

(REGISTERED UNDER THE COPYRIGHT ACT, XX OF 1847)

THE INDIAN ARMS ACT MANUAL,

CONTAINING

THE INDIAN ARMS ACT, XI OF 1878,

THE INDIAN ARMS RULES, 1924,

RULES AND ORDERS

OF THE

Government of India, and the Governments of Bengal, Bihar and
Orissa, Punjab, North-West Frontier Province,
Delhi, and Madras,

ALSO

The Explosives Substances Act, 1883—(46 Vic. C. 3),

The Indian Explosives Act (IV of 1884),

AND

The Explosive Substance Act, (VI of 1908)

with notes, etc.

BY

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Their Dismissal and other Punishments,

Submission of Appeals, Petitions and Memorials, etc., etc., etc.

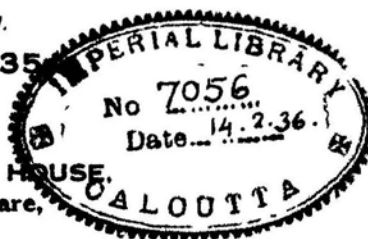
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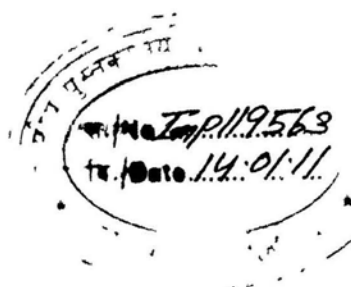
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THE INDIAN ARMS ACT MANUAL.

DEDICATED,

with kind permission,

TO

The Hon'ble Sir HENRY WHEELER, K.C.S.I., K.C.I.E. I.C.S., (retd)

Ex-Governor of Bihar and Orissa

THE INDIAN ARMS ACT MANUAL.

CONTENTS.

| | PAGE. |
|--|-------|
| 1. Government of India Resolution No. 2125 C., dated the 31st March 1919 | 1 |
| 2. Report of the Arms Rules Committee, 1922 | 4 |
| 3. Government of India Resn. No. F. 829-1-22 dated 3rd Nov. 1922 | 14 |
| 4. The Indian Arms Act, XI of 1878 | 22 |
| 5. The Indian Arms Rules, 1924 | 69 |
| 6. Brief Explanation of the rules | 157 |
| 7. Local Rules and Orders—Bengal | 164 |
| 8. „ „ „ „ Bihar and Orissa | 229 |
| 9. „ „ „ „ Punjab, including the Railway Lands | 244 |
| 10. „ „ „ „ N.-W. F. Province | 263 |
| 11. „ „ „ „ Delhi | 282 |
| 12. „ „ „ „ Madras | 283 |
| 13. Explosive Substances Act, 1883.—46 Vic. C. 3 | 303 |
| 14. The Indian Explosives Act, IV of 1884 | 306 |
| 15. The Explosive Substances Act, VI of 1908 | 314 |
| 16. Instructions regarding the reporting of losses, thefts and recovery of fire-arms and ammunition | 320 |
| 17. Rules relating to grant of shooting passes to sportsmen | 322 |
| 18. Possession of private arms by officers and Indian ranks | 324 |
| 19. Export, import of arms, ammunition and military stores on railway lands passing through Indian States | 329 |
| 20. Table of cases | 333 |
| 21. Index | 338 |

THE INDIAN ARMS ACT MANUAL

AUTHOR'S NOTE.

The patronage so kindly extended to the previous editions of the Manual has encouraged the Author to publish the Ninth Edition. The last edition was published in May 1931 and was supplemented with a list of corrections in September 1932. Subsequent amendments rendered it advisable to issue a new edition instead of loading the publication by a number of correction slips, liable to cause confusion for want of care in inserting the slips at the proper time and on appropriate pages. It was further ascertained that the rules and orders of certain local Governments were under revision for more than a year and it was not known what form they would assume and when they would be completed. The portions relating to Bombay and the United Provinces have therefore been omitted.

2. Certain amendments made to the Indian Arms Act, XI of 1878, by Burma Act VII of 1928, Bengal Acts XXI of 1932, VII of 1934, and the N. W. Frontier Province Act, I 1934 have been inserted in sections 4, 13, 19, 20 and 29 (pages 26, 36, 42, 55 and 65). The corrections and alterations to the Arms Rules, notified during the period the manuscript was in the hands of printers will be found in the list of **Addenda and Corrigenda** attached.

3. The Rules and Orders of **provincial Governments**, with the exception of the two above referred to, have also, as far as possible, been brought up to date. The author is indebted to the Governments of Madras and Bihar and Orissa for the assistance rendered in **checking the portions** concerning their respective provinces and to the Governments of Punjab and the N. W. Frontier Province **for supplying** the additional orders published since the issue of the last (Eighth) edition of the Manual. The N. W. Frontier Province Act I of 1934 is printed on page 281.

4. The "**Explosive**" to a certain extent being a **cognate** subject the following Acts have been reproduced in the Volume with the necessary reference to the reported cases, (pages 303-319) :—

- (i) The British Explosive Substances Act (46 Vic. C. 3).
- (ii) The Indian Explosives Act, IV of 1884, and
- (iii) The Indian Explosives Substance Act, VI of 1908.

5. Subsequent pages contain :—

(1) Revised instructions issued in October 1934 regarding the **report of losses, thefts and recoveries of firearms and their ammunition** capable of being used for military purposes (page 320.)

(2) Regulations relating to the grant of **shooting passes**, with the object of preventing **affrays between soldiers and villagers**. (page 322).

(3) Rules relating to the possession of **private arms by officers and soldiers of the Army** (page 324.) (It has been ascertained from the Army Department that these Regulations are under revision and may undergo some alterations).

(4) Rules for the **export of arms, ammunition and military stores on railways passing through Indian States** (page 328).

5. The Table of cases will be found on page 333 followed by the subject Index on page 339

6. It will therefore be seen that no efforts have been spared to make the Manual as complete as possible for the purposes of the Bench and the Bar and the Government officials who are concerned with the working of the Arms Act.

