such manner as the local Government may prescribe; (iii) the loss or theft of any arms or ammunition must be reported forthwith at the nearest police station; and (iv) arms or ammunition may not be imported through the post office and in Burma may not be despatched through the post.

Orders regarding conditions (i) and (ii) are issued separately by each local Government in regard to its own territory. It is not possible, therefore, to state here what they are, but the necessary information will be easily obtainable from a Commissioner of Police in a Presidency Town or the nearest Magistrate. In the old rules, 1920, the list of exemptions was much larger than it is now; and certain categories have been excluded from the new schedule. Such persons now excluded but exempt under the rules of 1920 will be granted a life certificate of exemption free of fees in respect of the weapons in respect of which they now enjoy exemption provided they apply within six months of the issue of the Rules of 1924. The persons who are eligible for this life certificate are mentioned in the appendix.

**3. Arms for which licences are required and the various kinds of licences.**—Generally speaking, that is, outside the provinces of the Punjab, Burma and Delhi, licences are not necessary to cover possession of arms other than firearms, e.g., swords, sword-sticks, daggers, spears, etc., but it may happen that in particular districts or cities in other provinces under special orders of the local Government, licences in respect of such arms may be necessary. As, however, orders of this description are issued in a time of emergency and rescinded when the emergency has passed, it is not possible to include details in this pamphlet and persons who may have doubts are therefore advised to make enquiries from the Commissioner of Police in the Presidency Towns and elsewhere from the nearest magistrate. Where necessary, licences for arms of this description are issued for a fee of eight annas for each weapon. Otherwise, throughout British India with the exception of a few scattered districts, details of which may be found, if fuller information is desired, in schedule IV to the Indian Arms Rules, licences to cover possession of and going armed with all firearms are necessary. These are of various kinds and the applicant should make up his mind which form of licence he requires before submitting his application. For example :

**4. Kinds of licences**—Licences may be given entitling the holder to keep arms (other than pistols and revolvers) and ammunition in a certain place but not to go armed ; or again,

licences may be given permitting the holders to possess arms and go armed for the purpose of sport, protection or display ; or again.

licences may be given to possess arms and go armed for the destruction of wild animals which do injury to human beings, cattle or crops—(These are intended mainly to help cultivators and are granted free of fees) ; and, lastly,

licences may be given to go armed on a journey.

**5. Persons who may apply for licences.**—It may be asked whether everybody is entitled to a licence on payment of the prescribed fee. The answer is in the negative. Any person of course may apply for a licence, but the grant of licences is governed by the broad principle that arms and ammunition must not be allowed to fall into the hands of lawless people. It is clearly impossible for all applicants to be personally known to the licensing authority, who in order to discharge properly the responsibility laid on him, must in many cases cause enquiries to be made, through any agency he deems best, into the *bona fides* of the applicant and his fitness to possess arms before he can grant a licence. The Government of India have, however, laid down certain qualifications the possession of any one of which, connotes, in their opinion, sufficient evidence of respectability to warrant the grant of a licence without further enquiry unless the licensing authority has a sufficient and definite reason for refusal or for ordering enquiry. These qualifications are :—

(a) Membership of any Order established by the Crown or the possession of a title conferred or recognized by the Government of India or of the Kaiser-i-Hind Medal or a Certificate of Honour. (b) Membership, past or present of the Indian Central or Provincial Legislatures, (c) Payment of not less than Rs. 500 land revenue or Rs. 100 in roads or public works cesses, or any payment of income-tax. (d) Being a Government officer in receipt of a salary of not less than Rs. 100 per mensem. (e) Being a Commissioned or gazetted officer of His Majesty's Naval, Military or Air Forces, Indian Marine Service or a Commissioned Indian Officer of the Imperial Service Troops in active service. (f) Being a pensioned officer who before retirement was by virtue of his official position included in (d) or (e) above.

**6. Licence most generally required and from whom obtainable.**—The licence which is most generally required is that which will enable the holder to possess arms and go armed for purposes of sport, protection or display. This licence is granted in Form XVI and anyone wishing to obtain it should apply either in person

or by post to the Commissioner of Police in Presidency towns and elsewhere to the nearest District or Sub-Divisional Magistrate unless the applicant ordinarily resides in an Indian State and may have occasion to visit British India in which case he should apply to the Political Officer of his State.

**7. Fees.**—Details of the fees chargeable for a licence in this form will be found on reference to the heading of Form XVI.—Broadly, they are:—

(i) for a breech-loading revolver or pistol Rs. 10. (ii) for any other breech-loading weapon Rs. 5. (iii) for any other weapon annas 8.

These rates apply to a licence granted for the first time. On renewal, fees at half these rates, except in the case of the last named, will be charged.

**Persons who are not required to pay fees and how fees should be paid.**—There are, however, certain classes of persons who, in virtue of their past or present civil or military service, have been exempted from the necessity of paying fees for licences in this form. Details of these will also be found in Schedule VII. Otherwise, where payable, fees may be paid either by means of a non-judicial stamp affixed to the application or in cash at the option of the applicant.

**8. Area covered by licence and period of its validity.**—Licences in Form XVI are originally granted for one year from the date of issue and for the most part hitherto have been valid only in the district in which they were granted. Licensees should, however, realize that if they wish to avoid the inconvenience of annual renewal they may apply for a licence valid for a period not exceeding three years which will be granted on payment of a compounded fee. A licence in this form may also be made valid for the whole of British India and the practice of giving such all-India licences has been encouraged in order to minimise the inconvenience otherwise caused to persons who move frequently from one district to another. It should be observed that a condition attaching to a licence specially made valid for the whole of British India is that its validity is subject to such restrictions as may be imposed by a local Government in respect to its own territory, e.g., countersignature by a local officer of a licence granted or renewed by an officer of another province, etc., and holders of such licences are advised in their own interests to ascertain, when they have occasion to go outside the province in which they originally obtained their licence or subsequently had it renewed, whether any such restrictions have been imposed in the province to which they have gone. This information will be readily obtainable from the nearest licencing authority in the new province who will also, in most cases, be in a position to regularize the licence if this is necessary.

**9. Restrictions on quantity of ammunition that may be possessed.**—The amount of ammunition for revolvers, pistols and rifles other than .22 bore, which the licensee is entitled to possess at any one time or within the period of validity of the licence will be entered on the licence. This amount is determined by local Governments and all purchases of ammunition for these weapons must be entered on the licence form by the vendor but there is no necessity for the latter to enter purchases of any other kind of ammunition on the possession of which there are no restrictions nor has he any need to enter on any form of licence purchases of any kind of ammunition, other than that for rifles of .303 or .450 bore and revolvers or pistols of .450 bore (to effect the purchase of which ammunition possession licences have to be taken out even by persons otherwise exempted) made by persons who are exempted from the necessity of taking out licences.

**10. Journey licences.**—Where a licence is valid only for the district in which it was granted and the holder wishes to carry his weapons on a journey or in cases in which the licensee wishes to go on a journey accompanied by his retainers who are accustomed to bear arms when accompanying him a licence is required for which a fee



of 4 annas is charged for all weapons except revolvers or pistols for which a fee of Rs. 10 is exacted. These licences are obtainable from a Commissioner of Police, a District Magistrate or a Sub-Divisional Magistrate specially empowered to grant them and as the law requires an officer who receives an application for a journey licence to obtain the previous approval to its grant of the proper authority of the place of residence of the applicant in cases where the latter does not reside within the jurisdiction of the officer to whom application is made or is not personally known to him, unless for any special reason this precaution is considered unnecessary, persons are advised to allow for the delay that such enquiries must cause by submitting their applications some time before the actual date of the journey. It should also be noted that a journey licence does not entitle the holder to use the arms covered by it for purposes of sport in the course of his journey. A licensee holding a district or a provincial licence wishing to proceed to any place outside the district or province for sport should have his licence made valid for that place and for the journey thereto or, and he is advised to do this, get his licence made valid for the whole of British India.

**11. Conditions attaching to licences.**—The conditions attaching to the grant of any licence are printed on the form itself. These should be carefully noted and observed as the infringement of any one of them constitutes an offence under the Indian Arms Act and renders the holder of the licence liable to prosecution. Prominent amongst these conditions are those which require the giving of information forthwith at the nearest police station of the loss or theft of any arms or ammunition and the embargo on the taking of arms to a fair, religious procession or other public assemblage unless specially authorised to do so.

**12. Renewal of licences.**—As has already been stated, licences to cover possession and going armed are granted for a period of from one to three years. When this period is nearing expiry, if the arms covered by a licence are still in the holder's possession, he should apply for renewal of his licence. Such an application should be addressed either to the authority who granted the licence or the nearest District or Sub-Divisional Magistrate according to which officer's headquarters are nearest to the applicant's place of residence for the time being. Production of arms is not usually demanded before a licence is renewed but it should be understood that it rests with the licensing authority to demand this if he deems it necessary. The original licence should, of course, accompany all applications for renewal. In many cases personal applications will be found most speedy and convenient and are therefore encouraged where persons reside at headquarters stations or in cities and towns but there is no objection to the submission of these applications through the post. It has already been stated that fees for renewal are, with one exception, muzzle-loading firearms and other arms, half the original fees. In this connection it should be noted, however, that licensing authorities have discretion to levy fees at the original rates in respect of renewals where the application for renewal is not received within a month following the date of expiry of the licence and where there is no sufficient excuse for the delay.

**13. Arrangements for travellers arriving in India by sea.**—Private individuals frequently wish to import firearms into India as part of their personal luggage. If a licence covering possession in India has been obtained beforehand or if a person is one of an exempted class no difficulty arises as on production before the Customs authorities of the licence or proof, if required, of exemption, the arms can at once be cleared since in these cases no special licence to cover import is necessary. In the majority of cases, however, concerning non-exempted persons, the arms are not covered by a possession licence and in cases of this kind where a person's final destination in India is not the port of arrival, a licence covering temporary possession during the period of the journey from the port of disembarkation to the place of destination can be obtained on payment of a fee of Rs. 1 per weapon from the Commissioner of Police or District Magistrate at the port of arrival. This will enable an individual

to take his weapons with him on his journey upcountry but on arrival at his destination he must take out a regular licence in the ordinary way. The objection that there may be no time on arrival in which to obtain a temporary licence of the kind described from the Commissioner of Police or other authority can easily be met by the individual instructing his Agent in advance to obtain this licence on his behalf to cover the weapons he is bringing with him and a description of which should be furnished to the Agent. The great advantage of this procedure is that the importer will be able to proceed at once on his journey with his weapons in his possession instead of leaving them in deposit with the Customs authorities until a proper licence covering possession can be obtained in respect of them.

**14. Rifles, revolvers and pistols of prohibited bores.**—Rifles of .303 and .450 bores and revolvers or pistols of .450 bore, are not allowed to be imported into British India except under the special sanction of the Government of India which is only given for exceptional reasons. This prohibition applies to all weapons the bore of which is of the dimensions given irrespective of the dimensions of the chamber or "lead" and whether, as manufactured, Government ammunition can or cannot be used in them. Even persons who have been granted the privilege of exemption have had it restricted in this respect to weapons which have been lawfully imported into British India and no licensing authority is permitted to give a licence to cover possession of such weapons to non-exempted persons unless he is satisfied that they have been lawfully imported. This can only be the case if special permission has been obtained or the weapons were in India before the prohibition against import came into force, i.e., in the case of the rifles before January 1901 and of revolvers or pistols before the latest Arms Rules, those of 1924, came into force. To ensure, however, that persons who own such rifles lawfully for sporting purposes and revolvers or pistols obtained before their import was prohibited may obtain ammunition for the same in reasonable quantities provision has been made in the Rules to permit of selected dealers being allowed to import and sell such ammunition to qualified persons, i.e., those who hold licences covering possession of the same.

**15. Export licences**—Private individuals are not required to obtain any special licence to cover the export of arms and ammunition which they may desire to take out of the country with them or send out of India provided these are of a reasonable quantity and their possession in India is covered either by a licence or by exemption.

16 In the Appendix which follows will be found the list of exempted persons [printed as Schedule I, I. A. R., 1924], of persons entitled to a life certificate, [printed below], persons who are not required to pay fees for possession licences [printed as Schedule VII, I. A. R., 1924], and specimen copies of the licence forms described above [i.e., Forms Nos. XIV, XVI, XVII, XVIII, XIX and XX in Schedule VIII.]

*Appendix List of persons eligible for life licences in respect of the arms in their possession on the 1st January 1924, provided application for such a licence is made before the 30th June 1924. (See paragraph 2 of the Explanation of the Rules.)—*

1. All individual members of the undermentioned classes who were as such exempted under the Indian Arms Rules, 1908, immediately before the coming into force of the rules of 1920 :—

(a) members of any Order of Knighthood; (b) persons holding the Kaiser-i-Hind medal; (c) persons holding titles conferred or recognised by the Governor-General in Council; (d) persons holding swords or other arms received as gifts from the Governor-General in Council or a local Government; (e) persons holding certificates received on the occasion of the assumption of the title of Empress of India by Her late Majesty Queen Victoria; (f) retired officers (other than retired subordinate, warrant, petty and non-commissioned officers) of the Royal Navy and retired British and Indian officers within the meaning of section 7 (1) and (2) of the Indian Army Act, 1911, in receipt, as such, of a pension; and (g) landholders and members of a Municipal Board or a Committee designated for exemption in any list issued in this behalf of a local Government.



2. All persons who before the 1st day of January 1920, had been admitted as members of the Distinguished Service Order, the Imperial Service Order, the Indian Order of Merit or the Order of British India, or had been awarded the Victoria Cross, the Military Cross, the Distinguished Flying Cross, the Distinguished Conduct Medal, the Distinguished Flying Medal, the Long Service and Good Conduct Medal—the Volunteer Decoration, the King's Police Medal, the Volunteer Long Service Medal or the Indian Distinguished Service Medal.

3. Retired officers (other than retired subordinate, warrant, petty and non-commissioned officers) of the Royal Navy and retired British and Indian officers within the meaning of section 7 (1) and (2) of the Indian Army Act, 1911, in receipt, as such, of a pension, who retired after the 31st December 1919 and before the 1st July 1921, and are resident in the Punjab.

4. Such of the second and third class Sardars of the Deccan, of the second class Sardars of Gujrat and of the Mehwasi Chieftains in the Bombay Presidency as were exempted under the Indian Arms Rules, 1909, and Meherbhan Fattesing Gumansingh, the Chieftain of Chikali.

## THE INDIAN ARMS BILL, 1877.

*Statement of Objects and Reasons, dated the 12th December 1877.*

The law relating to arms, ammunition and military stores has long been felt to be in an unsatisfactory stage. In some particulars it has been found defective, and on many points it presents difficulties of construction which might at any time prove embarrassing to the Government or entail hardship on innocent persons.

2. So far back as the year 1870 a Bill was introduced to remedy this state of things; but, owing in part to press of work and in part to other causes, it was allowed to stand over.

3. The present Bill is in the main a consolidation of the existing law, and a re-enactment of it in a simpler form with such improvements in points of detail as the experience of the working of the Arms Act of 1869 has shown to be desirable. On two points only does it propose to introduce changes of any importance.

4. The first of these points is dealt with in section 7, which, taken with the second schedule, imposes duties on the importation by sea of arms, and parts of arms, etc. Those duties it will be observed, are fixed without reference to the value of the articles on which they are imposed, and they are so fixed and pitched, at what may seem at first sight to be high rates, expressly with a view to check the importation of a cheap class of arms, the importation of which has of late years largely increased.

5. Such arms cannot from their inferior make, be intended for sporting purposes, and there is reason to suspect that a considerable proportion of them finds its way into the hands of the criminal classes in the interior of the country or of the hostile tribes on our frontiers. It has been found very difficult to prevent the transit of such arms from the sea-ports into the interior of the country and towards the frontiers when once they were imported, and it is believed that the simplest method of checking their importation, and the method best calculated to interfere with the legitimate trade in arms of a superior class, is to impose an uniform duty of the nature proposed.

6. The other point in which the Bill goes to introduce a material change in the existing law is that of the possession of arms. At present the mere possession of arms is prohibited only in certain provinces, which, to use the

language of Act XXXI of 1860, have been "disarmed" Throughout the rest of the country, though no person can go armed or carry arms except under a special exemption or by virtue of a license, the mere possession of arms other than cannon is not restricted.

7. Now there is good reason to believe that this complete absence of restriction in the districts which have not been disarmed has led to the law prohibiting the transport of arms and the export of arms across the frontiers being extensively evaded. As long as all persons indiscriminately may have arms in their possession to any amount they please in the districts which have not been disarmed, it is practically impossible to prevent such arms being passed on to the disarmed districts, to the predatory classes in Native States, and to the hostile tribes on our frontiers.

The only remedy seems to be to place the possession of arms throughout the whole of British India under control and this it is proposed to do by section 11 of the Bill, which requires all such possession to be under a license.