7. That the book has passed through Eight editions is a sufficient proof that it has met with the appreciation of the public, and of the officers of Government who are responsible for the working of the Act. The duty of administering the Arms Act and the Rules framed thereunder, chiefly devolves on the **executive and police officers** who have liberally extended their patronage and the Manual is in use in almost all the provinces of British India. To what extent the officers of **other Departments** are concerned with the duties under the Arms Act is briefly explained in the following paragraphs.

8. **Indian States.** The officers of the **Political Department** are responsible for the grant of certain licences for the export and import of arms and ammunition into the States in their charge, under rules 16, 17-19, 26, 27, 34 and 37. The forms of licences prescribed under these rules are V, VI, VIII, XVII and XX, (*vide* also "Notes" under rule 19 (page 81). They are also vested with certain powers under entries (1) and (2) of Schedule I, respecting the **exemption of the Ruling Princes and Chiefs, their relatives and officials and of their retinues** on the occasion of their visits to British India. In this connection attention may be invited to the Foreign and Political Department letter No. F. 363 G 29 dated the 7th October 1930, reproduced as Bengal Rule 37A (pages 181-182), and the form prescribed on page 226, which provide for the **carrying of arms in British India by servants** of certain class of Ruling Princes or Chiefs, not accompanying their masters.

9. **Army Department** Under section 1 of the Arms Act, **Officers, and Soldiers** are free from the prohibitions and directions, respecting the arms and ammunition required in the **course of their duty**. Those required for the **purpose of equipment** are covered by the provisions of the same section but are limited to the extent indicated in the communications of the Government of India, Home Department, quoted in notes (9) to (12) of Section I and reproduced in Bengal rules 46B to 50, pages (186-189). A further privilege is conceded subject to certain conditions, in regard to 363

rifles required for match shooting purposes, and also respecting such arms as may be required for sporting purposes—*vide* items (7) and (8) of Schedule I (pages 103-4). Schedule VII, page 118-119, provides for the grant of free licences to certain class of officers mainly belonging to the Army services. They are also concerned with the Rules referred to in sub-para (1) (2) and (3) of paragraph 5 above.

9 Railway authorities have also certain responsibilities in connection with export, import and transport of arms under—

| | | | | PAGE. |
|----------------|----------------|-----|-----|-------|
| Section 28 | of the Act ... | ... | ... | 64 |
| „ Rule 12 | of the Rules | ... | ... | 77 |
| „ „ 17 (5) (b) | „ „ | ... | ... | 80 |
| „ „ 24 (4) | „ „ | ... | ... | 84 |
| „ „ 26 (2) (b) | „ „ | ... | ... | 84-85 |
| „ „ 27 (2) (a) | „ „ | ... | ... | 86 |

and Export, import and transport of arms and ammunition on railways passing through Indian States. 329

10. The annexed Addenda and Corrigenda brings up to date the Indian Arms Rules, 1924. Paragraph 7 refers to the exclusion of “swords other than sword-sticks” from the operation of sections 13 and 15 of the Act—*Vide* item “3A. British India” in Schedule II, on page 107. It may however be noted that sections 5 “Manufacture conversion and sale” continues in force so far as swords are concerned.

NAPIER TOWN, }
JUBBULPORE. }
1st October 1935.

G. K. R.

THE INDIAN ARMS ACT MANUAL

Ninth Edition—September 1935.

ADDENDA AND CORRIGENDA.

1. **Page 75.** Rule 8. In sub-clause (b), line 2 for the words "and Aden" *Substitute* the words :—
Aden and Port Blair.
(H. D. notn. no. F. 21-30-35 dated the 14th October 1935).
2. **Page 78.** Rule 15:—*Substitute* the following clause for the existing clause (b) of sub-rule (1) :—
(b) at the port of Calicut, Karachi, Dhanushkodi, Tuticorin, Cochin or Aden.
(H. D. notn. no. 21-29-35 dated the 23rd July 1935).
3. **Page 78.** Rule 16 :—
In clause (a) of sub-rule (1) for the words :—
the ports of Madras, Bombay, Calcutta, Rangoon, Calicut Karachi or Aden
Substitute the words :—
the ports of Madras, Bombay, Calcutta, Rangoon, Calicut, Karachi, Cochin or Aden
(H. D. notn. no. F-21-29-35 dated the 23rd July 1935).
4. **Page 95.** Rule 42:—For proviso (b) of sub-rule (3) of rule 42 *substitute* the following proviso :—
(b) any sub-divisional Magistrate may renew a licence in Form XVI, Form XVII, Form XVIII or Form XIX; and
(H. D. notn. no. F-21-L-35 dated 12th August 1933).
5. **Page 98.** *Re-number* Rule "48 (i)" as "48," and *omit* sub-rule (2) of the present rule 48.
(H. D. notn. no. 21-22-35 dated the 19th June 1935).
6. **Page 106.** In Schedule II, for the existing entry 2A, *substitute* the following entry :—
2A. British India. | Recapper, Decapper and turn over. | All.
(H. D. notn. no. F 21-V-34 dated the 10th September 1934).
7. **Page 107.** In Schedule II, *substitute* the following entry for the existing entry 3A. Punjab :—
3A. Punjab. | Swords other than sword sticks. | Those contained in sections 13 and 15.
(H. D. notn. notn. F-21-47-35 dated the 12th September 1935).

8. Page 116. In Schedule VI add the following entry as entry (10A)—

| | | |
|---|---|--------|
| (10A.) The District Magistrate of Ajmer Merwara. | States in Rajputana and Central India. | Ditto. |
|---|---|--------|

(H. D. notn. no. F-21-34-35 dated the 25th July 1935).

9. Page 116. In the first column of Schedule VI, item (11).

- (ii) Omit the entries (h) and (k) and re-letter present entries (i) and (j), respectively, as (h) and (i),

(H. D. notn. no. F-21-27-35 dated the 19th June 1935).

10. Page 145. In Form XVI in Schedule VIII under the head
"Fee"—

- (a) Substitute the following as sub-clause (ii) for sub-clause (c) of para. I:—

(ii) for any other breach-loading weapon, *Five Rupees*; (in the North-West Frontier Province, *Two Rupees*).

- (b) Substitute the following clause for the existing clause (ii) of para II:—

(ii) in cases to which clause (c) in paragraph I applies, *five rupees* (in the North-West Frontier Province *rupees two and annas eight*), *rupees two annas eight* (in the North-West Frontier Province *rupees one*) and *annas eight* (in the North-West Frontier Province *annas four*) or *annas four*, respectively, provided that in such cases application for renewal is made within one month of the date on which the licence expires and if application is not made within that period, the licensing authority may, in his discretion, levy fees, at the original rate.