8. It will, however, be observed that ample safeguards are provided to prevent this prohibition pressing unfairly against respectable persons desiring to possess arms for legitimate purposes. Section 11 allows a period of three months after the Bill becomes law within which the possession of arms in the districts not hitherto disarmed will not be illegal, and during which any person in such districts can apply for a license; section 25 enacts that in these districts no person shall be prosecuted for possessing arms without the previous sanction of the Magistrate of the District; section 26 imposes special and very stringent condition on searches for arms; and lastly, under section 23, the Government may exempt any class of persons from the operation of the prohibition altogether.

9. On the whole it may be safely affirmed that, with a system of licenses granted either without charge or on the payment of small fees, and in cases where it is safe so to grant them for reasonably long periods the Bill will not, as regards the possession of arms, materially affect the position of any person to whom the right to possess arms can, with a due regard to the public peace and safety, be conceded.

10. It need only be added that section 3 of the Bill maintains in force all exemptions granted under the present law.

## THE INDIAN ARMS ACT, 1878

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Section 16 substituted by	...	Act XX of 1919.

THE INDIAN ARMS ACT, XI OF 1878. [15th March 1878.]

[AS AMENDED BY ACT XX OF 1919 AND ACT XLIX OF 1920.]

An Act to consolidate and amend the law relating to Arms, Ammunition and Military Stores.

Whereas it is expedient to consolidate and amend the law relating to arms, ammunition and military stores; it is hereby enacted as follows:—

Preamble.

*1.—Preliminary*

Short title.  
Local extent.

1. This Act may be called the Indian Arms Act, 1878; and it extends to the whole of British India

NOTES.

"British India" shall mean all territories and places within His Majesty's dominions which are for the time being governed by His Majesty through Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India. (Vide sec. 3 (7), General Clauses Act X of 1897.)

Savings.

But nothing herein contained shall apply to—

(a) arms, ammunition or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment, or

(b) the manufacture, conversion, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government or by a public servant [or a member of either of the forces constituted by the Indian Territorial Force Act, 1920, or the Auxiliary Force Act, 1920] in the course of his duty as such public servant or member.

## NOTES.

(1) This section was amended by Act XLIX of 1920, and the words "or a member of either of the forces constituted by the Indian Territorial Force Act, 1920, or the Auxiliary Force Act, 1920" were substituted for the words "or a volunteer enrolled under the Volunteers Act, 1869." Under rule 46 (18) and schedule VII "any person who was enrolled as a member of a corps of Volunteers under the Indian Volunteers Act, 1869," is however entitled to obtain a licence in Form XVI free of licence fee.

(2) Any person can possess, etc., arms, etc., in course of his duty—but heads of departments are prohibited from granting permits or passes to their subordinates to carry arms not required for duty. (India letter No. 1594 dated the 7th October 1895)

(3) Arms carried or possessed by officers of Government as part of their equipment and arms supplied by Government to subordinates of Government departments to be carried or possessed by them for their protection in the execution of their duty, are not required to be licensed. Under clause (d) of section 1 of the Indian Arms Act, nothing in the Act or rules applies to the bearing or possession of such arms by such persons. (India No. 1246, dated the 16th October, 1919, and No. 1171, dated the 17th May, 1921.

(4) The G.-G. in C. has decided that the following arms shall comprise the equipment of the officer of the Army or Royal Air Force for the purpose of this section.

Officers holding Commissions from His Majesty the King.		Officers holding Commissions from His Excellency the Viceroy.	
1 sword	.....	1 sword.	
1 revolver and one pistol.	{ Of no special pattern but must take Govt. ammunition of '455 bore.	1 revolver (Webley '455 bore).	
1 Dirk	{ Highland Regiments only	{ 1 Kukri (Gurkha and Garhwali Regiments only).	
1 Skeen Dhu			

(India letter No. F. 21-XXX-23 dated the 15th March, 1924.)

(5) The Government of India have decided that officers of the Army or Royal Air Force holding commissions both from His Majesty the King and His Excellency the Viceroy are entitled to be in possession as part of their equipment for the purposes of section 1 (b) of the Arms Act, of two swords, one Full Dress Pattern and the Field Service Pattern, when so required by the "Dress Regulations for the Army." (India No. F-21-XXX-23 dated the 15th October 1924.)

(6) The G.-G. in C. has decided that the following arms shall comprise the equipment of an officer of the Royal Navy and of the Royal Indian Marine for the purposes of section 1 (b) of the Indian Arms Act, 1878 :—

- 1 sword.
- 1 rifle—303 SMLE, Mark III or III\*.
- 1 pistol—of no special pattern.

(India No. F-21-XXX-23 dated the 20th October 1924.)

(7) An overseer or village postman, who, under instructions from his superior, carries the necessary weapon "in the course of his duty" as overseer or postman, is protected by section 1 (b) of the Act from the prohibitions of the Act, and any special exemption of these officers appears to be unnecessary. (Bombay Resn. No. 8345, dated the 11th Dec. 1904.)

(8) No licence is required for the export of arms, ammunition or military stores issued to Native States from British arsenals under the orders of Government. Each consignment however should be covered by a certificate signed by the officer in charge of the arsenal, to the effect that it is exported by order of Government under section 1 (b). (India No. 1816 I., dated the 2nd June 1890 and 293G., dated the 5th Feb. 1920.)

(9) Lead-cutting swords imported by Native Cavalry regiments are under section 1 (b) of the Arms Act exempt from the operation of the Act. (India letter No. 869-878, dated the 29th March 1897.)

(10) A sword or similar weapon used in marriage procession in Sind may be carried free of licence fee with the permission of the local Magistrate but it should be borrowed from a person holding a licence and the name of the licence-holder should be stated in the application. (India letter No. 1641, dated the 28th July 1898.)

(11) In the District of Poona **Katyars** or small daggers which are used in marriage processions are excluded from the operation of the Arms Act. (Bombay Notn. No. 3563, dated the 4th May 1897).

(12) There are no sufficient reasons for granting the exemption applied for (in respect of **Katyars**, in the districts of Ratnagiri and Nasik, but in the opinion of Government the necessities of such cases can be met, if District Magistrates arrange for Chief Constables to keep a certain number of these daggers and to issue them, either gratis or on payment of a small fee, for use in marriage processions. (Bombay Resn. No. 8121, dated the 8th Novr. 1897)

(13). **Explosives** required by a public servant in the course of his duty as such are, under s. 2 (b), exempt from the operation of the Act and no license is therefore necessary for their importation. (India letter No. 445 dated the 7th Feb. 1908.)

(14). A license granted under the Indian Explosives Act (IV of 1884), for the manufacture, possession, sale, transport, or importation of an explosive may be given the effect of a like license granted under the Indian Arms Act, 1878 [S. 15 of the Indian Explosives Act 1884, IV of 1884.]

(15). **1. 9 Bom. 518.—Wala Hiraji v. Hira Patel**—The sale of arms by the nazir of the court in execution of a decree is a sale by a public servant in discharge of his duty and is therefore excluded from the operation of the Arms Act. It is expedient for the court ordering such sale to give notice of the sale and of the purchaser's name and address as contemplated by s. 5 of that Act to the Magistrate of the district or to the police officer in charge of the nearest police station.

(16). **28 All. 323.—Luke.**—A volunteer, being a person exempted in virtue of a notification of the Government of India, is not exempted merely with reference to his duties as a volunteer, but generally subject to certain exceptions. It is therefore not unlawful for a volunteer to possess fire arms and to use them. [NOTE. Under the Indian Arms Rules, 1920, volunteers are now required to obtain licenses to possess their private arms. *Vide* Note (1), page 40]

2. This Act shall come into force on such day as the Governor General in Council by notification in the *Gazette of India* appoints.

Commencement.

## NOTES

The Act came into force on the 1st October 1878. (India notn. No. 1169 dated the 27th June 1878.)

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions and forms prescribed under any enactment hereby repealed, shall be deemed to be respectively given, granted, made, published and prescribed under this Act.

Repeal of enactments

And all such authorities, permissions, licenses and exemptions shall, except as otherwise provided by this Act, continue in force for the period for which they may have been given or granted, respectively, or, where no such period is expressly fixed, for one year from the date on which this Act comes into force, and shall then cease to have effect.

Interpretation clause.

4. In this Act, unless there be something repugnant in the subject or context,—

"cannon" includes also all howitzers, mortars, wall-pieces, mitrailleuses and other ordnance and machine-guns, all parts of the same, and all carriages, platforms and appliances for mounting, transporting, and serving the same :

"arms" includes firearms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms :

"ammunition" includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur and other explosive or fulminating material, gun flints, gun-wads, percussion caps, fuses and friction tubes, all parts of ammunition and all machinery for manufacturing ammunition, but does not include lead, sulphur or saltpetre :

"military stores" in any section of this Acts as applied to any part of British India means any military stores to which the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, specially extend such section in such part, and includes also all lead, sulphur, saltpetre and other material to which the Governor-General in Council may from time to time so extend such section :

"license" means a license granted under this Act, and "licensed" means holding such license.

#### NOTES.

(1) 14 Cr. L. J.—Maung Shwe Thet—Air-gun not adapted for use with explosive substances and classed as toys for the purposes of Tariff Act, was a toy and did not come within the definition of arms.

(2) 42 Cal 1153.—Harsha Nath Chatterjee.—The word 'firearms' only means arms that are fired by means of gunpowder or other explosive. Firearms as used in section 14 includes parts of firearms.—1 S. R. 18.—Wazu Walad Bangar.—Whether a particular instrument is a firearm or not is a question to be determined according to the facts of each case and the circumstance that it is in an unserviceable condition is not sufficient to take it out of the category of firearms.—1 Weir, 658.—Kulappa Gramani.—A firearm which is defective and otherwise unserviceable is not an arm within the meaning of the Act, and consequently not one for which a license need be taken out, even though it might be capable of being rendered serviceable by being repaired.—21 Mad 360 Jayaram Reddi and 1923 Lah 617.—Karm Din.—A revolver with broken trigger and bolts and bars for rifles come within the definition of "arms". Whether in any particular case an instrument is a firearm or not is a question of fact to be determined according to circumstances, and the circumstance that it is in unserviceable condition is not conclusive.—6 Mad 60.—Sidappa.—A gun rendered unserviceable by the loss of trigger does not fall within the definition of "arms". Possession of such a weapon without a license is no offence under section 19. [21 Mad. 360 overruled].—12 C. P. L. Cr. 8.—Chaitoo Gond.—The unserviceable remains of a gun could not be fairly described as a 'firearm' within the meaning of section 14, and do not require to be protected by a license under that section. 1 Weir, 658.—Rasool Sahib.—A broken unserviceable gun does not fall under the description of "part of arms" within the meaning of section 4.—12 C. P. L. R. Cr 10.—Barwar Teli.—A gun barrel so long as it can be used as a gun-barrel, is an arm within the definition of section 4, because it is a part of firearm. But it is not a "firearm" within the meaning of section 14, nor is it one of the other articles mentioned in the section.—7 Mad. 70.—Vyapuri Kangani.—As a gun-barrel and nipple in serviceable condition fall within the definition of "arms" in section 4, the possession of such articles, without a license is an offence under section 19 (f).—3 N. L. R. 58.—Dhan Singh.—An old fashioned muzzle loading gun-barrel in good condition and with the touch-hole in good order is a firearm within the meaning of s. 14. There is nothing in s. 14 inconsistent with s. 4. Firearms in s. 14 includes parts of firearms.—24 All. 454.—Harpal.—A pistol which is out of repair cannot be regarded as a weapon for offence or defence.—6 P. R. 1908 Cr.—Samiulleh.—A revolver even if it is out of repair or is clogged from disuse is an 'arm' and a person in possession of it without a license is guilty of an offence under s. 19.

(3) 540 P. R. 1913 Cr.—Possession of a Quackenbush rifle (which fires a small cartridge charged with gunpowder in a metal casing and a miniature bullet by means of a sticker worked by a string, which is released on pulling the trigger) in the Kohat district is illegal as it falls within the general expression of "arms of the kind known as rifles" as given in rule 3 A (b) of the H. D. notification No 3031, dated the 16th November 1900, and is consequently punishable under s. 19 (f).

(4) 7 B. L. R. 340.—Po Mo.—To find out if a certain object is an 'arm' the test is to see the purpose for which it is intended—if it is for domestic or agricultural it does not fall within s. 4.—2 Lah. 291 Mangal Singh.—Whether or not a particular instrument is included in the expression 'arms' depends on the circumstances of the case.

(5) 26 Ind. Cas. 133.—Gajja.—The definition of "arms" in the Act is neither exhaustive nor altogether happy. The mere fact that a weapon is dangerous, and, if used, may probably cause



death, does not make it "arms" within the meaning of s. 4. A weapon, consisting of a plain lathi, a blade and two moveable screws and so contrived that by loosening the screws the blade may be detached from the shaft made up of the lathi, is not "arm" as defined in s. 4, although the weapon may be described as a pole-axe. Pole-axe (or Kanta) is not an arm for the purposes of the Arms Act.

(6) **3 L. B. R., 1.—Ebrahim Dawoodji Babi Bawa.**—Held, the purpose for which an implement is primarily intended regulates whether it would, in ordinary parlance, be spoken of as an arm. Applying this test, there could be no doubt that the manufacturer of the dagger-shaped knives (known as clasp knives) before the court intended to supply weapons to persons who wanted efficient stabbing instruments. They could not be likely to serve any domestic purpose. Under the circumstances the knives fell within the definition of arms.—**1 L. B. R. 271.—Hmat Kyan.**—No weapon can be held to be an arm within the Act unless it is a weapon which would ordinarily be spoken of as an "arm." The purpose for which the implement is primarily intended regulates whether it would, in ordinary parlance, be spoken of as an arm and if it is not designed for use as a weapon of offence and defence, although it may be used as such, then it is not an "arm." A clasp knife does not fall within the ordinary natural meaning of the word "arm."—**L. B. R. 1893-1900, 487.—Nga Po Thin.**—The purpose for which a weapon is carried, cannot be a sufficient test of whether it is an "arm" or not. A clasp knife is not a dagger and is not designed or suitable for warfare. Therefore it does not come within the definition of arms.—**7 Bur. L. T. 185.—Me Thin.**—Though the exhibit knives were stout formidable ones, they could not from their appearance be said to have been primarily manufactured with the intention of using them for offence or defence. They are useful for domestic use or for cutting stocks.—**51 Cal 573.—Bishan Singh.**—Imported certain knives described as hunting knives and kept with him. The blade tapered gradually to a point and was attached to a cross-guard and handle. One edge was sharp up to the guard, the other only at the point. The knife could be used for stabbing and thrusting. Held, that the instrument fell within the category of arms.—(In a case—**Narain Singh.**—reported in the "Leader" of Allahabad of the 10th June 1925, the High Court, Allahabad, held that an instrument which was a folding knife of a large size could not in common parlance be described as dagger. The primary use of a dagger was to stab where as this instrument seemed to have been designed for ordinary use).—**5 L. B. R. 130.—Aung Ba.**—A cook's knife is not an arm. The accused's conduct in manufacturing a sheath for the knife, to enable him to conveniently carry it about with him, does not convert it into an arm, unless the character of the knife is altered (e.g.) by grinding it so as to make it double edged.—**L. B. 558 of Nga Kya Nyo.**—A table knife however carried or intended to be used is not an "arm."—**L. B. R., Nga Po Thin 1892-1896, Vol. 1.—Dalwes, spears and forks** do not come within the definition of military stores in s. 4 and the mere possession of such weapon is not a punishable offence in Burma under s. 19 of the Act. But going armed with swords or spears without a license is punishable under s. 13.

(8) **5 L. B. R. 207.—Hamyit.**—A dashe-upyat of the usual type is primarily intended for domestic and agricultural purposes and is not an arm within the meaning of the Arms Act.

(9) **1 Weir, 654.—Gangamma.**—The word 'includes' in s. 4 is clearly not intended to be exhaustive. A battle-axe is an arm within the meaning of the Act.

(10) **L. B. R., 1893-1900, 320.—Nag Tum Bau.**—The meaning of Dahmyaung in the Burmese translation of the Arms Act must be limited to the meaning of dagger.