(H. D. notn. no. F-21-XVII-35, dated the 12th September 1935.)

11. Page 118 Schedule VII. In clause (a) of entry (1) after the words—"Indian Territorial Force".

insert the words—"or in the Indian State Force".

In clause (d) of the same entry after the words—"North-West Frontier Province".

insert the words—"and the Andamans and Nicobar Islands Military Police".

In clause (e) of the same entry after the words—"North-West Frontier Province".

insert the words—"and the Andamans and Nicobar Islands Military Police".

(H. D. notn. No. F. 21-XIII-35 dated the 27th March 1935).

THE INDIAN ARMS ACT MANUAL.

Government of India, Home Department Resolution, no. 2125-C, dated the 21st March 1919.—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 licences for the possession of firearms while Indians, outside certain privileged classes, have to apply for licences 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 licence 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 licence 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 licences 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 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 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 licences 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 licences, 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 charges will be made in the rules regulating the issue of licences :—

(i) Licences 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 licence in Form XVI the fee will be raised to Rs. 5 for each breech-loading weapon but will remain unchanged for muzzle-loaders. (iii) Licences 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 licence has been granted is still in the possession of the licence holder. (iv) Special instructions will be issued to afford facilities to agriculturists to obtain licences for the protection of crops or cattle and to secure that they are not withheld without good cause. (v) Licences, other than those for the protection of crops or cattle when issued at the licence-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) Licences 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 licence, 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.

The Report of the Indian Arms Rules Committee, dated the 20th Sept. 1922.—A resolution was moved in the Assembly on the 8th of

Introductory. 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 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 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 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.

3. 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 Darbar List. If this is so, we think that 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. * * *

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 district 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 licence conferring on them the same privileges in respect of arms exempted from licence 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 of 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 (vii). Our colleague, Baba Ujagar Singh Bedi, had 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 licences 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 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. We next come to the entitled class. The evidence on the question whether licences are often withheld from those who belong to this class is divided, but we would recommend removal of restrictions in two directions. In our view 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 licence 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 licence 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., dated the 21st March 1919, (page 1, *ante*). 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 as we strongly recommend that this should be done.

9. We have given careful consideration to the various questions which arise in connection with the grant of licences, especially licences 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 licences 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 various 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. We have referred above to the unnecessary inconvenience caused in some respects to would-be-licence-holders by reasons of the delay in issuing

licences. 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 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 case 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 licence 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. In some provinces we have found that the custom obtains of limiting the number of licences issued. We have even found that the practice of individual District Magistrates in the same province varies. Any arbitrary limitation of the number of licences issued in a district or province may clearly lead to the refusal of a licence 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 licences 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 licences and if such restriction is necessary for the maintenance of the public tranquility.

12. We should recognise a right of revision in the case of refusal to grant a licence, but we would not disturb the existing rule which requires the sanction of the District Magistrate to a prosecution.

13. The period covered by the licence 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 licences 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. 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 licence necessary for its possession, and it was therefore recommended that a temporary licence should be given to cover such purchase pending the grant of a licence for possession. We do not agree with this, and in our view a permanent licence should be issued at the time the applicant applies for a licence 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 Magistrate concerned. In this matter a uniform practice should be adopted throughout India.

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

16. We attach some importance to the stricter enforcement of condition 7 of the conditions under which a licence 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 licence, and all that is required is its more rigid enforcement. We recommend, however, that the licence should also specify the penalty laid down in the Act for breaches of this or any of the conditions under which the licence is granted.

17. The question of a free issue of crop protection licences was raised by a number of witnesses. The evidence given by official witnesses goes to prove that crop protection licences are issued freely but in some cases conditions are imposed, such as annual production of evidence of the purpose for which the licence is required, before renewal is granted. We recommend the free issue of such licences 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. We have been impressed with the fact that licences are frequently granted on flimsy paper which quickly perishes, and we recommend the universal adoption of the Calcutta form. There the licence is printed on stout paper, and is enclosed in cover such as is used in the case of passports. To the licence, 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 licence 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 licence 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. A single licence form should be used for all the weapons licensed and not a separate licence 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 As regards the renewal of licences we are of opinion that the existing procedure is susceptible of improvement. We see no reason why, when a licence 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 licences 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 licence in a district other than that in which the licence was originally issued we recommend that the original licence should be renewed and the authority which issued the original licence supplied with information of renewal. The production of firearms should not in our opinion be a precedent condition to the renewal of a licence.

21. 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 licence 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 licences 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 licence, 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 licence. *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 licence 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 licences or renewal of licences by post.

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. Exemptees should, as at present, pay no fees and those who will, if our recommendations are accepted, receive a life licence 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 Frontier 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 arm-dealers that the existence of a separate fee for a licence for import into India and transport to destination is a distinct hardship, and in our opinion there should be a single fee only.

22. 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 licence for a larger number. At the time of the purchase of revolver and rifle ammunition the licence 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. We have discussed in some detail questions affecting the issue of licences 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 licences should be as unrestricted as possible and should be generally encouraged, and that certainly every member of the entitled class to whom a licence is not refused should get an all-India licence if he desires it. Further, we see no sufficient reason why Assam and Burma should be excluded from the all-India licence and would recommend their inclusion. In this connection we also recommend, with reference to entry no. (1) 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 1 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 licences 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 with applications for licences and renewals when applications are received in such numbers that the District Magistrate is not able to deal with them promptly with his ordinary staff.

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

25. 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. 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. 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. 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. 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.

Retainers.

30. A proposal was made to us that licences 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.

Carrying of arms on journeys by female members of licensee's family.

31. 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.

Sale by agents.

32. 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.

Reciprocity with Indian States.

33. We recommended that the same power be given to the Commissioner in Sind and the District Magistrate, Karachi, in respect of the grant of licences 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.

District authorities, Karachi.

34. 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,

Appointment of a special officer to revise the Arms Rules.

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 licence-holder to get a grasp of the Rules which are of importance to him, namely, those relating to the issue and renewal of licences, 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. * * *

Note by Baba Ujagar Singh Bedi and Minutes of dissent by Rai Bahadur S. P. Bajpai, and Mr. Muhammad Faiyaz Khan, (in Appendix) not printed.