(11) **L. B. R., 1893-1900, 416.—Nag Ne U.**—The word "arms" except so far as the definition expressly includes other weapons must be understood to mean weapons of offence suitable for use in warfare. The Government of India have, under s. 27, the power of excluding any description of arms from the operation of the Act. But the Act does not empower the Government to define what is an arm within the meaning of the Act. If anything is not in the opinion of the court an arm within the meaning of the Act, it is immaterial whether the Government have or have not excluded it from the operation of the Act. Das of the kind described in the Government of India Notification No. 827, dated the 15th June 1893, as excluded from the operation of the Act, are not arms within the meaning of the Act and it is therefore unnecessary to exclude them from the operation of the Act (**L. B. R., 1893-1900, 320.—Vide note (10) above—over-ruled.**)

(12) **32 P. R. 1913, Cr. 172.—Ralla Singh.**—The definition of "arms" in the Act is not exhaustive and the true meaning must be arrived at by consideration of circumstances in each case. Neither the length, breadth, nor the form of the blade of a weapon, nor the handle, afford any certain test of its classification as "arm." Whatever can be used as an instrument of attack or defence, and is not an ordinary implement for domestic purposes, falls within the purview of the Act.—**16, P. R. 1910, Cr.—Sant Singh.**—There is no exhaustive definition in the Arms Act of the expression "arms" which though necessarily including the articles specified in the section, may also be held to apply to other instruments or weapons. Where the circumstances of a case show that a weapon or instrument is carried for the purpose of offence or defence and not as an article of domestic or agricultural utility there is no reason why such weapon or instrument should not be held to fall within the

category of "arms." This being so, it was not necessary to decide in the case whether the weapon found on the accused was a *chhavi* or a *gandasa*, it being immaterial what the name, shape or size of an instrument is, but material to determine the use for which it is carried or possessed.—13 P. L. R. 1924—*Gahna* and 10 P. L. R. 1919—*Jinda*.—Everything is *chhavi* which has a large axe-like blade curved or otherwise with an arrangement of ring or rings for binding it to the handle, and a handle of considerable length. Being in possession of *chhavi* and keeping it hidden is simply punishable under s. 19 (a). S. 20 is applicable only to those cases where the import or export of an arm is attempted. The question of exclusive possession of an arm cannot be raised for the first time in appeal.—20 P. R. 1890 Cr.—*Kesar Singh*.—Held that *chhavis* may be arms within the meaning of the Indian Arms Act, and that as the word arms in s. 4 of the Act includes parts of arms the possession of a "*chhavi-head*" may amount to possession of arms.

(13) 1922-Lah. 141.—*Bachittar Singh*.—The question whether a sword carried by the accused is a *Kirpan* and therefore exempt from the Act under a Punjab Govt. notification depends on the circumstances of the case. The burden is upon the accused to prove that lethal weapon carried by him was a *Kirpan* within the meaning of the exemption. A sword 31 inches long with a blade length of 22 inches in a simple scabbard was held not to be proved a *Kirpan*.—3. Lah 437.—*Basta Singh*.—The exemption only applies to *Kirpans* actually in existence and possessed or carried by Sikhs and to the manufacture of *Kirpans* by Sikhs. A Sikh is not prevented by a provision in the Arms Act, from dealing with *Kirpan* which he possesses any way he likes, but he is not exempted by the entry in Schedule II from the operation of the prohibition as to manufacture contained in section 5 of the Act.

(14) 88 P. R. 1889. Cr.—*Nur Din and Nizam Din*.—Accused were convicted for having in their possession sword-hilts bought from the time to time at sales of old stores. They contended that sword-hilts were not arms within the meaning of the Act. Held that the expression "arms" included 'parts of arms' and that the hilt being part of a sword was an arm.

(15) 34 Cal 749.—*Satish Chandra Roy*.—A swordstick is a "sword" within the meaning of s. 4 of the Act. Neither the length, breadth or the form of the blade of a weapon, nor the handle afford any certain test of its classification as "arms." Whatever can be used as an instrument of attack or defence for cutting as well as for thrusting and is not an ordinary implement for domestic purposes falls within the purview of the Act.

(16) *Cheta*.—All. Revn. No 517 Sep. 1907.—If Lee Metford bullets were capable or fit for use they are "parts" of ammunition.—20 P. R. 1890, Cr.—*Zaman Khan*.—Empty cartridge cases of which the caps have been exploded do not come under the definition of ammunition in the Act. An instrument for recapping cartridge cases of the Martini Henry rifle is not machinery for manufacturing ammunition within the meaning of the Act.—7, Bom. L.R. 474.—*Ebrahim Alibhoy*.—Empty cartridge cases in which the caps have been exploded come within the definition of "ammunition".—32 All 152.—*Baldeo Singh* and 46 All. 107.—*Alladin*.—Empty cartridge cases are ammunition within the meaning of s. 4.—4 Ind. Cas. 405.—*Rangaswami Aiyar*.—Empty cartridge cases fall within the definition of "ammunition" given in s. 4. Therefore a conviction under s. 19 (a) for the possession of such cases is legal.

(17) 5 Mad 159.—*Suppi*.—The manufacture or possession of fireworks including rockets which are mere fireworks, does not come within the prohibition of s. 5. The rockets referred to in s. 4 under the definition of "ammunition" are war-rockets.—8 Mad 202.—*Kasim Sahib*.—A person in possession of a quantity of gunpowder without license is liable to conviction under s. 19, although he may intend to employ the powder in the manufacture of fireworks or other harmless purposes, inasmuch as gunpowder is a material capable of being used for purposes of warfare.—18 P. R. 1910 Cr.—*Bansidhar*.—*Patakas* which are small packets, wrapped in a paper, of coloured-potash mixed with small pieces of *kankar*, and which explode with a slight report when thrown with force against a wall or other hard surface, are not fireworks within the meaning of the Explosives Act, and so no license is necessary for the manufacture or sale of *patakas*.—L. B. R. 1897-1910, V. I., 139.—*Nga Ye U*.—Accused was convicted under s. 5 of the rules for the manufacture, possession and sale of explosives in Burma, for possessing an explosive without a license. Held, that licenses under these rules are not required for the possession of explosives of this nature. The rules are not applicable to the case. But cartridges and detonators are "ammunition" as defined in s. 4 of the Arms Act and the accused might properly have been convicted under s. 19 (j) of that Act.

(18) 18 P. R. 1910, Cr.—*Sant Singh*.—Although lead is exempt from the operation of s. 4, yet when it is moulded into bullets of 20 to 24 bore, it is ammunition within the meaning of the said section. The definition of ammunition given in s. 4 is not exhaustive and the question whether a certain article falls within its purview is to be decided according to the circumstances of the case. Also, that, in a case of technical offence, a nominal sentence is always quite sufficient to meet the ends of justice.

(19) **Iron droppings or pellets (bunda)**—Are ammunition (India No. 1630 dated the 7th Oct. 1881).—The **Sight of guns and rifles** should be regarded as parts of arms. (India No. 900 dated the 1st May 1911).—“**Giffard Carbonic Acid Guns**” should be treated as ‘arms’ requiring licences by unprivileged person. (Bombay resolu. No. 6318 dated the 13th Oct. 1894).—**Amorces** are excluded from the operation of the prohibitions and direction of the Act. (Bombay resolu. No. 2641 dated the 13th April 1896.)

## II—Manufacture, Conversion and Sale.

5. No person shall manufacture, convert or sell, or keep, offer or expose for sale, any arms, ammunition or military stores except under a license and in the manner and to the extent permitted thereby.

Unlicensed manufacture, conversion and sale prohibited.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section 27 of this Act shall, without unnecessary delay, give to the Magistrate of the district, or to the officer-in-charge of the nearest police-station, notice of the sale and of the purchaser's name and address.

## NOTES

(1) See 9 Bom. 518, Wala Hiraji, note (15) to section 1, on page 41 and 5 Mad. 159, Suppi, note (17) on page 43.—10 Mad. 131 Bodappa.—A person having obtained a license under the Arms Act, for a match-lock, had the same converted into a percussion gun. He was convicted under s. 19 on the ground that the license did not permit him to keep a percussion gun. Held that the accused could not be convicted under that section.

(2) 12 Mad. 473—Sitharamayya.—There is nothing in the Act or rules which renders a sale of sulphur and ammunition by agent of a license-holder illegal.

(3) 1 Weir 653—Yagantiah.—The repairing of arms is not “manufacture” within the meaning of ss. 5 and 19(a).

(4) 16 All. 276—Tota Ram.—The temporary possession of a gun by a servant who carries it from his master's house to the blacksmith for repairs and by the blacksmith for the purpose of repair without a license is not punishable under section 19.

(5) 1 Weir 657.—Venkiah.—A person who applied for permission to sell a gun and did not obtain such permission was held not punishable under s. 19 (b) when he had given notice under s. 5(2).

(6) When a person who repairs arms is also a maker of arms, it is necessary, under the existing law, that he should provide himself with a license in the latter capacity, so that the present question practically affects persons in the position of ordinary blacksmiths or others who may have arms in their temporary keeping for purposes of repair. In regard to these classes of persons, the Governor-General in Council is decidedly of opinion that it formed no part of the intention of the Arms Act to require licenses to be taken out, and His Excellency in Council is accordingly pleased to direct that in future no licenses shall be required merely for carrying on the business of repairing arms (India resn No. 69-2039-50 dated the 15th Dec. 1881). The sale of arms, ammunition or military stores is prohibited except under a license and in the manner and to the extent permitted thereby. The only exception allowed is the sale of arms or ammunition possessed by a person for his private use, which is permitted subject to the observance of certain conditions specified in the second para of the section. This exception would not cover the case of an agent to whom arms are made over for sale or commission. Sale by an agent in such circumstances would be illegal except under a license (Burma A. M. Ed. 1922. 135).

(7) If an officer or soldier wishes to dispose of any arms or ammunition either by private sale or by public auction, he should ascertain that the would-be-purchaser is a person entitled by law to possess the same, and if such person's name does not appear in the official Army or

Civil List he should apply to the Magistrate or Deputy Commissioner of the District or the Local Political Officer, as the case may be, for permission for the transaction to take place. (I. A. R. 12 of 3rd Jan. 1910). These orders were extended to Civil Officers (H. D. No. 902 dated the 20th Feb. and No. 6315 dated the 13th Dec. 1901, U. P. G. O. Nos. 1115 dated the 15th April and 1751 dated the 1st June 1901.)

(8) All arms and ammunition and articles of this nature found among **unclaimed property** in the possession of Railway Companies should be sent to the nearest magistrate for sale on the understanding that the sale proceeds will be made over to the railway authorities (India letter No. 2106 R. T. dated the 3rd Dec. 1908).

(9) Attention is invited to N. W. F. T. admtn circular letter dated the 30th March 1922 [Local Rules and Orders, N. W. F. P.] on the subject of **reporting** to the officials in that province, details of all **sales** of arms or ammunition to persons belonging to the province, purchasing arms in other provinces.

### III.—Import, Export and Transport.

6. No person shall bring or take by sea or by land into or out of British India any arms, ammunition or military stores except **under a license and in the manner and to the extent permitted by such license.**

Unlicensed importation and exportation prohibited.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the Local Government thereon

Importation and exportation of arms ammunition for private use.

*Explanation*—Arms, ammunition and military stores taken from one part of British India to another by sea or across intervening territory not being part of British India, are taken out of and brought into British India, within the meaning of this section.

### NOTES.

(1) In exercise of the powers conferred by S. 19 of the Sea Customs Act, 1878 (VIII of 1878) and in supersession of the Notn. of the Govt. of India in the Dept. of C. and I, No. 5377 dated the 26th July 1919, the G. G. in C. is pleased to prohibit:—

(1) the **bringing by sea or by land** into British India through the **medium of the Post Office** of arms, ammunition or military stores as defined in the Indian Arms Act, 1878 (XI of 1878).

Provided that this prohibition shall not apply to the bringing of arms, ammunition or military stores into British India—

(a) from *Belur*, or (b) on behalf of Government.

(2) the **bringing or taking by sea or land into or out of British India** of arms, ammunition or military stores, as defined in the Indian Arms Act, 1878 (XI of 1878), save in accordance with the provisions of that Act and of the rules and orders for the time being in force thereunder. (India Note No 2112 dated the 2nd June 1924).

(2) All articles of the foreign **parcel mail** imported into India and declared or suspected to contain arms and ammunition are scrutinised by the Customs authorities. Such articles as are found to have been imported in contravention of the terms of Notification No 2112, dated the 2nd June 1924, are detained by the Customs authorities and dealt with in accordance with the provision of section 167 (8) of the Sea Customs Act, 1878 (VIII of 1878), any arms that are confiscated under this section being disposed of in accordance with the rules in force for the disposal of confiscated weapons. **Parcels which on scrutiny by the Customs authorities are passed by them are handed over to the**

post-office for delivery to the consignees. Inward foreign articles of the *letter* mail found to contain arms and ammunition are forwarded by the post-office of delivery to the chief port of the Presidency or province nearest to that office to be there made over to the Customs authorities who then deal with them in the manner above prescribed for the treatment of parcels. The foregoing instructions do not restrict in any degree the discretionary powers exercised by the Customs authorities under the existing provisions of the law. (C. and I. No. 523-527-17, dated 24th January 1911). The transmission of arms and ammunition in foreign postal articles forwarded by other postal administrations in open transit (*a découvert*), through the India Post-Office is prohibited. Articles of this class should be returned to the country of origin. Transit articles of the foreign mail, the contents of which although falling under the head of "arms and ammunition" as defined in the Indian Arms Act, are in themselves quite harmless may, however, at the discretion of Postmaster-General be transmitted to their destinations. (C. and I. No. 8072-8074-55, dated 29th Sept. 1913.)

(3) When arms and ammunition are simultaneously imported, a licence under the Arms Act is necessary for the import of arms and another, under the Explosives Act, for the import of ammunition, irrespective of the question whether a licence under the Arms Act has been obtained or not. (India No. 4638, dated the 6th August 1901)

(4) Any person "**lawfully entitled to possess arms**" can import into British India or take out of the country with him or send out any arms or ammunition, without any special licence, provided these are of reasonable quantity, are for their personal use and their possession is covered either by a licence or by exemption. (Explanation of the rules, etc., para. 15). The words "**lawfully entitled to possess**" apply to persons licensed according to law to possess arms, as well as to persons exempted from the operation of sections 13 and 14 of the Act. (India No. 1862, dated the 14th Dec. 1880).

(6) The exemption in clause 2 of section 6 cover only the export of arms and ammunition by a **privileged person** for his own personal use, not the export of arms and ammunition by other people for the use of a privileged person. (India letter No. 1327-I., dated the 23rd March 1891.)

(7) The following officers are empowered to **detain arms** and ammunition under this section —

BOMBAY PRESIDENCY—Political Resident at Aden. (Notn. No. 3467, dated the 16th June 1879.)

BENGAL—All Magistrates and police officers not below the grade of Sub-Inspector (Bengal L. R. and O., para. 83).

UNITED PROVINCES.—Any Magistrate, Justice of the Peace, Superintendent, Assistant or Deputy Superintendent of Police and any police officer being not lower in rank than an officer in charge of a police station. (G. O. No. 2291, dated the 27th Feb. 1879)

PUNJAB.—All Police officers not below the rank of officer-in-charge of a station. (Notn. No. 943, dated the 10th July 1907.)

CENTRAL PROVINCES.—All Magistrates and all officers of the police not below the rank of Assistant District Superintendent of Police. (Notn. No. 2595 (a) dated the 18th June 1879)

N. W. F. PROVINCE.—All Magistrates and all Police officers not below the rank of Officer in charge of a station. [Notn. No. 7103 G, dated the 2nd May 1922]

(8) **43 Cal. 421 Causley**—A person **lawfully entitled** to possess arms and ammunition signing the prescribed certificate of purchase of the same in the name of another with an address not his own, and thereby deceiving the gunsmith and the Government and defeating the object of the certificate, commits **forgery**: his act having been done "fraudulently" if not "dishonestly."

## 7. Notwithstanding anything contained in the Sea Customs Act, 1878,

Sanction of Local Government required to warehousing of arms, etc.

no arms, ammunition or military stores shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the local Government.

## NOTES.

The warehouse at Moyapur is declared to be a warehouse for the deposit of ammunition under section 7. The premises of any licensed dealer in arms in Calcutta licensed also as a private warehouse under section 16 of the Sea Customs Act, 1878, and approved of in writing by the Commissioner of Police may be used as a place for the deposit of arms under this section. (Bengal Govt. notn. dated the 24th March 1879.)

8. [*Levy of duties on arms, etc., imported by sea*] *Repealed by the Repealing and Amending Act 1891 (XII of 1891).*

9. [*Power to impose duty on imports by land.*] *Repealed by the Repealing and Amending Act, 1891 (XII of 1891).*

10. The Governor-General in Council may, from time to time, by noti-

Power to prohibit trans- fication in the *Gazette of India*,—  
port.

(a) regulate or prohibit the transport of any description of arms, ammunition or military stores over the whole of British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(b) cancel any such notification.

*Explanation* — Arms, ammunition or military stores transhipped at a port in British India are transported within the meaning of this section.  
Transshipment of arms.