Government of India, 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 circum-

tances 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 terms of office. As regards entry 6 (d), 6 (f), 6 (g), and 6 (i) 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 list 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 these categories. The schedule has therefore been amended accordingly.

3. The Government of India after consultation with the local Government on the Committee's observation 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 districts 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 those 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 title-holders 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. 2124-C., dated the 21st March 1919, (page 1, *ante*) 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 qualification 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 licences 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 of 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 terms "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 Government 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 adverse 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 whatever 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 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 condition 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 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 Government 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 Commissioners 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 of 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 principal 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 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 1 of Schedule II is required;

the North-West Frontier Province agrees 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 delay will occur; that if at any time the pressure of work in connection with licence applications become 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 stronger 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 fire-arms 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 regulating the application for licences for the possession of firearms for purpose 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 ACT, XI OF 1878.

I.—Preliminary.

PREAMBLE.

SECTIONS

1. Short title,—Local extent,—and Savings.
2. Commencement.
3. Repeal of enactments.
4. Interpretation-clause.

II.—Manufacture, Conversion and Sale.

5. Unlicensed manufacture, conversion and sale prohibited.

III.—Import, Export and Transport.

6. Unlicensed importation and exportation prohibited.
Importation and exportation of arms and ammunition for private use.
7. Sanction of Local Government required to warehousing of arms, etc.
- 8.—9. [*Repealed.*]
10. Power to prohibit transport.
Transshipment of arms.
11. Power to establish searching stations.
12. Arrest of persons conveying arms, etc. under suspicious circumstances.
Procedure where arrest made by person not a Magistrate or a Police Officer.

IV.—Going armed and possessing Arms, etc.

13. Prohibition of going armed without licence.
14. Unlicensed possession of fire-arms, etc.
15. Possession of arms of any description without licence prohibited in certain places.
16. Arms, of which possession has become unlawful, to be deposited at police-station.

V.—Licences.

17. Power to make rules as to licences.
18. Cancelling and suspension of licence.

VI.—Penalties.

19. For breach of sections, 5, 6, 10, 13 to 17.
20. For secret breaches of sections 5, 6, 10, 14 and 15.
For concealing arms, etc.
21. For breach of licence.
22. For knowingly purchasing arms, etc., from unlicensed person.
For delivering arms etc. to persons not authorized to possess them.
23. Penalty for breach of rule.
24. Power to confiscate.

VII.—Miscellaneous.

25. Search and seizure by Magistrate.
26. Seizure and detention by Local Government.
27. Power to exempt.
28. Information to be given regarding offences.
29. Sanction required to certain proceedings under section 19, clause (f)
30. Searches in the case of offences against section 19, clause (f), how conducted.
31. Operation of other laws not barred.
32. Power to take census of fire-arms.
33. Notice and limitation of proceedings.

THE FIRST SCHEDULE—ENACTMENTS REPEALED.— THE SECOND SCHEDULE. [*Repealed.*]

STATEMENT OF REPEALS AND AMENDMENTS.

| | | |
|---|-----|-----------------------------------|
| Section 1 (b) amended in part by | ... | Act XLIX of 1920, Sec. 35. |
| Sections 8 and 9 and Second Schedule | } | *Act XII of 1891, First Schedule. |
| Repealed, and Section 14 Repealed in part, by | | |
| 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 :—

I.—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.

[NOTE.—“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 Forces Act, 1920, or the Auxiliary Force Act, 1920” were substituted for the words “or a volunteer enrolled under the Volunteers Act, 1868.” Under rule 46 (8) 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. Honorary members of the Parsi Indian Territorial Force are not exempt from the operation of the Act.

(2) For definition of “public servant” see section 21, Indian Penal Code.

(3) A licence 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 licence granted under the Indian Arms Act, 1878 [S. 15 of the Indian Explosives Act 1884, (IV of 1884).]

(4) 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. (H. D. letter no. 1594 dated the 7th October 1895.)

(5) Lead-cutting swords imported by Native Cavalry regiments are under section 1 (b) of the Arms Act exempt from the operation of the Act. (H. D. letter no. 360-378, dated the 29th March 1897.)

(6) 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 (H. D. letter no. 1641, dated the 28th July 1899.)

(7) **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 licence is therefore necessary for their importation. (H. D. letter no 445 dated the 7th Feb. 1908.)

(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). (For Dept. letters nos. 1816 I., dated the 2nd June 1890 and 293G., dated the 5th Feb. 1920.)

(9) 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 (b) of section 1 of the Arms Act, nothing in the Act or rules applies to the bearing or possession of such arms by such persons. **Police officers** of and above the rank of Sub-Inspectors including Sergeants, are authorised to possess one revolver as part of their equipment. They are therefore exempted under section 1(b) of the Arms Act from the obligation to take out a licence in respect of a weapon so possessed (H. D. letters no. 1246, dated the 16th October, 1919, no. 1171, dated the 17th May, 1921 and no. 21 F./XXIII/24 dated the 14th April 1925.)

(10) The following arms shall comprise the equipment of the officers 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. | |
| 2 revolvers or 2 pistols or 1 revolver and 1 pistol. | { Of no special pattern but one of the weapons must take Govt. ammunition of '455 bore. } | 1 revolver (Webley '455 bore) | |
| 1 Dirk 1 Skeen Dhu | { Highland Regiments only } | { 1 Kukri (Gurkha and Garhwali Regiment only). } | |

(H. D. letter no. F 21-XXX-23 dated the 15th March, 1924,
and no. F. 21 XLVI-25 dated 23rd October, 1925.)

[NOTE—These orders apply to persons exempted under section 1 (b) of the Act. For the purposes of clauses (3) and (4) in Schedule VII, of the Arms Rules, 1924, the above description of the equipment will apply to officers who retire after the 15th March 1924. Such officers are therefore entitled to a free licence for two revolvers or two pistols or one revolver and one pistol which formed part of their equipment provided that one of these weapons takes Govt. ammunition of '455 bore. Military officers who retired after the 15th March 1924, are entitled to free licences for revolvers or automatic pistols which are proved to have formed part of their equipment when in Service, irrespective of bore. For ex-officers of the Auxiliary force, equipment has not been defined, and licensing officers before issuing free licences, need only satisfy themselves that the weapons for which exemption is claimed actually formed part of the officers equipment. (H. D. letter no. F. 21-XXX-25, dated 28th July 1925.)]