#### NOTES.

(1) Although the word "transport" as used in the Indian Arms Act, XI of 1878, would in a certain sense, include every movement from place to place, yet the Government of India consider that looking to the general objects of the Act, and the difficulties which might result from construing the words in its widest sense it is reasonable to attach to it a more restricted meaning, which it would not, perhaps be easy to define precisely, but which would certainly not include such movement as the removal of arms from a warehouse to a shop in the same town, or the landing of arms imported. Under such restricted interpretation of the term no licence is required for the removal of ammunition from one magazine and warehouse to another in the same locality. (India No. 88-2955, dated the 9th Nov. 1888).

(2) The Hon'ble the Advocate General, Bengal, holds that, in the case in question, the offence of transporting arms without the requisite licence was complete, inasmuch as the arms had been removed or transported from the gunshop to the railway station at Purabserai: a conviction under section 19 (d) of the arms Act, as it stands, would therefore have been possible, if the accused had been charged with the substantive offence punishable under that section. (India No. 3007, dated the 11th Nov. 1912).

(3) In order to avoid the possibility of transport licence being used more than once, the time for which such licences are valid should invariably be entered in the proper column of the licence. The time allowed, specially in the case of arms, ammunition or military stores licenced for transport through any part of British India to the frontier, should be carefully restricted to such period as may be considered reasonable. (India No 44—1737, dated the 23rd Sept. 1879).

(4) In the transmission of arms, ammunition and military stores from one British district to another through foreign territory the procedure prescribed is that both an export and an import licence in the regular form should be taken out—the export licence for the transmission of the consignment to foreign territory, and the import licence to cover its re-conveyance into British territory. Whenever such a case may arise a copy of the original licence for export should be communicated to the Magistrate of the place to which the consignment is ultimately destined. (India No. 2864-I, dated the 29th June 1887).

11. The Local Government, with the previous sanction of the Governor-

Power to establish search- General in Council may, at any places along the boundary-  
ing stations. line between British India and foreign territory and at such distance within such line as it deems expedient, establish searching-posts at which all vessels, carts and baggage animals, and all boxes, bales and packages in transit, may be stopped and searched for arms, ammunition and military stores by any officer empowered by such Government in this behalf by name or in virtue of this office.



## NOTES.

Conveyances and baggage belonging to passengers are liable to be stopped and searched at Sayer stations for arms, ammunition and military stores. In carrying out this duty the notification of exemption and the rules under the Arms Act, so far as they relate to the transit of arms, ammunition and military stores should be followed by the officers of the Land Customs Stations. (Madras L. R. and O., para 5).

12. When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him.

Any person so apprehended, and any arms, ammunition or military stores so taken by a person not being a Magistrate or Police-officer, shall be delivered over as soon as possible to a Police-officer.

Arrest of persons conveying arms, etc., under suspicious circumstances.  
Procedure where arrest made by person not a Magistrate or Police-officer.

All persons apprehended by, or delivered to, a Police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

*IV.—Going armed and possessing Arms, etc.*

13 No person shall go armed with any arms except under a license and to the extent and in the manner permitted thereby.

Prohibition of going armed without license.

Any person so going armed without a license or in contravention of its provisions may be disarmed by any Magistrate, Police-officer or other person empowered by the Local Government in this behalf by name or by virtue of his office.

## NOTES.

(1) Under this section the following officers are empowered to disarm persons going armed without a license or in contravention of its provisions :—

**MADRAS PRESIDENCY.**—All Magistrates, Police-officers and *adigaris* in the Malabar district. (G. O. No. 457, dated the 5th December 1895).

**BOMBAY PRESIDENCY.**—The undermentioned officers of the Forest Department in the Northern Division, Southern Division and in Sind Conservators, Deputy Conservators, Assistant Conservators, Extra Assistant Conservators, Rangers, Foresters, Forest Guards and Salt Inspectors in Sind in virtue of their office. Officers, sepoys and peons of the Salt Department employed on the Goa and on the Northern Frontiers. (Notns. No. 6714 dated the 7th Novr. 1879, No. 9355 dated the 29th Novr. 1892, No. 3049-A, dated the 8th June 1889, No. 410 dated the 18th Jan'y. 1895 and No. 4082, dated the 11th Augt. 1905)

**UNITED PROVINCES.**—The Conservator of Forests, all Deputy and extra Deputy Conservators, Assistant Conservators, and Extra Assistant Conservators (including probationers). Patwaris in Jaunsar-Bawar have similar powers. (Notn. No. 3451-VI-883 dated the 4th Sept. 1913.)

**CENTRAL PROVINCES AND BEHAR.**—All Forest officers not below the rank of Assistant Conservators and all Revenue officers not below the rank of Naib-Tahsildar. (Notn. No. 2595-A, dated the 18th June 1895 and No. 1853 dated the 7th Aug. 1916.)

(2) **Weir 663.—Venkatanarayadu.**—"Going armed" in s. 13 means "carrying arms" and a person who gets a license for protection only but uses it for sports is not exempted from the liability under the Act.



(3) **I. Weir 662.—Koraga.**—Section 13 which prohibits a person from "going armed" except under a license is not bound to take his license with him whenever he goes.

(4) **L. B. R., 1893-1900, 284—Nga Shwe Ton.**—A person who appears in a public place or issues from his own property or abode, having about his person a weapon of the sort described in s. 4, and not covered by a license, goes armed within the meaning of s. 13 of the Act. The phrase "going armed" is not to be restricted to the meaning, carrying or bearing arms in the manner usual for the particular weapon in view.

(5) **U. B. R. 1897-1901, Vol 14—Nga Tha Byaung.**—The accused was found in another man's house wearing a dagger. He did not allege that the dagger was not his or that he had not brought it to the house. On the contrary he specified the purpose for which the dagger was issued. *Held*, that in the above circumstances the accused has committed the offence of going armed with a dagger in contravention of s. 13.

(6) **U. B. R., 1892-1896, Vol. I, 1.—Nga Po Tein—Dalwas,** spears and forks do not come within the term "military stores" in s. 14 and the mere possession of such weapons is not a punishable offence under s. 19. But going armed with swords or spears without a license is punishable under s. 13. Search for arms would be illegal if it was not ordered by a Magistrate in pursuance of s. 25.

14. No person shall have in his possession or under his control any cannon or firearms or any ammunition or military stores, except under a license and in the manner and to the extent permitted thereby

Unlicensed possession of  
firearms, etc.

#### NOTES.

(1) **S. N. L. R. 53.—Dhan Singh**—Firearms in this section includes parts of firearms.

(2) **291 I. C. 544.—Chaganipate Chino Basavappa.**—There is no provision in this section requiring a person to deposit a spear. If there is no other basis of conviction it is illegal.

(3) **42 Cal. 1153 Harsha Nath Chatterjee.**—Possession of parts of firearms is prohibited by this section read with s. 4

(4) **15 C. W. N. 440—Akhil Nath Dutt**—Where a person kept a gun for some time and made it over to another to keep for him he cannot be convicted under s. 19

*(Temporary provisions.)—Repealed by the Repealing and Amending Act, 1891 (XII of 1891.)*

15. In any place to which section 32, clause 2, of Act No XXXI of 1860 applies at the time this Act comes into force or to which the Local Government, with the previous sanction of the Governor-General in Council, may by notification in the local official Gazette specially extend this section, no person shall have in his possession any arms of any description, except under a license and in the manner and to the extent permitted thereby.

Possession of arms of  
any description without  
license prohibited in cer-  
tain places.

#### NOTES.

(1) **Section 32, Clause 2 of Act XXXI of 1860**—In every such Province, District, or place as well as in any Province, District or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII of 1857, it shall not be lawful for any person to have in his possession any arms of the description mentioned in section VI of this Act, or any percussion caps, sulphur, gunpowder, or other ammunition without a license.

(2) Section 15 has been extended to the following places

**In Madras.**—The Governor in Council, with the previous sanction of the Governor-General in Council, resolves under section 15, Act XI of 1873 (The Indian Arms Act) to extend the provisions of

that section to the whole of the **Malabar district**.—(2) It is therefore hereby notified for general information, that within the limits of the said district no person who is not specified or described in Schedule I of the Indian Arms Rules, 1920, as exempted, shall from the date of this notification have in his possession any arms of any description except under a licence and in the manner and to the extent permitted by it. (Notn. No. 222 dated the 14th Sep. 1922).

**Bombay.—Aden.**—(Notn. No. 3467 dated the 16th June 1897).—

The Governor in Council is pleased to republish Government notification No. 1112 dated 19th February 1878, with the additions attached to it by Government resolution No. 4378, dated the 18th August 1890 :—

It is hereby notified, for general information that the provisions of Act XXXI of 1860 (relating to the manufacture, importation and sale of arms and ammunition and for regulating the right to keep and use the same, and to give the power of disarming in certain cases) as modified by Act VI of 1866, are in force in the following places, districts and portions of districts :—

Town and Island of Bombay,

Districts of Ratnagiri, Poona, Ahmednagar, Satara, Belgaum, Dharwar,

District of Sholapur, in the following talukas only :—

(a) Pandharpur, (b) Sangola.

District of Bijapur (lately Kaladgi), in the following talukas only :—

(a) Bijapur, (b) Bagalkot, (c) Badami, (d) Hungund.

Kanara, in the following talukas only :—

(a) Sopn, (b) Yellapur, (c) Karwar, (d) Sirsi, (e) Siddapur,

Navik in the following talukas only :—

(a) Navik, (b) Igatpuri, (c) Dindori, (d) Suinar, (e) Niphad, (f) Yeola, (g) Chandor.

(2) And that the provisions of Act XXXI of 1860 (relating to the manufacture, importation and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give the power of disarming in certain cases as modified by Act VI of 1866, are with the exception of the several clauses of section 32, which apply to the disarmament of any district, in force in the following districts and portions of districts :—

The Province of Sind., viz, the districts of Karachi, Hyderabad and Shikarpur, Thar and Parkar and the Upper Sind Frontier.

Districts of Ahmedabad, Surat, Broach, Kaira, Panch Mahals, Thana, Kolaba.

District of Nasik in the following talukas only :—

(a) Malegaon, (b) Nandgaon, (c) Baglan, (d) Kalvan, (e) Peint.

District of Kanara, in the following talukas only :—

(a) Kumta, (b) Honavar.

District of Kaladgi, in the following talukas only :—

(a) Indi, (b) Sirdgi, (c) Muddebihal, (d) Bagevadi.

District of Sholapur in the following talukas only :—

(a) Sholapur, (b) Barsi, (c) Madha, (d) Karmala.

(Notn. No. 391, dated the 18th Jan. 1893 and Notn. No. 8225, dated the 12th Dec. 1898.)

**Bengal.** In exercise of the power conferred by the proviso in column 3 of item 1 of the table in Schedule II, referred to in rule 3 of the Indian Arms Rules, the Governor in Council is pleased to retain the prohibitions and directions contained in sections 5 and 6 of the Indian Arms Act, 1878, in respect of bayonets in all districts in the Presidency of Bengal, and to declare that no person in this Presidency—

- (a) shall manufacture, convert or sell, or keep, offer or expose for sale,
- or (b) shall bring or take by sea or by land into or out of this Presidency

bayonets, except under a licence and in the manner and to the extent permitted thereby. (Bengal No. 659-PI., dated the 2nd March 1923.)

In exercise of the powers conferred by section 15 of the Indian Arms Act, 1878 (XI of 1878), and with the previous sanction of the G. G. in C. the Governor in Council is pleased to extend section 15 of the said Act to all districts in Bengal and to declare that, with effect from the 9th March 1923, no person of these districts shall have in his possession any arms of any description except under a licence and in the manner and to the extent permitted thereby.—Provided that except in respect of bayonets other than those lawfully possessed in virtue of an exemption under Schedule I of the Indian Arms Rules, 1920, the above notification shall not affect nor apply to any exemption granted under the Indian Arms Rules, 1920, and in force at the said date, namely, 9th March 1923. (Bengal Notn. No. 787 -PJ., dated the 9th March 1923)

**Punjab**—Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. (Notn. No. 1686 of the 16th Nov. 1900) See also the list of villages printed at the end of the Indian Arms Rules, 1924, and referred to in Schedule IV., (7) (b). (Notn. No. 2460 dated the 3rd July 1879.)

(3) **1 Weir 686—Fakir Ahmed**—The possession of a sword or dagger in a place to which s. 15 has not been extended is no offence.

(4) **1 Weir 686.—Kunja Asari**—A person having a sword without a license in a district which is disarmed, but not going armed with it, is no offence under the Act.

(5) **L.B.R., 1872-1892, 426—Nga Shwe Hla**—The possession of a bayonet without a license is not an offence under the Act except in the district to which s. 15 has been extended.

(6) **9 Bom, 478—Dodyama Basapa**—Cl. 2, s. 32 of Act XXXI of 1860, relating to the manufacture, importation and sale of arms, did not apply to the Badami Taluka of the Kaladgi Collectorate at the time when the Indian Arms Act, No. XI of 1878, came into force; and the notification of the Government of Bombay, No. 1112 of the 19th February 1878, which declares that the provisions of Act XXXI of 1860, as modified by Act VI of 1866, are in force in Badami amongst other places, is not an order of disarmament under clause (1), s. 32 of Act XXXI of 1860. In the absence therefore, of a notification under section 15 of Act XI of 1878, extending with the previous sanction of the Governor-General in Council, the provisions of the section to Badami, the possession of arms without a license in that taluka is not punishable under s. 19.

(7) **41 Cal 350—Romesh Chandra**—The knowledge of the existence of firearms found in a hut on search should not, without further evidence be imported to any other than the occupier of the hut, nor would that presumption operate even against him if it could be proved that it was possible that the same might be there without his knowledge.—(Vide also 3 C. W. N. 394—Kali Nath Singh. (Note under s. 17.)

16. (1) Any person possessing arms, ammunition or military stores the possession whereof has, in consequence of the cancellation or expiry of a license or of an exemption or by the issue of a notification under section 15 or otherwise, become unlawful, shall without unnecessary delay deposit the same either with the officer-in-charge of the nearest police-station or, at his option and subject to such conditions as the Local Government may by rule prescribe, with a licensed dealer.

(2) When arms, ammunition or military stores have been deposited under sub-section (1) or, before the first day of January, 1920, under the provisions of any law for the time being in force, the depositor shall, at any time before the expiry of such period as the Local Government may by rule prescribe, be entitled—

(a) to receive back anything so deposited the possession of which by him has become lawful, and

(b) to dispose, or authorize disposal, of any thing so-deposited by sale or otherwise to any person whose possession of the same would be lawful; and to receive the proceeds of any such sale :

Provided that nothing in this sub-section shall be deemed to authorize the return or disposal of anything the confiscation of which has been directed under section 24.

(3) All things deposited as aforesaid and not returned or disposed of under sub-section (2) within the prescribed period therein referred to shall be forfeited to His Majesty.

(4) (a) The Local Government may make rules consistent with this Act for carrying into effect the provisions of this section.

(b) In particular and without prejudice to the generality of the foregoing provision, the Local Government may by rule prescribe—

(i) the conditions subject to which arms, ammunition and military stores may be deposited with a licensed dealer, and

(ii) the period after the expiry of which things deposited as aforesaid shall be forfeited under sub-section (3).

#### NOTES.

The following Statement of **Objects and Reasons** dated the 1st Sep. 1919 was published with the Bill amending section of the Act:—

The changes in the administration of the Indian Arms Act, 1878 (X1 of 1878), which were announced in the Government of India (Home Department) Resolution No. 2125-C, dated the 21st March 1919, are to come into force on the 1st January 1920. One of the changes is a curtailment of the list of exempted persons; and there are probably a number of persons now in lawful possession of arms and ammunition, of which the possession by them will become unlawful by reason of that curtailment. It is necessary to arrange for the disposal of such arms and ammunition, and the present provisions of the Act are not sufficient for the purpose. The Bill has been framed to provide for the safe custody of such arms and ammunition, and at the same time to avoid the infliction of unnecessary hardship, by giving to the former possessors opportunity to dispose of their property by sale or other lawful means.

The following Rules have been published by Local Governments for carrying into effect the provisions of section 16:—

2. **Madras G. O. No. 1823, dated the 28th July 1920**—In the case of arms, ammunition and military stores deposited at police stations under section 16 (1) of the Act, the Government direct that they shall, if not returned or otherwise disposed of within one month from the date of their deposit, be removed to and lodged at the headquarters police stores of the district—3. With reference to paragraph 3 of G. O. No. 626, Judicial, dated 22nd April 1910, no separate register in the form prescribed therein need be maintained by dealers showing receipts and disposals of arms and ammunition occasionally received from persons who wish to effect their disposal. The register which the dealers are required to maintain under rule 1 of the rules appended to this order may be utilized for the purpose.—4. The District Magistrates and the Commissioner of Police, Madras, will furnish the dealers in arms and ammunition, if any, in their respective jurisdictions, with a copy of the rules appended to this order and of the instructions contained in paragraph 3 above.