(11) The officers of the **Army or Royal Air Force** holding Commissions both from His Majesty the King and His Excellency the Viceroy 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 other Field Service Pattern, when so required by the "Dress Regulations for the Army." (H. D. letter no. F-21-XXX-23 dated the 15th October, 1924.)

(12) 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 Act,

1 sword.

1 rifle—303 SMLE, Mark III or III*.

1 pistol—of no special pattern. (H. D. no. F-21-XXX-23 of the 23rd Oct. 1924.)

(13) Under paragraph 197, Dress Regulations (India), 1931, retired officers of the Indian Army are permitted to wear swords forming part of the uniform when attending military ceremonials and also on other occasions when the wearing of uniform appears appropriate. Swords are exempt from the operation of the prohibitions and directions contained in the Arms Act, and licences should not be asked for them. (H. D. letter No. 21/LIX/32, dated the 17th November 1932.)

(14) 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.

WALA HIRAJI WALAD v. HIRA PATEL,

9 BOM. 518.

(15) Where a case might properly have been tried under the Arms Act or the Explosives Act, but the public prosecutor did not ask the High Court to order a retrial, the High Court cannot convict the accused under either of those two enactments without a fresh trial.

JOSEPH KANGANI,

8 M. L. T. 298

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

[NOTE.—The Act came into force on the 1st Oct. 1878. (H. D. 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, licences 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.

And all such authorities, permissions, licences 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.

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, lithofractor 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 Act 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:

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

NOTES.

(1) For the definition of **"arms"** contained in section 4 of the Act, substitute the following (applicable to Burma):—

"arms" includes—

- (i) **clasp-knives** the blades of which are pointed and exceed three inches in length;
- (ii) **knives with pointed blades** rigidly affixed, or capable of being rigidly affixed to the handle, and measuring in all over 5 inches in length, which are not intended exclusively for domestic, agricultural, or industrial purposes: provided that it shall be presumed, until the contrary is proved that knives of these descriptions are not intended exclusively for such purposes;
- (iii) **knives** of such other kinds as the Local Government may, by notification, prescribe; and
- (iv) **firearms**, bayonets, swords, daggers, spears-heads and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms. (Burma Act VII of 1928).

(2) **Iron droppings or pellets (bunda)** are ammunition (H. D. letter no. 1633 dated 7th Oct. 1881).

(3) The **sights of guns and rifles** should be regarded as parts of arms (H. D. letter no. 900 dated 1st May 1911).

(4) **Humane cattle killers** are not arms for the purpose of the Indian Tariff Act and notn. no 2113 dated the 2nd June 1924, and **cartridges** for the same are not ammunition for the same purposes, unless they are capable of being used in firearms as well as in humane cattle killers. (H. D. letter no. F. 21-XL-28 dated the 4th Sep. 1928).

(5) The **materials** used for making the **cartridges** and also instruments to make them are ammunition (Bombay no. 1025 dated the 22nd August 1921).

(6) **Appliances such as hand grenades and riot pistols** for discharging gas, which are designed to render helpless for the time being a mob or an individual without causing a permanent injury, are arms within the meaning of the Act and are subject to all the prohibitions and restrictions imposed by the Act and Rules. (H. D. letter no. F. 21-LV-28 dated the 28th Feb. 1929).

(7) The weapon described as **"life preserver"** or **"zipo"** is an arm within the meaning of section 4, and subject therefore to all prohibitions and directions contained in the Act and Rules (H. D. letter no. F. 21/XXXI/ 30 dated the 8th May 1930).

(8) The **Burglar Alarm** contrivance known as **"Stop"** is a fire-arm within the meaning of this section (H. D. letter no. F. 21-V-30 dated the 18th Oct. 1930.)

(9) The Government of India have held the **alarm contrivance** known as **"Stop"** to be an arm within the meaning of section 4, therefore subject to all the prohibitions and directions contained in the Act. (H. D. letter no. F. 21-LXXIII-30 dated the 27th Nov. 1930).

(10) The word "includes" in sec. 4 is clearly not intended to be exhaustive,
GANGAMMA, 1 WEIR 654

(11) There is no exhaustive definition in the Act of the expression arms. 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 for domestic or agricultural utility there is no reason why such weapon or instrument should not be held to fall within the category of arms.

SANT SINGH, 16 P. R. 1910 Cr.
RALLA SINGH, 32 P. R. 1918 Cr.
MANGAL SINGH 1922 A. I. R. 1923 LAH. 138, 2 LAH. 291.
EBRAHIM DAWOODJI BABI BAWA 3 L B R 1.
HMAT KYAN 1 L B. R. 271
NGA PO TEIN L. B. R. 1893-1900 487
NGA LU GALE A. I. R. 1928, RANG. 49

(12) The word arms except so far as the definition expressly includes other weapon, must be understood to mean weapons of offence suitable for warfare. If anything in the opinion of the Court is not an arm it is immaterial whether the Govt. have or have not excluded it from the operation of the Act

NGA NE U L B. R. 1893 1900, 416.

(13) The mere fact that the weapon is dangerous and, if used, may probably cause death, does not make it an arm within the meaning of sec. 4.

GAJJA 26 I C. 133.

(14) No weapon can be held to be an arm unless it is a weapon which in ordinary parlance be spoken of as an arm, and, if it is not designed for use as a weapon of offence or defence, although may be used as such, then it is not an arm.

MEHRDIN A. I. R. 1927, LAH 162.
PO ME A I R 1923 RANG. 23, 11 B L. R. 340

(15) Neither the length, breadth or the form of the blade of a weapon, nor the handle, afford any test of its classification as arm: 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 purpose falls within the purview of arms

SATISH CHANDRA ROY 34 CAL 749.
RALLA SINGH P R 1918 Cr 32.

(16) Whether in a particular instance an instrument is a firearm or not is a question to be determined according to the facts of each case and the circumstances that it is in an unserviceable condition is not sufficient to take it out of the category of firearm. The word firearms only means arms that are fired by means of gun-powder or other explosives

AZU WALD BANGAR 1 S. L. R. 18.
HARSHANATH CHATTERJI 42 CAL. 1133.
ABANI MOHAN BHATTACHARJEE A I R. 1934, CAL. 1477.