**Notification**—(1) Every licensed dealer with whom any arms, ammunition or military stores have been deposited shall give to the depositor a receipt and shall enter the necessary particulars in a register to be maintained by the dealer in the appended form.—(2) The licensed dealer shall furnish the Commissioner of police or the District Magistrate with an extract of the register on the day on which each deposit, return, sale or other disposal takes place. The officer receiving the extract shall depute an officer to check the extract with the dealer's register and initial each entry.—(3) The stock on hand with the licensed dealer together with the arms, ammunition or military stores deposited with him under section 16 (1) of the Act shall not exceed the quantity which he is licensed to possess.—(4) Subject to the provision of rule 6, any arms, ammunition or military stores which are not returned or disposed of under section 16 (2) of the Act shall, after the expiration of three years from the date of their deposit, be forfeited to His Majesty.—(5) Licensed dealers shall submit at the end of each quarter, viz. 31st March, 30th June, 30th September, and 31st December to the Commissioner of Police in the city of Madras and elsewhere to the District Magistrate, a statement showing the arms, ammunition or Military stores that have become liable to forfeiture under rule (4).—

(6) Arms, ammunition or military stores deposited by a guardian on behalf of a minor may be left in deposit until the expiration of one year from the date of such minor attaining majority when, if the person entitled to receive them back or dispose of them as required by section 16 (2) of the Act has not taken the required action, they shall be forfeited to his Majesty.

*Form\* referred to rule (1) above.*

Receipts.

1. Date of receipt.
2. Sender's name and address in full.
3. Particulars of sender's exemption or licence.
4. Description of arms with maker's name and number, if any.
5. Description and quantity of ammunition and military stores.

Disposal.

6. How disposed of—whether by sale, return or other disposal.
7. In case of sale or other disposal—purchaser's or transferee's name and address in full and particulars of his licence.
8. In case of return of the weapons, date of return and name and address of person to whom sent.
9. Date when due for forfeiture.
10. Remarks.

**Bombay Notn, No. 1675, dated the 20th Feby. 1920.**—1. Every licensed dealer with whom any arms, ammunition or military stores have been deposited shall give to the depositor a receipt and shall maintain a register in the appended form\*. A copy of the register, certified as a true copy under the signature of the licensed dealer, shall be forwarded on the last day of each quarter, in the City of Bombay to the Commissioner of Police and elsewhere to the District Magistrate—2. Arms, ammunition or military stores deposited at the police stations shall, if not returned or disposed of within one month from the date of their deposit, be lodged at the headquarters police stores—Provided that arms so deposited and previously covered by a licence in Form XV, Schedule VII to the Indian Arms Rules, 1920, may, at the discretion of the District Magistrate, be lodged at the police station at the headquarters of the taluka in which the police station at which they have been deposited is situated. (Proviso added by G. O. No. 6658, dated the 19th July 1920).—3. Subject to the provisions of rule 7 any arms, ammunition or military stores which are not returned or disposed of under section 16 (2) of the Act, shall, after the expiration of three years from the date of their deposit, be forfeited to His Majesty—4. The Commissioner of Police in the City of Bombay and elsewhere the District Magistrate may prescribe fees on payment of which arms, ammunition and military stores shall be periodically oiled, cleaned, etc., at the police station or headquarters police stores where they are deposited or lodged—5. Licensed dealer shall not return arms, ammunition or military stores deposited with them to depositors except in the manner and to the extent permitted for the sale of such arms, ammunition or military stores to such depositors.—6. Licensed dealers shall submit on the 31st of December of each year in the City of Bombay to the Commissioner of Police and elsewhere to the District Magistrate, a statement showing the arms, ammunition and military stores that have become liable to forfeiture under rule 3.—7. Arms, ammunition or military stores deposited by a guardian on behalf of a minor may be left in deposit until the expiration of one year from the date of such minor attaining majority when if the person entitled to receive them back or dispose of them as prescribed by section 16 (2) of the Act has not taken the requisite action, they shall be forfeited to His Majesty.

FORM.\*—[Rule 1].

Date of deposit.	Description (No. etc.) of arms, ammunition or military stores.	Name and address of the depositor.	Date when due for forfeiture.	Date and due for disposal.	REMARKS.
1	2	3	4	5	6

**Bengal.**—*Letter No. 39 Pl., dated the 7th January 1921.*—Owners who deposit their firearms and ammunition for safe keeping with a dealer holding a licence in Form XIII are not obliged to renew their possession licence, if it expires while the firearm and ammunition so deposited are with the dealer. They may have their licence renewed through the dealer or any other person authorised by them on their behalf, if the licensing authority is prepared to renew their licences in their absence. If the licence is not renewed, the dealer continues to possess the deposited firearms and ammunition on the authority of his licence in Form XIII; but the owner will have to renew his licence or obtain a fresh one, as the case may be, before he can take delivery of the deposited firearms or ammunition from the dealer. A register should be maintained in the following Form (Vide Bengal Manual pages 169 and 227).

Register of firearms and ammunition deposited for safe custody (prescribed under condition 33 licence Form XIII)

Date of deposit.	Name of arm.	Address including village police station and district.	If exempted how.	Number, date, duration and form of licence and authority by whom granted.	Number and description of arms and ammunition.	How disposed of.
1	2	3	4	5	6	7

1 Any person depositing arms, ammunition or military stores with a licensed dealer in compliance with the provisions of sub-section (1) of section 16 of the Indian Arms Act, 1878, shall immediately inform the Commissioner of Police, Calcutta, and also, if he be not a resident of Calcutta, the Magistrate of the district in which he resides. 2. When a dealer disposes of arms, ammunition or military stores so deposited, he shall report the fact to the Commissioner of Police, and, if the depositor is not a resident of Calcutta, to the Magistrate of the district in which he resides. The report shall state the name and address of the depositor, the number, date and issuing authority of the licence (if any) under which the arms, ammunition or military stores were held, and a description of the arms, ammunition or military stores sold. 3. A dealer failing to dispose of an article so deposited within one year from the 1st January of the year following that in which it was deposited shall deposit the same at the nearest police-station, and shall at the same time furnish the information mentioned in rule 2; provided that in exceptional cases the period of one year may be extended by the Local Government. 4. All articles deposited under sub-section (1) of section 16 of the Act, and not returned or disposed of under sub-section (2) of the same section within a year of their deposit or within such further period as may be allowed under rule 3, shall be forfeited to His Majesty. (Bengal Notn. No. 1372 P. J., dated the 12th March 1920.)

**United Provinces No. 1536-VI—841 dated the 12th March 1920.**—(1) Every licensed dealer with whom, and every officer in charge of police stations at which, any arms, ammunition or military stores have been deposited shall affix to each weapon or article a ticket in the form\* appended, and give to the depositor a receipt in the same form, signed by himself, informing the depositor at the same time that the Government will be responsible for the safe custody only of the articles and not for their preservation from rust and decay.—(2) Licensed dealers and officers in charge of police stations with whom any arms, ammunition or military stores are deposited shall maintain a register in the appended form.\* A copy of the register, certified as a true copy under the signature of the licensed dealer or of the officer of the police station, as the case may be, shall be forwarded on the last day of each quarter to the District Magistrate.—(3) Arms, ammunition or military stores deposited at police stations shall, if not returned or disposed of within one month from the date of their deposit, be forwarded to the headquarters of the district and shall then be kept in the *malkhana* of the District Magistrate or the Superintendent of Police, at the discretion of the Magistrate. If deposited in the Magistrate's *malkhana*, the Nazir shall be responsible for their custody, and if deposited in the Superintendent's *malkhana*, the Court Inspector shall be so responsible.—(4) The Court

Inspector (or the Nazir, as the case may be) shall keep a register in which the arms and other articles deposited with them shall be described, and entered under serial numbers and fresh tickets shall be affixed to them showing the owner's name, etc., corresponding with the entries in the register.—(5) Subject to the provisions of rule 9, any arms, ammunition or military stores which are not returned or disposed of under section 16 (2) of the Act shall, after the expiration of one year from the date of their deposit, be forfeited to His Majesty.—(6) The District Magistrate may prescribe fees on payment of which arms, ammunition and military stores shall be periodically oiled, cleaned, etc., at the police station or *malkhana*, where they are deposited or lodged.—(7) Licensed dealers shall not return arms, ammunition or military stores deposited with them to depositors except in the manner and to the extent permitted them for the sale of such arms, ammunition or military stores to such depositors.—(8) Licensed dealers and officers in charge of *malkhanas* in which arms, ammunition and military stores are lodged under rule 3 shall submit on the 31st of December of each year to the District Magistrate a statement showing the arms, ammunition and military stores that have become liable to forfeiture under rule 5.—(9) Arms, ammunition or military stores deposited by a guardian on behalf of a minor may be left in deposit until the expiration of one year from the date of such minor attaining majority when, if the person entitled to receive them back or dispose of them as prescribed by section 16 (2) of the Act has not taken the requisite action, they shall be forfeited to His Majesty.

FORM<sup>e</sup> [Rules 1 and 2.]

Date of Deposit.	Description (no., etc.) of arms, ammunition or military stores.	Name and address of depositor.	Date when due for forfeiture.	Date and method of disposal.	Remarks.
1	2	3	4	5	6

*Exception.*—In the Almora district, arms deposited under the Act may be retained in *tahsil malkhana* instead of being sent to the headquarter's *malkhana*; and the statement prescribed by clause 8 above should be submitted by the naib nazir of each *tahsil* to the Deputy Commissioner of Almora through the *tahsildar* or *peshkar*. [G. O. no. 5563/VI—dated the 17th November, 1920.]

**Punjab Notn. No. 15486, dated the 10th May 1922**—1. (i) Arms and ammunition, the possession of which has become unlawful, may be deposited with such licensed dealers only as possess a supplementary license from the Local Government in the form attached to these rules. (ii) Such licenses may be granted by the District Magistrate of the district in which applicant resides to the holder of a license in form VIII, IX, X or XI in schedule VII attached to the Indian Arms Rules, 1920 [forms IX, X, XI or XII in schedule VIII attached to the Indian Arms Rules, 1924]—2. The depositor shall, within a week of deposit, deliver to the District Magistrate of the district in which he resides a receipt obtained from the licensed dealer for the articles deposited.—3 Arms, ammunition or military stores deposited under section 16 (1) of the Indian Arms Act, 1878, with an officer-in-charge of a Police station or with a licensed dealer shall be forfeited to His Majesty on the termination of one year from the date of deposit. Provided that the District Magistrate of the district in which the articles are deposited may from special reasons extend this period by not more than six months, or, where the articles are deposited in consequence of the decease of the owner, and the articles are inherited by a minor, until the termination of the inheritor's minority.



## FORM. (Rule 1).

*Free of all fee.*

\* License for the possession by licensed dealers of arms or ammunition deposited by their owners under section 16 of the Indian Arms Act, 1878, as amended by Act XX of 1919.

Name, description and residence of licensee.	Description of arms or ammunition.	Place (with description) where articles are to be kept.	Period for which the license is valid.
1	2	3	4

The                      of                      19

Signature.

District Magistrate of the District.

## Conditions.

1. This licence is granted subject to all the provisions of the Indian Arms Act, 1878, and of the Indian Arms Rules, 1920 [1924.]—2. It covers arms of the description given in column 2 only so long as they are kept in the place described in column 3, but does not authorise the licensee (i) to go armed, (ii) to keep arms or ammunition which are the property of Government.—3. The licensee shall maintain a register of all arms or ammunition in his possession under this license, showing the name, description and residence of the licensee, the description of the arms and ammunition, and the date of deposit.—4. To every depositor the licensee shall give a receipt in duplicate containing the particulars mentioned in condition 3, and shall himself send a copy of the entry in his register to the officer in-charge of the nearest police station.—5. He shall exhibit such arms and his register on the demand of any Magistrate or any police-officer of a rank not below that of Inspector.—6. The licensee shall forthwith give information at the nearest police-station of the loss or theft of any arms covered by the license.—7. On the termination of one year from the date of deposit, if the arms or ammunition have neither been returned nor disposed of under section 16 (2) of the Indian Arms Act, 1878, the licensee shall inform the District Magistrate of that fact, and shall deal with the arms or ammunition according to his orders.

**Bihar and Orissa. Notification No. 636 P. R., dated the 17th May 1920.**—1. Every licensed dealer with whom any arms, ammunition or military stores have been deposited shall give to the depositor a receipt and shall maintain a register in the appended form.\* He shall forward on the last day of each quarter to the District Magistrate a copy of the register certified as a true copy under his own signature.—2. Arms, ammunition or military stores deposited at police station shall, if not returned or disposed of within one month from the date of their deposit, be lodged at the head-quarters Court Police Office.—3. Subject to the provisions of rule 7 any arms, ammunition or military stores which are not returned or disposed of under section 16 (2) of the Act shall, after the expiration of three years from the date of their deposit, be forfeited to His Majesty.—4. The District Magistrate may prescribe fees on payment of which arms, ammunition or military stores shall be periodically oiled, cleaned, etc., at the police station or headquarters Court Police Office where they are deposited or lodged.—5. Licensed dealers shall not return arms, ammunition or military stores deposited with them to depositors or persons on whose behalf the deposits have been made except in the manner and to the extent permitted them for the sale of such arms, ammunition or military stores to such depositors or such persons aforesaid as the case may be.—6. Licensed dealers shall submit on the 31st of December of each year to the District Magistrate, a statement showing the arms, ammunition and military stores that have become liable to forfeiture under rule 3.—7. Arms, ammunition or military stores deposited by a guardian on behalf of a minor may be left in deposit until the expiration of one year from the date on which such minor attains his majority, when, if the person entitled to receive them back or dispose of them as prescribed by section 16 (2) of the Act has not taken the requisite action they shall be forfeited to His Majesty.

II. *Notfn. No. 370, P. R., dated the 31st May 1920 prescribes the following form under this Rule.*—

FORM.\* [Rule 1]

Date of deposit.	Description (No. etc.) of Arms, ammunition or Military Stores	Name and address of the depositor.	Date when due for forfeiture.	Date and method of disposal.	REMARKS.
1	2	3	4	5	6

**Central Provinces.** *Notfn No 297-199—VI. [298-199—VI.] the 1st August 1922*—(1) Every licensed dealer with whom any arms, ammunition or military stores have been deposited shall give to the depositor a receipt and shall maintain a register in the appended form \* A copy of the register, certified as a true copy under the signature of the licenced dealer, shall be forwarded on the last day of each quarter to the District Magistrate. (2) Arms, ammunition or military stores deposited at police stations shall, if not returned or disposed of within three months from the date of their deposit, be lodged in the Nazarat.—(3) Subject to the provisions of rule 7, any arms, ammunition or military stores which are not returned or disposed of under section 16 (2) of the Act shall, after the expiration of three years from the date of their deposit, be forfeited to His Majesty.—(4) The District Magistrate may prescribe fees, on payment of which arms, ammunition and military stores shall be periodically oiled, cleaned, etc. at the Nazarat, where they are deposited or lodged.—(5) Licenced dealers shall not return arms, ammunition or military stores deposited with them to depositors except in the manner and to the extent permitted them for the sale of such arms, ammunition or military stores to such depositors.—(6) Licenced dealers shall submit, on the 31st of December of each year, to the District Magistrate, a statement showing the arms, ammunition and military stores that have become liable to forfeiture under rule 3.—(7) Arms, ammunition or military stores deposited by a guardian on behalf of a minor may be left in deposit until the expiration of one year from the date of such minor attaining majority, when, if the person entitled to receive them back or dispose of them as prescribed by section 16 (2) of the Act has not taken the requisite action, they shall be forfeited to His Majesty.

FORM.\* [Rule 1.]

Date of deposit.	Description (No., etc.) of arms, ammunition or military stores.	Name and address of the depositor and particulars of the licence.	Date when due for forfeiture.	Date and method of disposal.	Remarks.
1	2	3	4	5	6

When any arms, ammunition or military stores are deposited under section 14 or 16 of Act XI of 1878 as amended by Act XX of 1919 at a police station, the officer in charge of such station shall give the depositor a receipt signed by himself.

If within 60 days from the date of deposit the owner fails to produce a licence authorizing him to take possession of them, the arms, ammunition, and military stores shall be forwarded to the headquarters of the district, where they shall be kept in such safe place as the Deputy Commissioner may direct.

All arms, etc., deposited under section 14 or 16 will be at the owner's risk, and Government will not be liable for any injury they may receive. (C. P. L. R. and O., P. 200.)

[NOTE.—Similar Rules have been framed for Berar under notification No. 298—199 VI dated the 1st Aug. 1922.]

**Goorg. Notn. No. 53 dated the 27th March 1921**—Prescribes rules similar to the Madras Rules, on page, 53 ante.

### V. Licences

17. The Governor-General in Council may, from time to time by notification in the *Gazette of India*, make rules to determine the officers by whom, the form in which and the terms and conditions, on and subject to which any license shall be granted; and may by such rules among other matters—

(a) fix the period for which such license shall continue in force;

(b) fix a fee payable by stamp or otherwise in respect of any such license granted in a place to which section 32, clause 2 of Act No XXXI of 1860, applies at the time this Act comes into force, or in respect of any such license other than a license for possession granted in any other place;

(c) direct that the holder of any such license other than a license for possession shall keep a record or account, in such form as the Local Government may prescribe, of anything done under such license, and exhibit such record or account when called upon by an officer of Government to do so;

(d) empower any officer of Government to enter and inspect any premises in which arms, ammunition or military stores are manufactured or kept by any person holding a license of the description referred to in section 5 or section 6;

(e) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any officer of Government so empowered; and

(f) require the person holding any license or acting under any license to produce the same and to produce or account for the arms, ammunition or military stores covered by the same when called upon by an officer of Government so to do.

### NOTES

(1) **240 O C Mahomed Ibrahim—20 Cal 444—Kishunwa**—The Act does not require a person who holds the license for a gun or any other weapon to carry it on his person whenever he has the weapon with him. If, on being required to produce it he is prepared to do so on a reasonable opportunity being given him to get, and if it exists, he should not be prosecuted, and, if prosecuted, the production of the licence at the trial is a sufficient answer to the charge of infringing the Act.

(2) **3 C W. N. 394.—Kali Nath Singh.**—An order extending the time of renewal of licences has the effect of keeping licence previously granted practically in force and a person cannot be convicted under S 14 (f) for a breach of its provision within the extended time.

Cancelling and suspension of license. 18 Any license may be cancelled or suspended—

(a) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any Magistrate of a district, or Commissioner of Police in a Presidency town, within the local limits of whose jurisdic-

tion the holder of such license may be, when, for reasons to be recorded in writing, such officer, authority, Magistrate or Commissioner deems it necessary for the security of the public peace to cancel or suspend such license; or

(b) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act; and

the Local Government may at its discretion, by a notification in the local official Gazette, cancel or suspend all or any licenses throughout the whole or any portion of the territories under its administration.

#### NOTES

**Bengal**—The only "disarmed" district in Bengal is Bakarganj, all licences in this district having been cancelled under S 18 of the Act in Bengal Govt Notn. No 4772 J. dated the 22nd Aug 1896 These orders were modified in 1904 when the Dist Magte. of Bakarganj was authorised to issue gun licences under the following conditions to respectable and trustworthy persons:—

(1) All licences to be in form XVI (2) No person to be licensed for more than one gun without the counter signature of Commissioner, who will only countersign if good reason is shown—(3) No licence to be granted to any person who is not a permanent resident in the district (4) Every gun to have a brass plate showing the number of its licence, the date of the original grant of the licence, and of each subsequent renewal Such plate to be firmly affixed to the stock of the gun, under the Magistrate's orders, at the owners' expense [Guns which can be identified by the maker's name and number, need not have the brass plates or numbers stamped thereon] [Bengal No 1360 J dated 16th February 1905] (5) Any licensee whose gun may be lost or stolen to communicate the fact within twenty-four hours to the nearest police station—(6) Licences only to be granted to gentlemen of position and good character who can be depended on not only to misuse the guns themselves, but also prevent others from misusing them (Bengal No. 2847 J D dated the 29 Sep. 1904 and para. 53 Bengal L R and O)

#### VI—Penalties

For breach of sections 5, 19. Whoever commits any of the following offences 6, 10, 13 to 17. (namely).—

- (a) manufactures, converts or sells, or keeps, offers or exposes for sale, any arms, ammunition or military stores in contravention of the provisions of section 5;
- (b) fails to give notice as required by the same section;
- (c) imports or exports any arms, ammunition or military stores in contravention of the provisions of section 6;
- (d) transports any arms, ammunition or military stores in contravention of a regulation or prohibition issued under section 10;
- (e) goes armed in contravention of the provisions of section 13;
- (f) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section 14 or or section 15;
- (g) intentionally makes any false entry in a record or account which, by a rule made under section 17, clause (c), he is required to keep;

- (A) intentionally fails to exhibit anything which, by a rule made under section 17, clause (e), he is required to exhibit; or
- (i) fails to deposit arms, ammunition or military stores as required by section 14 or section 16;

shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

## NOTES.

(1) [Under Sch II, Cr. P. C., 1898, offences under this section are bailable by a Court of Sessions, Presidency Magistrate or a Magistrate of the First Class]—**1 Weir 654.**—Offences under s. 19 being punishable with imprisonment for more than six months and not being one of offences specified in s. 220 (260) Cr. P. C. could not be tried **Summarily**—**Lah. 1924-667.**—(A. I. R.) **Nazir Singh**—Sentence of **Solitary confinement** cannot be awarded under the Arms Act—**1 Weir 660**—**Sheikh Mowla Sahib**—The offence of **failing to deposit arms** is not triable by a Magistrate of the second class under s. 8 of the Cr. P. C., 1872. A **magistrate of the second class** has no power to try an offence punishable under s. 19 (e) and a conviction by him for such an offence is illegal.

(2) Under **S. 29** of the Act no proceedings should be instituted under s. 19 (f) without the **previous sanction** of the Magistrate of the District or in a Presidency Town of the Commissioner of Police—**4 L. B. R. 247**—**Kaka**—Accused was prosecuted under s. 19 (e) for **going armed** with a revolver. The Magistrate doubted whether a person could be said to go armed with an **unloaded revolver wrapped up in a cloth**. He therefore charged the accused in the alternative with going armed under clause (e) or, with **possessing** the revolver, under clause (f) of s. 19. After the framing of the charge the Magistrate submitted the record to the District Magistrate, owing to an objection being taken, for his **previous sanction** under s. 29. The District Magistrate wrote upon the Diary: "I sanction the institution of proceedings under s. 19 (f) against Kaka." The trial proceeded, and the accused was convicted under clause (f). *Held*, that, the police having submitted a report in which it was stated that the accused was found carrying the revolver, and that being described as an offence under clause (e) of s. 19, proceedings under clause (f) were instituted only when the Magistrate framed the charge under that clause. Although the framing of the charge, when the Magistrate did frame it, was without jurisdiction, yet, if the Magistrate had followed proper course of amending the charge, and then obtained sanction as he did, there would be nothing to prevent him from again framing a charge under clause (f), and proceeding with the trial. The Magistrate cannot be said to be without jurisdiction to try the case merely because he framed the charge before receiving sanction, and did not frame a fresh charge after receiving it. At the time when he took the evidence for the prosecution, no sanction was required, because proceedings in respect of an offence under clause (f) had not then been instituted, and under s. 256, Cr. P. C., the accused had the right to recall all the witnesses for the prosecution after the charge was framed. He was, therefore, in no way prejudiced by the Magistrate's procedure. The Magistrate, therefore, had jurisdiction, notwithstanding the word 'previous' in s. 29, because, in the circumstances set forth, the proceedings in respect of the offence under clause (f) cannot be said to have been instituted when the Magistrate received the police report. Considering the terms of the District Magistrate's order, it was held that proceedings in respect of the offence under clause (f) were instituted again after the sanction was received, and the absence of a charge framed after sanction, in that case, is cured by s. 535. Cr. P. C.

(3) **9 Mad. L. T. 475.**—**Gapal Krishna Iyer**—Where an offence under s. 19 (f) has been committed, no proceedings shall be instituted without the previous sanction of the District Magistrate (s. 29). If no such sanction has been obtained all proceedings for an offence under s. 19 (f) must be null and void, and the absence of such sanction could not be treated as a mere irregularity in trial.—**U. B. R. 1882-1896, Vol. 1, 2.**—**Pa Twa Wa.**—The trial of an offender under s. 19 (f), without the district Magistrate's sanction under section 29 is not merely an error of procedure but is a defect which bars the jurisdiction of the Court. The District Magistrate in such a case may, however, order a fresh sanction if he wishes to do so.—**L. B. R. 1872-1892, 536.**—**Nga Po Ka**—No prosecution can be instituted under s. 19 clause (f) without the **previous sanction** of the District Magistrate. The mere possession of arms, other than those mentioned in s. 14, is not a punishable offence.—**9 C. P. L. R. Cr. 26.**—**Kisan Kohales.**—A prosecution under s. 19 (f) requires the **previous sanction** of district magistrate.—**1 Weir 660.**—**Perumal Chetti.**—In the absence of a proclamation or

order under s. 3, clause 2, of Act XXXI of 1860, for a general disarmament or search for arms, the sanction under s. 29 is necessary for a prosecution under s. 19 (f) for possession of a gun without license.—24 P. R. 1919, Cr.—Sunder Singh—Having regard to the Punjab Govt. Notifn. No. 826, dated the 25th Feb 1875, making the provisions of s. 32 of the Arms Act (XXXI of 1860) operative, in the greater part of the Punjab, including the Karnal District, the previous sanction of the District Magistrate, was not a condition precedent to a prosecution for an offence under s. 19 (f) of the Act.—5 M. L. T. 192—Abdul Kadir Sahib.—No proceeding under s. 19 (f) can be instituted without the previous sanction of the district magistrate and a conviction under that section without such sanction is illegal.—1 Weir 662—Tenkuraman Basawan—A person who had no ammunition with him so as to be in a position to use his gun is not guilty under s. 19 (e) of the offence of going armed, nor can he be convicted under s. 19 (f) without sanction as required by s. 29.—77 L. C. 736—Muhamad Punjal—A person who carries about a gun without the ammunition, for using it, is still armed within the meaning of the Arms Act. The offence is punishable under s. 19 (e) and the sanction of the Dist. Magte. is not necessary.—1924 Rang. 85. (A. I. R.) Nga Tha Hla—Conviction under s. 19 (f) is bad if no express sanction is obtained. No sanction is necessary under s. 20.

(4) 1923 Lah. 466—Alif Din—Where a head constable made a false report that a dacoity had been committed and that he had arrested some dacoits and after a delay of three days, as he said, recovered the arms from the petitioner not in the presence of witnesses, who signed the list but who distinctly recorded that the arms were produced before them by the constable. Held, that the petitioner was not guilty.—1 Weir 664—Gangamma—Under s. 19 the Magistrate having found the accused guilty, was bound to pass some sentence though of course it was open to him to pass a nominal sentence.—S. 24 shows that order of confiscation is in addition to any sentence which may be passed.—1 Weir 663—Venkatarayadu—When a license to go armed is granted for protection only, the licensee cannot use it for sport or display.—42 Cal. 1153—Harsha Nath Chatterji—The keeping of arms under s. 19 (a) must be keeping for sale, not keeping only.—1 Weir 656—Ramaswami Pillai—Where the accused who had a license under the Explosives Act to manufacture and sell gun-powder and fireworks on certain premises, manufactured fireworks at a different place, held, that the accused could not be convicted under the Arms Act.—Rat. Un. Cr. 1. 227—Sakharam—As Khandesh is neither a district on the external land frontier of British India nor a sea-port district of British Burma, clause IV of the notification of the Government of India, No. 518 of the 6th March 1879, [present Sch. II.] has no application to it, and as the Government of India has not, by any other notification, extended s. 19 of the Act to saltpetre in the Khandesh district, a person cannot be convicted under s. 19 for keeping saltpetre without a license.—35 Mad. 596—Muhammad Ismail Rowther—An offence under s. 19 (c) is committed when a person enters British India with a weapon he is not lawfully entitled to possess in this country. It is not necessary that there should be any particular intention in the mind of the offender to complete the offence.

(5) 20 Cal. 444.—Kishunwa, and 24 O. C. 265—Mohamed Ibrahim—A licence granted to a person to carry arms and including a retainer authorises any retainer to carry the arms specified with the permission of his master and does not restrict him merely to carry them while in the actual presence of his master (Vide also Note No. (9) below)

(6) L. B. R. 1893-1900, 284.—Nga Shwe Ton—A person who appears in a public place or issues from his own property or abode, having about his person a weapon of the sort described in s. 4, and not covered by a license, goes armed within the meaning of s. 13 of the Act. The phrase "going armed" is not to be restricted to the meaning, carrying or bearing arms in the manner usual for the particular weapon in view.—Ali W. N. 1891, 208—William—Where a person is found carrying arms apparently in contravention of the provisions of the Arms Act, it must be presumed in the absence of proof to the contrary, that he is carrying such arms with the intention of using them should an opportunity of using them arise, and unless he is licensed to carry the weapon and is not exceeding the terms of his license he may be properly convicted under section 19 (c).—15 All. 27—Bhura—A man who is found going about with a pistol, gun, sword or other weapon within the definition of arms in s. 4 must, in the absence of proof to the contrary, be presumed to be carrying it with the intention of using it, should an opportunity for using arise, and, unless he is licensed to carry the weapon and is not exceeding the terms of his license he may properly be convicted under s. 19.

(7) 511. C. 208 and 361. O. 329.—Malua and Gopal.—The servant of an exempted person commits no offence by carrying his master's gun and shooting game with it with his



master's permission.—13 C. W. N. 124.—**Madho Lal**—A servant was found using a gun which was lent to him by his master who held a license for the gun for his own purpose. *Held* that the act of the accused was an infringement of the provisions of s. 19 (f) of the Act.

(8) 4 N. L. R. 78.—**Mukunda**—From s. 22 of the Act it is clear that the transfer of possession contemplated is something more than the entrusting of an arm to a servant. Moreover, in ss 14 and 19, the Act deals with possession and control as distinct matters. A servant using a gun belonging to his master would no doubt have the weapon under his control, so long as the use continued, but the weapon would remain in the master's possession. Throughout the Arms Act the word "possession" must be taken to mean something different from mere "control".—4. N. L. R. 146 Cr.—**Khudda Gond**.—When a person who apparently had a license to go armed had come to a village wherein his cousin's servant was to shoot, feeling thirsty, went to get a drink, leaving the gun with the servant (a person not holding a license under the Arms Act), *held*, that such a temporary custody of the gun by the servant did not amount to "possession" or "control" contemplated by s. 19 (f).—3 C. W. N. 304.—**Kall Nath Singh**.—An order extending the time of renewal of licenses has the effect of keeping license previously granted practically in force, and a person cannot be convicted of an offence under s. 19 (f) for a breach of its provision within the extended time. Exemption from the Act applies to the possession of a gun, so long as it is the property of the licensee, and the mere fact that it happened at the time to be carried by a servant does not make the servant liable for not having himself a license under the Act.—U. B. R. 1897-1901, Vol 1 4.—**Nga Tha Gyaung**.—The accused was found in another man's house wearing a dagger. He did not allege that the dagger was not his or that he had not brought it to the house. On the contrary he specified the purpose for which the dagger was used. *Held*, that in the above circumstances the accused has committed the offence of going armed with a dagger in contravention of s 13.—37 Bom. 187.—**Koya Hansaji**.—The accused was sent to an adjacent village by his master who was licensed to bear arms, to fetch a gun, which he (the master) had left there. While so returning with the gun, the accused was arrested for going armed in contravention of the provisions of s. 13. He was convicted and sentenced under s. 19 (e). *Held* acquitting the accused, that the mere temporary possession, without a license, of arms for purposes other than their use was not an offence within the meaning of s. 19.—41 Cal 11.—**Charu Chandra Ghosh**—The petitioner was carrying a gun on behalf of his master with the license to the Magistrate for the purpose of a renewal of the license. It was admitted that the object of the petitioner was merely to carry the gun to the Magistrate. The petitioner was convicted under s. 19 (f) for possessing a gun in contravention of the provisions of the Act. *Held*, that the conviction of the petitioner cannot be upheld.—L. B. R., 1893-1900, 284.—**Nga Shwe Ton**—A person who appears in a public place or issues from his own property or abode, having about his person a weapon of the sort described in s 4 and not covered by a license, goes armed within the meaning of s 13 of the Act. The phrase "going armed" is not to be restricted to the meaning, carrying or bearing arms in the manner usual for the particular weapon in view.—4. S. L. R. 214.—**Hatamtai**—The accused was going armed without a license within the meaning of s 19 (e) and was not covered by his master's exemption. The words for his own personal use are clear and unambiguous and cannot be interpreted to mean the use of the gun by a servant or any one except the person exempted. Where the meaning of the words of the statute is clear and unambiguous, a court is not at liberty to speculate as to the intention and to decline to give effect to the strict sense because of some apparent or supposed hardship.—14 Bom. L. R. 501.—**Jafu Babu**—The accused kept a gun as a servant of C., who was licensed to bear it. After C's death the accused continued in the employ of C's undivided brother V, who succeeded C in the management of the property. The accused was convicted under s 19 (f) for having been in possession of an unlicensed gun. On appeal, it was contended that the liability, if any, was that of V, who had neglected to renew the license. *Held*, that the accused was rightly convicted, for he was the only person who had the possession and the control of the weapon.—All W. N. 1881.—**Hurley**—A person licensed to carry a gun lent one of his servants his gun to shoot game with it. *Held*, that the servant should not be convicted for carrying a gun without a license and that the gun should not be confiscated.—U. B. R., 1897-1898 Vol 1, 1.—**Nga Myat Aung**—It must constantly happen that sportsmen on their way to and from the field hand over their guns to their servant to avoid unnecessary fatigue to themselves and by doing so it does not appear that the servants should be considered as going armed when they have no control over the use of the gun so far as intended and are simply bearer of the gun as a load. If the gun were taken to pieces before being handed to the servant, it would be difficult to hold that he could be armed with it and the moral restrictions of the servant's duty to make no use of the gun seems in effect to make the same difficulty when the gun is left complete.