(17) Air-gun not adapted for use with explosive substances and classed as toys for the purposes of the Tariff Act, was a toy and did not come within the definition of arms,

MANUG SHWE THET 4 Cr. L. J. 239, 12 BUR. L. R. 201.

(18) A gun rendered unserviceable by the loss of trigger does not come within the definition of arms. A broken and unserviceable gun does not fall under the description of "parts of arms." 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 licence need be taken out, even though, it might be capable of being rendered serviceable by being repaired. The unserviceable remains of a gun could not be fairly described as a fire-arm within the meaning of s. 14, and do not require to be protected by a licence under that section. A pistol which is out of repairs cannot be regarded as a weapon for offence or defence

SIDAPPA 6 MAD. 60.
RASOOL SAHIB 1 WEIR. 658.
KULAPPA GRAMANI 1 WEIR. 658.
CHAITOO GOND 12 C. P. L. R. CR. 8.
HARPAL SAI 24 ALL. 454.

(19) A revolver with a broken trigger is within the definition of arms. In such cases the question is not so much whether the particular weapon is serviceable

as a firearm, but whether it has lost its specific character and has so ceased to be a firearm.

JAYARAM REDDI

21 MAD. 360.

(20) A gun-barrel so long as it can be used as a gun-barrel, is an arm within the definition of s. 4, because it is a part of fire-arm. But it is not a fire-arm within the meaning of s. 14, nor is it one of the other articles mentioned in the section. A gun barrel and nipple in serviceable condition are arms within the meaning of sec. 4.

BARWAR TELI

12 C. P. L. R. 10.

VYAPURI KANGARI

7 MAD. 70.

(21) An old fashioned muzzle loading gun-barrel in good condition and with the touch-hole in good order is a fire arm within the meaning of s. 14. There is nothing in s. 14 inconsistent with s. 4. Fire arms in s. 14 includes parts of fire arms. (C. P. L. R. 10—Barwar Teli, note no. (20) above, *disstd.*)

DHAN SINGH

3 N. L. R. 58.

(22) 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 licence is guilty of an offence under s. 19.

SAMIULLAH

6 P. R. 1908 CR.

(23) Possession of a Quackenbush rifle (which fires 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."

HARNAM SINGH

159 P. R. 1913 CR.

(24) Bolts and bars of rifles are arms within the meaning of sec. 4. In order to fall within this section the weapon need not be in serviceable condition.

JAYARAM REDDY

21 MAD. 360

KARM DIN

A. I. R. 1923, LAH. 617

(25) Accused were convicted for having in their possession sword hilts bought from 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.

NUR DIN AND NIZAM DIN

38 P. R. 1889 CR.

(26) A sword-stick is a sword within the meaning of sec. 4 of the Act. A sword stick is a weapon different from a Kirpan. The two expressions cannot be regarded as synonymous and so the possession of a swordstick by a Sikh is not exempted by sec. 27 of the Act.

SATISH CHANDRA ROY

34 CAL. 749

RANDHIR SINGH

A. I. R. 1928 LAH. 239.

(27) A Sikh possessing or wearing one sword commits no offence under s. 19 by virtue of the exemption under the Arms Rules.

HARI SINGH

A. I. R. 1924 LAH. 600

(28) A battle axe is an arm.

GANGAMMA

1 WEIR 654

(29) Chhavi may be arms within the meaning of the Arms Act, and 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. Every thing 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. The question of exclusive possession of an arm cannot be raised for the first time in appeal.

KESAR SINGH

20 P. R. 1890 CR.

SANTA SINGH

16 P. R. 1900 CR.

GAHNA

13 P. L. R. 1914 CR.

JINDA

10 P. L. R. 1916 CR.

(30) A sword 31 inches long with a blade length of 22 inches in a simple scabbard was held not to be proved a Kirpan. A Sikh found in possession of Kirpans of the length varying from nine to ten inches is not guilty of the offence under secs. 19 (a) and (d) as such Kirpans are not swords.

BACHITTAR SINGH

A. I. R. 1922 LAH. 141

HARI SINGH

A. I. R. 1924, LAH. 600

DALJIT SINGH FATEH SINGH

A. I. R. 1930 BOM. 153, 31 CR. L. J. 1930, 847.

(31) The exemption only applies to Kirpans actually in existence and possessed or carried by Sikhs and not to the manufacture of Kirpans by Sikhs. A Sikh is not prevented by provision in the Arms Act, from dealing with Kirpans 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.

BASTA SINGH

A. I. R. 1923, LAH. 267, 3 LAH. 437.

(32) Appellant was found carrying a bamboo *dang* 5 ft. 7 inches 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 *dang*. 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 appellant's 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.

MANGAL SINGH

A. I. R. 1923, LAH. 138, 2 LAH. 133

(33) Carrying a sword or Kirpan 9 inches in length, is an offence under sec. 62 of the Calcutta Police Act—(Bengal Act IV of 1863).

KRIPAL SINGH

A. I. R. 1924, CAL. 231.

(34) An instrument consisting of two separate pieces, namely, *lath*, 6' 3" long, at one end of which a hollow screw and an axe like blade, 5" by 4½" having a screw to allow of its being fixed into the long *lath*, was held to be an arm within the meaning of sec. 19 (f), as no instrument like that is ever used for domestic or agricultural purposes.

PURAN SINGH

A. I. R. 1928, LAH. 295

(35) *Dabs* of the kind described 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.

NGA NE U.

L. B. R. 1893-1900, 416

(36) The meaning of *Dahmyaung* in the Burmese translation of the Arms Act must be limited to the meaning of dagger.

NGA TUM BAU

L. B. R. 1898-1900, 320.

(37) *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 licence is punishable under s. 13.

NGA PO TEIN

U. B. R. 1892-1896, VOL. 1, 1

(38) The accused imported certain knives described as hunting knives and kept with him. 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 arm.

BISHAN SINGH

A. I. R. 1924, CAL. 714, 51 CAL. 573.

(39) A clasp knife which has a blade 5½ inches long with a pointed end and is fitted to a long handle and turns over into the handle falls within the meaning of the word arms. Dagger shaped knives known as clasp knives fall within the definition of arms.