(9) **22 All 118.—Gangadin**—By a notification under s. 27 issued by the Govt. of India, certain persons, amongst them certain Rajas and members of the Legislative Council of the Lieutenant Governor of the N. W. Provinces, were exempted from the operation of ss. 13 and 16, but with this proviso that "except where otherwise expressly stated, the arms or ammunition carried or possessed by such person shall be for their personal use, etc." *Held*, that the terms of this proviso would allow of a person exempted under the notification, above alluded to, sending a servant armed with a gun into a neighbouring district to shoot birds for him, and that a gun so carried and used by the servant of the exempted person was in the "personal use" of the exempted person within the meaning of the notification. The above ruling was dissented from in the following case—**25 C. P. L. R. 112.—Sonia Teli**—The accused Sonia Teli, an agricultural servant of Rao Bahadur Bapu Rao Dada was found in the village of Dongargarh carrying a loaded gun belonging to his master. The village belonged to the Rao Bahadur and the accused was proceeding to his master's field for the purpose of frightening off pigs from the crop. Sonia was charged under s. 19 (c) with going armed in contravention of the provisions of s. 13, but was acquitted on the strength of the ruling of the Allahabad High Court in *Empress versus Gangadin* (quoted above—22, All 118) *Held*, that the exemption should be construed literally, but the construction adopted by the Magistrate ignores the undoubted fact that the privilege conferred by the exemption is of a personal nature and does not extend to the servants and retainers of the person exempted.

(10) **47 Mad 438—Vairavan Servai**—There is nothing in the wording of s. 19 (c) to justify the view that any person who has got a licence or who is exempted from taking out a licence is entitled to allow any servant of his to use the gun for the latter's own purpose. If the servant carries the gun for the purposes of his master or in the presence of his master, that may not be an offence under the Act, but to go further will be going against the terms of the Act. Where the master was misled by the District Magistrate into thinking that he was entitled to allow his gun to be used by his servant and he and his servant honestly believed that they were doing nothing wrong in allowing the servant to take the gun and to use it for the purpose of shooting game in the forest, *held*, that the order of the confiscation of the gun was wrong though the servant might be rightly convicted of an offence under s. 19 (e).

(11) **1925 Mad 585 (1) (A. I. R.)—Sonai Mathu Ambalam**—The offence of going armed with firearms is considerably more narrow than the offence of being in possession merely of firearms. The expression 'going armed' clearly indicates two things, namely, first an intention to use it as a firearm and secondly the possibility of using it.

(12) **69 I. C. 457—Chote**—Though an unlicensed pistol was found in a shop the master being absent, the servant in possession of the pistol alone could be convicted for the offence. The master's conviction could not be upheld.

(13) **U. B. R. 1897-1901, Vol. 14—Nga Tha Byaung**—The accused found in another man's house wearing a dagger. He did not allege that the dagger was not his or that he had not brought it to the house. On the contrary he specified the purpose for which the dagger was used. *Held*, that in the above circumstances the accused has committed the offence of going armed with a dagger in contravention of s. 13.—**Rat. Un. Cr. C. 507.—Ganpat**—The carrying of a spear is not an offence under s. 19 (e), because spears are exempted from ss. 13 to 15.

(14) **40 All. 420—Ghulam Hussain**—A pardanashin lady and her minor son, a young man of 17 years of age, lived together in the family house in which there was a small collection of arms of various kinds which had belonged to the father who as an honorary magistrate, was exempt from the operation of the Arms Act. *Held*, that a finding that the son was in possession of these arms, and, not having a licence for them, was liable to conviction for an offence under s. 19 (f), was not open to objection.

(15) **52 P. R. 1805 Cr.—Sher Zaman**—The accused was charged with being in possession of a dagger which was found in a cloth or quilt inside a basket in one of the rooms of his house. The room and house were jointly occupied by the accused and his son, and the prosecution failed to prove that the dagger was in the exclusive possession and control of the accused, or that he was its owner. *Held*, that the accused was under the circumstances not guilty of an offence under the Arms Act.—**85 I. C. 447—Narinjan Singh**—Where it is found that the two accused were lying in a bed in the house of another and in the bedding a chhavi was found wrapped in a cloth, *held* that it was impossible to say which of the two was actually in possession even if it was proved that the owner of the house was not the owner.—**1923 Lah 513. Alia**—A chhavi was found in a house in the joint possession of both the accused it could not be said with any degree of certainty that one of them was in exclusive possession thereof and the accused must thereof be given the benefit of doubt.—**3. Lah 308—Hari Singh**—A Sikh possessing or wearing one sword commits no offence under s. 19 by

virtue of the exemption under Sch 11, 3 (b) of the Rules.—75 P. L. R. 1910—Sunder Singh.—When it is not shown that the accused had **exclusive** possession of the room in which arms are found, or that arms were placed there by him or belonged to him, or he knew that they were there, the accused cannot be convicted of the offence under section 19.—21 C. W. N. 839—Sudhanya Bawali.—A gun was found in an abandoned room of the house belonging to the accused in which the accused who were members of a **joint family** and others resided.—*Held*, that if the place in which an article is found is one to which several persons have equal right of access, it cannot be said to be in the possession of any one of them, and the conviction of the accused could not be sustained.—15 All. 129—Sangam Lal.—Where proceedings under the Act, in respect of the unlawful possession of arms are taken against a member of a **joint Hindu family** not being the head of such joint family, and arms are found in a common room of the joint family house, it is incumbent upon the prosecution to give good evidence that such arms are in the exclusive possession and control of the particular member of the joint family who is sought to be charged with their possession. **The Act is highly penal and must be strictly construed**

(16) 15 C. W. N. 440.—Akhil Nath Datt.—Where the petitioner has been in possession of a gun for some time and made it over a year and half ago to another person in whose possession the gun was without a license, *held*, the petitioner could not be convicted under s. 19 (f). The only person who can be punished under cl (f) is the person who has in his possession or under his control any arm in contravention of ss 14 and 15.—22 A. L. J. 1095—Mahomed Hasan.—The petitioner took away his father's gun without holding a licence and shot birds. While so shooting he was found out by the police. *Held*, that the accused was guilty of an offence under s. 19 (f), as he was not included in his father's licence as a refiner.

(17) 35 Cal. 219—Prabhat Chandra Chaudhuri.—A person, named Prabhat Chandra Chaudhuri, seized a gun which was in the hands of a servant of an exempted person and fired at a mad dog which had entered the compound of his house. It missed the animal but a shot from the gun wounded a man named Manda Rajbansi. For this Prabhat Chandra Chaudhuri was convicted under s. 304-A, I. P. C., and sentenced to pay a fine of Rs. 300 and to detention in court for one day. The Sessions Judge on appeal reduced the fine to Rs 100. The accused was again prosecuted under s. 19 (f). *Held*, that the accused was not liable under the section referred to. The provisions of this section do not make the mere possession of a gun punishable; they make possession contrary to the provisions of s. 14 of the Act punishable. The temporary possession which the accused had of the gun when he snatched it up and fired it was not the possession contemplated by s. 14 of the Arms Act.—24 All. 434—Harpal Rai.—One C. N., a person entitled to possess and use firearms, gave a pistol to an acquaintance who was not entitled to possess and use firearms, asking him to take it and get it repaired in a neighbouring town. This acquaintance gave the pistol to his father, Harpal Rai, who was taking it into the town to get it repaired, when he was arrested and charged with an offence under s. 19. *Held*, that Harpal Rai was, under the circumstances, guilty of no offence under the Arms Act. The mere temporary possession, without a licence of arms for purposes other than their use as such, is not an offence within the meaning of s. 19, 24 Bom. 487.—Kalyan Chand Gopal Chand.—The accused who was a cousin of the licensee borrowed the gun and carried it in a marriage procession where he fired some shots and wounded some people accidentally. The licensee was forbidden under the terms of his license from taking the gun to a public assemblage. *Held*, that the accused was guilty of an offence under s. 19. Where a marriage procession emerged from private premises and goes down the public street, then it is open to the public to join the procession and the marriage procession becomes a public assemblage.

(18) 27 Cal. 692—Ahmed Husain.—The accused was suspected of being in possession of arms after the cancellation of his license. The Assistant Magistrate of Purneah, with a number of police, went to the house of the accused to search for arms. The police had no search warrants, nor was there anything to show upon what charge the accused was arrested. Two gun-stocks, some ammunition and implements for reloading were discovered in the house. There was nothing to show that the sanction required by s. 29 of the Act was given before proceedings were instituted against the accused who was convicted and sentenced under ss. 19 and 20 of the Arms Act. *Held*, that the conviction under s. 20 was not suitable but that the accused must be taken to have had arms and ammunition within the meaning of s. 19 (f), and the conviction under that section must be confirmed.—5 Cal 473—Tegha Singh.—A collection of fire-arms, had been kept as objects of worship in a Sikf temple in Patna for upwards of two centuries. The Mahant of the temple neglected to take out of license in respect of these

arms. A police inspector, who was appointed to see that the provisions of the latter Act were obeyed, searched the temple on information received and, having found the arms, prosecuted the person who had charge of the temple. The latter was convicted under s. 19 (f) and sentenced to pay a fine of Rs. 50 or to be rigorously imprisoned for two months. The Deputy Magistrate also ordered the arms to be confiscated, and directed the division of their value between the informer, and the police inspector. *Held*, that the proceedings of the police inspector and the conviction of the accused were not illegal. S. 26 of the Arms Act appears to refer to cases in which the Magistrate considers that arms, whether under a license or not, are possessed for an illegal purpose, or under circumstances such as to endanger the public peace. S. 30 of the Arms Act appears to contemplate the presence of some specially empowered officer, besides the officer conducting the search. So much of the Deputy Magistrate's order as refers to the division of the value of fire-arms and the fine imposed between the informer and the inspector was also set aside.

(19) **U B R 1907—(4th or) 1—Nga Kaing**—A sub-inspector of police, not of the first class, who was presented by Government with a six chambered revolver was charged for going armed with a dagger without a license. *Held*, that his exemption covered a dagger also and that the sub-inspector committed no offence by the possession of the dagger.

(20) **1 Weir 655—Boyinapalli Venkataraju**—The mere possession or sale of fireworks, without a license, is no offence under the Arms Act. But the possession of gun-powder without a license, even though for the innocent purpose of making the fireworks, is an offence. **1 Weir 660—Bapi Naiken**—Under the notification of the Government of India dated the 6th March 1879, spears of all kinds are so far as regards the Presidency of Madras, excluded from the operation of any prohibition and direction contained in the Arms Act. **1 Weir 655—Boyinapalli Venkataraju**—The mere possession or sale of fireworks, without a license is no offence under the Arms Act. But the possession of gun-powder without a license, even though for the innocent purpose of making the fireworks, is an offence.

20. Whoever does any act mentioned in clause (a), (c), (d), or (f) of section 19, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, or to any person employed upon a railway or to the servant of any public carrier,

and whoever, on any search being made under section 25, conceals or attempts to conceal any arms, ammunition or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

#### NOTES.

(1) For definition of "Public servant." See s. 21, I. P. C.

(2) See notes under section 19.

(3) **8 P R. 1915 Cr. Kaem Singh**—Accused was carrying in the hand a *dang* (stick) which had all the knots planed off, which latter fact aroused the suspicions of a police constable, who wished to examine it. Accused thereon ran off but was consequently arrested and on being searched was found to have *chhavi* heads concealed in the loin cloth which he was wearing. *Held*, that each case of concealment of arms must be decided on its own facts, i.e., whether it falls under section 19 or section 20 of the Arms Act, and that circumstances connected with the present case showed that the concealment was made so that the possession of the weapon should not be known to the police and the offence therefore fell under section 20. **8 P R 1912 Cr.—Ibrahim**—S. 20 of the Act though widely worded is in practice only applied to cases where the import of arms is attempted and not to ordinary cases of concealment of arms.

(4) **2 L. B. R. 244.—Shunshaniya**—An offence under s. 20 is not triable by a first class magistrate

(5) **P. R. 1917. 44 Cr. 158—Jai Singh.**—The eight appellants were on a joint trial convicted of dacoity under ss. 395, 397, I. P. '1 and one of them was not only charged with being concerned in the dacoity but also with being in possession of arms and ammunition under s. 20 of the Arms Act, at a time subsequent to the dacoity. The learned judge acquitted him of the latter charges as he held he could not be legally convicted of that offence and of that of dacoity at the same trial. *Held*, that the trial was illegal and the defect in it could not be cured by the court acquitting the appellant concerned of the charge under the Arms Act.

(6) **8 B. L. R. 452—Nga Po Chin.**—Where proceedings are instituted against any person for secret possession of arms in contravention of ss. 14 and 15 of the Act, the accused should be discharged under s. 20 if the intention to conceal the possession is not made out. Offences created by and punishable under 20 are distinct from those under s. 19—**34, I C—321—Nga Po Chain**—Where a person is discharged under s. 20 for want of evidence of intention to conceal his secret possession of arms in contravention of s. 14 or 15 of the Act, proceedings may be instituted against him under s. 19 (1) after sanction thereto is given under s. 29 of Act.

(7) **19 A. L. J. 717—Shiam Sundar.**—Where an approver makes a statement disclosing his illegal possession of fire arms and is released of the pardon it is illegal to try him under s. 20.

(8) **15 Cr. L. J. 637—Udham Singh.**—A person carrying a revolver in his pocket without a license is guilty under s. 19 (f) and not under s. 20. Where a revolver was found in the possession of one of the two men sitting together and it was proved that at one time the revolver was possessed by one of the other of the two, both are guilty of possessing arms without a license.

(9) **72 P. L. R. 1916—Ishar Singh.**—A discovery of arms in consequence of the information supplied by the accused that he had buried a revolver in his field fulfils the requirements of ss. 19 (1) and 20.

(10) **27 Cal. 692—Ahmed Hosain.**—19 and 20 were so interwoven that it was difficult to see how an offence could be committed under the first paragraph of s. 20 unless an offence under one of the enumerated sub-sections in s. 19 had also been committed. It was not suggested that the charge here was an offence under the second paragraph of s. 20.

(11) **28 All. 302—Rām Sarup.**—The mere denial on the part of a person, whose house is being searched by the police for unlicensed arms, that he has any such arms in his possession does not constitute a concealment or attempt to conceal arms on search being made by the police within the meaning of the second paragraph of s. 20.

(12) **3 Lah. W. Surjan Singh.**—Where the weapon was found to fit the *dang* the appellant was carrying was originally concealed but the appellant voluntarily took it from its place of concealment in order to threaten a railway servant who caught him for travelling without a ticket, *held* it indicates an indifference as to whether the weapon was seen or not. The intention requisite for an offence under s. 20 was not established and conviction must be altered to s. 19.

(13) **2. L. 138—Mangal Singh.**—Appellant was found carrying a bamboo *dang* 5 ft. 7 in. long, which had an iron attachment at the thick end and hidden in the fold of his loin cloth was a blade 8 inches long which fitted the end of the *da g*. *Held*, that taking into consideration the nature of the instrument the fact that the blade could be readily slipped on and off the stick and the fact that it was found detached from the stick and hidden in the appellants' loin cloth showed that it was possessed by him not for ordinary domestic purposes but for purposes of offence and defence and that it was included in the term "arms" used in the Act.

(14) **23 Cr. L. J.—Sher Ali.**—Each case of concealment of arms must be decided on its own facts and it must be shown that the concealment was made so that the possession might not be known to the police.

(15) **20 C. W. N. 732—Nishikant Lahiri.**—If on the trial of the case under the Arms Act the evidence recorded indicates an offence under s. 20, the Magistrate ought to commit the case to the Sessions Court.

(16) **3. L. L. J. 145—Fakira.**—Merely because the weapon concealed is a *chhavi* maximum sentence ought not to be inflicted.

(17) 20 A. L. J.—Chhotey.—Discovery of a pistol in the floor of the shop of the accused while he had been away from the shop and while his servant was in possession of the shop and its contents does not render the accused guilty of an offence under the Arms Act.

◆ (18) 17 Cr. L. R. 80.—Balamboil Buttasheri Ahmad.—Sentence of three years' rigorous imprisonment without special grounds is very heavy and ought to be reduced.