NGA LU GULE

A. I. R. 1928, RANG. 49.

(40) Though the exhibit knives were stout and 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.

ME THIN

7 BUR. L. T. 165.

(41) 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 knife is altered (e. g.) by grinding it so as to make it double edged.

AUNG BA

5 L. B. R. 130.

(42) A table knife however carried or intended to be used is not an arm.

NGA KYA NYO

9 BUR. 207.

as a firearm, but whether it has lost its specific character and has so ceased to be a firearm.

JAYARAM REDDI

21 MAD. 360.

(20) A gun-barrel so long as it can be used as a gun-barrel, is an arm within the definition of s. 4, because it is a part of fire-arm. But it is not a fire-arm within the meaning of s. 14, nor is it one of the other articles mentioned in the section. A gun barrel and nipple in serviceable condition are arms within the meaning of sec. 4.

BARWAR TELI

12 C. P. L. R. 10.

VYAPURI KANGARI

7 MAD. 70.

(21) An old fashioned muzzle loading gun-barrel in good condition and with the touch-hole in good order is a fire arm within the meaning of s. 14. There is nothing in s. 14 inconsistent with s. 4. Fire arms in s. 14 includes parts of fire arms. (C. P. L. R. 10—Barwar Teli, note no. (20) above, *disstd.*)

DHAN SINGH

3 N. L. R. 58.

(22) 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 licence is guilty of an offence under s. 19.

SAMIULLAH

6 P. R. 1908 CR.

(23) Possession of a Quackenbush rifle (which fires 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."

HARNAM SINGH

159 P. R. 1913 CR.

(24) Bolts and bars of rifles are arms within the meaning of sec. 4. In order to fall within this section the weapon need not be in serviceable condition.

JAYARAM REDDY

21 MAD. 360

KARM DIN

A. I. R. 1923, LAH. 617

(25) Accused were convicted for having in their possession sword hilts bought from 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.

NUR DIN AND NIZAM DIN

38 P. R. 1889 CR.

(26) A sword-stick is a sword within the meaning of sec. 4 of the Act. A sword stick is a weapon different from a Kirpan. The two expressions cannot be regarded as synonymous and so the possession of a swordstick by a Sikh is not exempted by sec. 27 of the Act.

SATISH CHANDRA ROY

34 CAL. 749

RANDHIR SINGH

A. I. R. 1928 LAH. 239.

(27) A Sikh possessing or wearing one sword commits no offence under s. 19 by virtue of the exemption under the Arms Rules.

HARI SINGH

A. I. R. 1924 LAH. 600

(28) A battle axe is an arm.

GANGAMMA

1 WEIR 654

(29) Chhavi may be arms within the meaning of the Arms Act, and 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. Every thing 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. The question of exclusive possession of an arm cannot be raised for the first time in appeal.

KESAR SINGH

20 P. R. 1890 CR.

SANTA SINGH

16 P. R. 1900 CR.

GAHNA

13 P. L. R. 1914 CR.

JINDA

10 P. L. R. 1916 CR.

(30) A sword 31 inches long with a blade length of 22 inches in a simple scabbard was held not to be proved a Kirpan. A Sikh found in possession of Kirpans of the length varying from nine to ten inches is not guilty of the offence under secs. 19 (a) and (d) as such Kirpans are not swords.

BACHITTAR SINGH

A. I. R. 1922 LAH. 141

HARI SINGH

A. I. R. 1924 LAH. 600

DALJIT SINGH FATEH SINGH

A. I. R. 1930 BOM. 153, 31 CR. L. J. 1930, 847.

(31) The exemption only applies to **Kirpans** actually in existence and possessed or carried by Sikhs and not to the **manufacture** of Kirpans by Sikhs. A Sikh is not prevented by provision in the Arms Act, from dealing with Kirpans 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.

BASTA SINGH

A. I. R. 1923, L.A.H. 267, 3 L.A.H. 437.

(32) Appellant was found carrying a **bamboo dang** 5 ft. 7 inches 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 **dang**. *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 appellant's 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.

MANGAL SINGH

A. I. R. 1923, L.A.H. 138, 2 L.A.H. 133

(33) Carrying a sword or **Kirpan** 9 inches in length, is an offence under sec. 62 of the Calcutta Police Act—(Bengal Act IV of 1863).

KRIPAL SINGH

A. I. R. 1924, CAL. 231.

(34) An instrument consisting of two separate pieces, namely, **lath**, 6' 3" long, at one end of which a hollow screw and an axe like blade, 5" by 4½" having a screw to allow of its being fixed into the long **lath**, was held to be an arm within the meaning of sec. 19 (f), as no instrument like that is ever used for domestic or agricultural purposes.

PURAN SINGH

A. I. R. 1928, L.A.H. 295

(35) **Daks** of the kind described 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.

NGA NE U.

L. B. R. 1893-1900, 416

(36) The meaning of **Dahmyaung** in the Burmese translation of the Arms Act must be limited to the meaning of dagger.

NGA TUM BAU

L. B. R. 1898-1900, 320.

(37) **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 licence is punishable under s. 13.

NGA PO TEIN

U. B. R. 1892-1896, VOL. 1, 1

(38) The accused imported certain **knives** described as **hunting knives** and kept with him. 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 arm.

BISHAN SINGH

A. I. R. 1924, CAL. 714, 51 CAL. 573.

(39) A **clasp knife** which has a blade 5½ inches long with a pointed end and is fitted to a long handle and turns over into the handle falls within the meaning of the word arms. **Dagger shaped knives** known as **clasp knives** fall within the definition of arms.

NGA LU GULE

A. I. R. 1928, RANG. 49.

(40) Though the **exhibit knives** were stout and 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.

ME THIN

7 BUR. L. T. 165.

(41) 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 knife is altered (e. g.) by grinding it so as to make it double edged.

AUNG BA

5 L. B. R. 130.

(42) A **table knife** however carried or intended to be used is not an arm.

NGA KYA NYO

9 BUR. 207.

(43) A **dashe upyat** of the usual type is primarily intended for domestic or agricultural purposes and is not an arm within the meaning of the Act.