(19) 1925 Lah. 395. (A. I. R.) Channan Singh.—S. 20 applies only where the import or export is attempted and not to every case of possession or concealment of arms.

(20) 42 Cal. 1153.—Harsha Nath Chatterjee.—The only additional element necessary to constitute an offence under s. 20 is that the position as to indicate an intention that such may not be known to any public servant.

(21) 9 Mad. L. T. 475 Gopal Krishna Iyer.—The first part of s. 20 does not apply to cases of concealments or of attempts at concealments by a man who has arms on his person or in a bag which he is carrying or which is otherwise in his immediate personal possession, on his being arrested. It is meant to deal with cases before arrest where a man finding himself arrested for being in possession of a revolver, attempts to throw it away, the act of such person would only come under S. 19 (f).

(22) 1923 Lah. 434.—Ali Ahmad.—Where the arms were discovered on the information given by the accused, the concealment of the *chhavis* and other arms recovered from the possession of the accused is clearly within the intention of this section.

(23) 1924 Rang 85.—Pha Hla.—The accused was in secret possession of local-made guns and cartridges. Sanction was obtained for prosecution under s. 20, but he was convicted both under s. 20 and s. 19 (f.) Held, that the conviction under s. 20 was legal but that under s. 19 (f) was bad for want of sanction.

21. Whoever, in violation of a condition subject to which a license has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section 19 or section 20, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

22. Whoever knowingly purchases any arms, ammunition or military stores from any person not licensed or authorised under the proviso to section 5, to sell the same; or delivers any arms, ammunition or military stores into the possession of any person without previously ascertaining that such person is legally authorised to possess the same; shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### NOTES.

(1) Dealers in arms will be responsible if they merely rely on such inquiries to satisfy themselves of the legal authority of any intending purchasers. They are similarly not properly discharging their obligation if they send by post arms to any person who professes himself entitled to possess them. They must make due inquiries in all cases of sales, and must in all cases where they have not already sufficient proof that the purchaser is legally entitled to purchase, obtain sufficient proof by further inquiry. (India No. 2964, dated the 11th August 1909.) Under section 22 of the Arms Act, licensed dealers in arms and ammunition are bound to ascertain that the persons to whom they sell arms, ammunition or military stores are legally authorised to possess the same. Any tendency on the part of dealers to evade this obligation should be checked by the Police by their constant strict supervision over the trade in arms and ammunition. The Police should also exercise constant vigilant supervision over the registers

maintained by licensed dealers in order to ensure that arms and ammunition are not sold to persons other than those legally authorised to possess the same. If on inspection, they find that arms and ammunition are supplied to persons whose exemption seems to be doubtful, they should take steps to ascertain whether such persons are really exempt from the provisions of the Arms Act, and, if not, to report the matter to the District Magistrate. In doubtful cases of sales to persons said to possess license under the Arms Act Rules, a reference to the registers maintained in police stations will show whether the purchasers are *bona fide* licensees or not.—(Madras L. R. and O.)

(2) **23 Bom 423**—Tyab Ali—The manager of a licensed vendor of arms, ammunition and military stores sold certain military stores without previously ascertaining whether the buyer was legally authorized to possess the same. *Held*, that the licensee was liable to punishment under s. 22 of the Arms Act, though the goods were not sold with his knowledge and consent. The principle—"whatever a servant does in the course of his employment with which he is entrusted and as a part of it, is his master's act" is applicable to the present case.

(3) **5 L. B. R. 83**—Adams.—A and his servant N while out on a shooting excursion, came across a deer recently killed by a tiger. A fixed his rifle over the killed deer so as to form a trap for the tiger and went home leaving the trap in charge of N. A was charged under s. 22 of the Arms Act, with having delivered the rifle into the possession of an unauthorized person. *Held*, that the delivery into possession contemplated by s. 22 of the Arms Act is such a delivery as to give the person into whose possession the arm is delivered control over the arm and authority to use it as an arm and that therefore A cannot be convicted for an offence under s. 22.

(4) See also **4 N. L. R. 78**—Mukunda.—**24 All 434**—Harpal Rai—**35 Cal. 219**.—**Probhat Chandra Chaudhuri**, and **L. B. R. 1872-1892**—**536 Nga Po Ka**—Notes to s. 19.

**23.** Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rule.

**24** When any person is convicted of an offence punishable under this Act, committed by him in respect of any arms, ammunition or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition or military stores, and any vessel, cart or baggage animal used to convey the same, and any box, package or bale in which the same may have been concealed, together with the other contents of such box, package or bale shall be confiscated.

Power to confiscate

#### NOTES

(1) **15 Cr. L. J., 21**—Kottuva Rowther.—For delay in getting a license renewed a Magistrate imposed a fine and ordered confiscation of the gun. *Held*, the fine was a sufficient punishment and set aside the order of confiscation and directed the retention of the gun at the Police Station till the production of a license entitling the holder to possess the gun.

(2) **1 Weir 664**—Gangamma.—Confiscation is in addition to some sentence which the Magistrate is bound to pass.

(3) Confiscated arms, ammunition and military stores may be sold to licensed dealers or to other persons entitled to possess them, and such rifled fire-arms or rifled barrels as are to be destroyed must be sent to the nearest Ordnance officer to be broken up, and may no longer be destroyed locally. (India Nos. 1404 dated the 11th June 1907 and 1628 dated the 9th Oct. 1907)

#### Rules for disposal of confiscated arms :—

**Madras.**—All arms, ammunition or military stores which may be forfeited, or confiscated, under the Sea Customs Act or under other legal enactments, should be forwarded in the Presidency town to the Commissioner of Police, and in the mufassal to the Magistrate of the district, for



disposal in accordance with the rules published on page 22 of Part 1 of the Madras Police Gazette, dated 13th February 1909. Such of these arms as are intended for destruction locally will be forwarded to the District Police Head-quarter office for destruction by the Police Armourer in the presence of the Reserve Inspector who should certify to the Magistrate that the arms have been properly broken up. (Madras L. R. and O.)

**Bombay.**—Arms etc., deposited at a Police station under section 14 [or section 16] of the Act should, in the Presidency town, be kept in such place as may be appointed by the Comr of Police, and elsewhere should, without delay, be sent with a report by the Officer in charge of the Police station to the nearest Mamlatdar's or Mahalkari's Kacheri. On the expiry of the periods specified in these sections the arms, etc., should be sold under the orders of the District Magistrates to a licensed vendor or person licensed to possess arms or go armed, and may, for that purpose be sent from one Mamlatdar's or Mahalkari's Kacheri to another or to the head-quarters of the district. Such arms as cannot be so sold should, if valuable, be sent to the nearest arsenal, and if not valuable, should be broken up and sold as old iron. Such ammunition and military stores as cannot be sold, should be destroyed. Confiscated arms and other articles should be dealt with in the same manner as is provided for arms, etc., deposited under section 14 [or section 16] of the Act, and not restored within the periods specified in those sections. (Bombay L. R. and O.) See notes also under s. 28.

**Bengal.**—The Court Sub-Inspector shall follow the procedure indicated below in the case of all confiscated and forfeited weapons; but before doing so, he shall take the order of the Magistrate in charge of the working of the Arms Act, who shall, before a weapon is despatched to the Ordnance Office or is destroyed or is sold by auction or is transferred for the use of the police, or of any other department of Government, satisfy himself that its number and description agree with those given in the Malkhana Register. All arms, ammunition or military stores deposited under section 16 of the Arms Act and the rules made thereunder shall be kept in the malkhana for one calendar year from the 1st January of the year following that in which they were deposited. Arms, ammunition and military stores as defined in section 4 of the Indian Arms Act, 1878 (XI of 1878), which are confiscated or forfeited under any provision of that Act or of any other enactment for the time being in force, and which have been kept in the malkhana for the prescribed period may, if they can be utilised by the police or by any department under the Government, be retained and brought into use with the sanction of the Local Government. If any such arms, ammunition or military stores are not so retained, they, with the exception of revolvers and pistols and rifles of prohibited bores, should be sold by auction to licensed vendors or to persons who by exemption or licence are entitled to possess them, the police being informed of the names and addresses of the purchasers in order to enable them to verify the sale. The sales in the mufassil should be conducted in January every year by a gazetted officer who should be selected for the purpose by the District Magistrate. In Calcutta, the Commissioner of Police will arrange for the auction to be held by Messrs. Mackenzie Lyall & Co. The unsold arms, ammunition or military stores should be destroyed locally in the presence of the District Magistrate or of a gazetted officer whom the District Magistrate (or the Commissioner of Police in the case of Calcutta) may select for the purpose: but all rifles of prohibited bores, revolvers and pistols shall invariably be sent to the Ordnance Officer, Fort William, Calcutta, between 1st February and 15th March every year to be broken up or otherwise destroyed. The Commissioner of Police, Calcutta, shall depute a responsible police officer to the arsenal to check and compare with the invoice the number and description of such weapons made over to the Ordnance Officer for destruction. The weapons which have been deposited but not yet been forfeited may be sold by auction on the written application of the owner, the sale-proceeds being paid to the owner.

**NOTE.**—When despatching consignments to the arsenal, District Officers should send an intimation to the Commissioner of Police, Calcutta, together with a complete list giving the number and description of the weapons sent for destruction. (Bengal order Nos. 1585-91 Pl., dated the 17th May 1923 and Bengal R. and O., para. 97.)—See notes under s. 28.

**United Provinces.**—The discretionary power of confiscating arms conferred by section 24 of the Arms Act should be very considerably used. A mere breach of licence is not ordinarily an adequate reason for confiscation; and junior Magistrates should usually refer the question of the necessity for confiscation to the Magistrate of the district for decision. (U. P., G. O. No. 454/VI.—889, dated the 14th March, 1887.)

Arms, and other articles to which these rules (under s. 16 apply), which become forfeited to His Majesty shall be disposed of the Magistrate as follows:—

(1) Arms, ammunition, and stores which can be utilised by the police or by any department under Government may be retained and brought into use with the sanction of the



local Government. Arms, ammunition and stores not so retained may be sold to licensed dealers or other persons entitled to possess them.—(2) Any rifled firearms or rifle barrels not so disposed of shall be sent to the nearest Ordnance Officer to be broken up. Other arms shall be broken up locally and the materials sold.—(3) Any ammunition or stores not disposed of under the provisions of clause (1) shall be destroyed.

In the case of gunpowder and other explosive materials Magistrates must make suitable arrangements for their safe custody, so as to guard against danger to life and property. As a rule the police magazine should be the place of deposit for such materials.

These orders will apply also to arms, ammunition and military stores confiscated under section 24 of the Act. (U. P. No. 1841/VI—856-D., dated the 29th June, 1907).

**CENTRAL PROVINCES.**—On the forfeiture or confiscation of any such arms, ammunition or military stores, or of any arms, ammunition or military stores under section 24 of the Act, the Deputy Commissioner shall dispose of them as follows :—

(1) Arms, ammunition and stores which can be utilized by the police or any department under Government, may be retained and brought into use with the sanction of the Local Government. Arms, ammunition and stores not so retained may be sold to licensed dealers or persons entitled to possess them. (2) Any rifled fire-arms or rifle barrels not so disposed of shall be sent to the nearest Ordnance Officer to be broken up. Other arms shall be broken up locally and the materials sold. (India No 1407, d. 11th June 1907) (3) Any ammunition or stores not disposed of under the provisions of clause (1) shall be destroyed.

On the confiscation of any animals or property, other than arms, ammunition or stores under section 24 of the Act, the Deputy Commissioner shall cause them to be sold by auction in the same way as property sold in execution of a decree of a civil court. (C. P., R. and O. para. 46).

## VII.—Miscellaneous.

25. Whenever any magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition or military stores for any unlawful purpose,

or that such person cannot be left in the possession of any such arms, ammunition or military store without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, although covered by a license, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by, or in the presence of some officer specially empowered in this behalf by name or in virtue of his office by the local Government.

## NOTES

(1) 15 All. 129.—Sangam Lal.—When a Magistrate issues a search warrant under s 25 it is necessary that he should record the grounds of his belief that the person against whom the warrant is issued has in his possession arms, ammunition or military stores for an unlawful purpose. The Act is highly penal and must be strictly construed.

(2) 42 Mad 96.—Gaddam Panchalu Reddi.—A magistrate directing the issue of a warrant to search premises on information received that the owner or occupant thereof is in possession of firearms without a license acts as a Court and not merely as a public servant, whether he purports to act under the Cr. P. Code or under s. 25 of the Arms Act.

(3) 3 C. L. J 75 12 C. W. N. 973.—Brojendra Kishor Rai Chaudhuri.—The defendant, who did not, before causing the search of the plaintiff's house to be made, first record the grounds of his belief could not justify the search under the provisions of the said Act. As there was no proceeding pending before him, the defendant was not a court within the

meaning of s. 94, Cr. P. C., and, therefore the defendant could not direct a search to be made in his presence under the provisions of s. 165 of the Code. The search having been for the purpose of discovering arms generally, s. 165 of the Code did not apply. Conducting a search for arms is not an act done in the discharge of a judicial duty. Even where a defendant's *bona fide*, in conducting a search, is established, it does not release him from the obligation the law casts upon him, as being in supreme control of the search party, of seeing that the search was conducted in a proper and reasonable manner. In such a case, the damages should be substantial, and not merely nominal.—29 Cal. 953.—On appeal to the Privy Council, Their Lordships thought that there was no foundation for the suit; Clarke's action under the circumstances was quite justified. The charge of personal misconduct advanced and reiterated without any shadow of proof deserves the severest reprobation. Their Lordships therefore, advised His Majesty that the appeal ought to be allowed, the order of the Court of Appeal discharged and the suit dismissed with costs—36 Cal. 438, 13 C. W. N. 456.—**Brojendra Kishor Rai Chaudhuri.**—When a statute creates a special right, but certain formalities have to be complied with antecedent to the exercise of that right, a strict observance of the formalities is essential to the acquisition of that right. In a general search of arms under s. 25, the Magistrate holding such search must first record the grounds of his belief as directed therein, in order to avail himself of the protection of that section from the consequences of his action. A Magistrate can only conduct a search under s. 105 Cr. P. C., when he is competent to issue a search warrant under s. 96 of that Code which applies to the issue of a search warrant by the Court. *Per Maclean, C. J.*—When there are special provisions in an Act of the Legislature dealing with the case of a search for arms and laying down what are the conditions precedent to the making of such a search and there are general provisions in another Act of the Legislature dealing with searches generally, and, in point of fact, the search was one made for arms it ought, in the absence of evidence, to show that the search was made under the general as opposed to the specific legislation, to be taken that the search was not made under the general provisions authorizing searches; and especially so, when the search was made by one who, in the circumstances, had no power of search under the general provisions as to searches. The scheme as regards searches under the Code of Criminal Procedure is as follows:—(1) the Court can issue a search warrant under s. 96; or (2) in lieu of that, the Magistrate may himself search under s. 195; and (3) s. 165 deals with searches by a police officer and not by a Magistrate. The duties of a Magistrate in this country are at once executive and judicial. If a search is conducted by a Magistrate in his executive capacity, he cannot rely on Act XVIII of 1850 as a protection from the consequences of holding a search. *Per Harrington J.*—Where a statute authorizes the doing of an act which is *prima facie* a wrong to an individual, the doer must comply strictly with the conditions imposed by the statute, if he desires to rely on the statute as a justification for his act. A Magistrate cannot be said to be acting judicially in directing a search to be made without any proceeding having been instituted before him which he would be called on to determine judicially. The respondent though successful was not allowed his costs for pressing charges of malice against the appellant which were held to be unfounded.

(4) 114 P. L. R. 193.—**Sharaf Khan.**—Where the accused were convicted of offences under ss. 226-332, 224-353, I. P. C., and it was urged on their behalf on revision that a search under the Arms Act which gave rise to the alleged obstruction and use of criminal force on their part, was illegal inasmuch as it was made at night, and was not restricted to the procedure laid down in s. 25, held, maintaining the convictions, that a search by night is not illegal, and, in cases under the Arms Act, is not restricted to the procedure laid down in s. 25 of the Act. S. 25 of the Arms Act does not override s. 165 of the Cr. P. Code.

(5) U. B. R., 1892-1896, Vol. I, 1.—**Nag Po Tein.**—Search for arms would be illegal, if it was not ordered by a Magistrate in pursuance of s. 25.

(6) The officers mentioned below are empowered, under this section to conduct searches—  
BOMBAY. Police officers of not lower rank than an Inspector.

BENGAL.—Any Police officer not below the grade of sub-Inspector, or the Deputy Conservators of Forests Jalpaiguri and Buxa Duars, in the Jalpaiguri district. (Bengal R. and O. para. 83 (2).)

UNITED PROVINCES.—Justices of the Peace and Superintendents, Assistant Superintendents, Deputy Superintendents and Inspectors of Police. (G. O. No. 3264-VI-660-D-2, dated the 9th November 1907.)