HAMYIT

5 B. L. B. 207, 3 B. L. T. 91.

(44) The true criterion is not whether any given **dab** is an "Upyat" but what was the intention of the maker as regards its purposes.

PO ME

A. I. R. 1923. RANG. 93, 11 L. B. R. 340.

(45) **Axe or knife** does not become arm within s. 4 by merely using it for offending or defending on particular occasion.

MEHR DIN

A. I. R. 1927, LAH. 162.

(46) **Spears** are arms within the meaning of section 4 and do not come within the class of ornamental arms or theatrical property under section 13 of the Act.

(47) If **Lee Metford bullets** were capable or fit for use they are "parts" of ammunition.

CHETA

ALL. REV. NO. 517 OF SEP. 1917.

(48) **Empty cartridge cases** of which the caps have been exploded do not come under the definition of ammunition in the Act. An instrument for repairing cartridge cases of the Martini Henry rifle is not machinery for manufacturing ammunition within the meaning of the Act.

JAMAN KHAN

20 P. R. 1900 CR.

(49) **Empty cartridge cases** in which the caps have been exploded come within the definition of ammunition. To support a conviction for possessing **empty cartridges** it should be proved that the cartridges can be reloaded in India and used as ammunition by persons with whom they are found. If this is not found the cartridges are not ammunition and so no prosecution can be made on them.

AMIR

A. I. R. 1925, ALL. 47 ALL. 629

KALLU

A. I. R. 1926, ALL. 255.

(50) The **rockets** referred to in s. 4 under the definition of ammunition are war-rockets.

SUPPI

5 MAD. 159.

(51) A person in possession of a quantity of **gunpowder** without licence is liable to conviction under s. 19 although he may have intended 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.

KASIM SAHIB

8 MAD. 202.

(52) **Patakas** which are small packets, wrapped in a paper, of chlorate-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 Explosives Act, and so no licence is necessary for the manufacture or sale of Patakas.

BANSIDHAR

8 P. R. 1910 CR., 9 P. W. R. 1910 CR.

(53) The general words **other explosive or fulminating materials** in s. 4 must according to the well recognized rule of "*ejusdem generis*" be interpreted in the light of the exempted explosives. According to this the definition of "ammunition" includes such **explosive or fulminating materials** as could be used for any military purpose or in particular for firearms or torpedos or war rockets or for mining or blasting. As **patakas** are quite useless for such purposes, they are not "ammunition" within the meaning of the Act. It is not fair in revision to alter a conviction under one Act to under another Act unless a conviction under the latter Act were obviously correct and unless it were certain that the accused had not been prejudiced by being charged under the former Act.

KIFAYATULLAH KHAN.

A. I. R. 1931 ALL. 17.

(54) Accused was convicted under s. 5 for the manufacture, possession and sale of **explosive** in Burma, for possessing **explosives** without a licence. Held, that licences under these rules are not required for the possession of explosives of this nature. But **cartridges and detonators** are ammunition as defined in s. 4 and the accused might properly have been convicted under s. 19 (f) of the Act.

NGA YE U

L. B. R. 1897-1910 VOL. 1., 139

(55) Although **lead** is exempt from the operation of s. 4, yet, if it is moulded into bullets of 20 to 24 bore, it is a ammunition within the meaning of the said

section. In a case of technical offence a nominal sentence is always quite sufficient to meet the ends of justice.

SANT SINGH

16 P R 1910 Cr.

(56) *Lathis* are arms within the meaning of sec 106, Cr. P. C.

SARJUG LAL

35 I. C 489

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 licence 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) 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 by H D. no 902 dated the 20th Feb and no 6315 dated the 13th Dec 1901

(2) 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 (Ry D letter no. 2106 R T dated the 3rd Dec. 1908)

(3) The sale of arms, ammunition or military stores is prohibited 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 part 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 licence. (Burma A. M. Ed. 1926, page 138, para, 19)

(4) 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 licence 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 licences to be taken out, and accordingly directs that in future no licences shall be required merely for carrying on the business of repairing arms, (H. D. resn. no. 69-2039-50 dated the 15th Dec. 1881.) Those repairers of arms, however, who stock spare part of arms are required to take out licences for the

possession of those spare parts in one or both of forms IX or XI or forms X and XII (H. D. no. F-2-XIII-26 dated the 2nd Aug. 1926.)

(5) The temporary possession of a gun by a servant who carries it from his master's house to the blacksmith for repair and by the blacksmith for the purpose of repair without a licence is not punishable under sec. 19.

The repairing of arms is not manufacture within the meaning of ss. 5 and 19 (a)
TOTA RAM 16 ALL. 276, 1894 A. W. N. 82
YAGANTIAH 1 WEIR 653

(6) A person who repairs arms and is in possession of guns made over to him for repairs cannot be convicted of being in possession of arms without licence.

MURLI A. I. R. 1929, ALL. 730.

(7) 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.

SUPPI 5 MAD. 159.

(8) *Vide HIRAJI Walad HIRA PATEL*, 9 BOM. 518—Note no. (14) under sec. 1, page 25 ante.

(9) A person having obtained a licence for match-lock had the same converted into a percussion gun. He was convicted under s. 19 on the ground that the licence did not permit him to keep a percussion gun. Held that the accused could not be convicted under that section.

BODAPPA 10 MAD. 31.

(10) There is nothing in the Act or Rules which renders a sale of sulphur and ammunition by agent of a licence-holder illegal.

SITHARAMMAYA 12 MAD. 473

(11) 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 and therefore fell within the definition of arms.

EBRAHIM DAWOODJI BABI BAWA. 3 L. B. R. I., 11 BUR. L. R. 163

(12) The mere possession or sale of fireworks without a licence is no offence under the Arms Act

BOYINAPALLI VENKATARAJU 1 WEIR 655

(13) Where the accused who had a licence 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.

RAMASWAMI PILLAI 1 WEIR 656

(14) A Sikh is not exempted from the operation of the prohibition as to manufacture contained in sec. 5.

BASTA SINGH A. I. R. 1923, LAH. 267, 3 LAH. 437

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 licence and in the manner and to the extent permitted by such licence.

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

Importation and exportation of arms and ammunition for private use.

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.

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) For officers empowered to detain arms and ammunition under this section—*Vide* Local Rules and Orders

(2) 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. 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. (H. D. no. 1862, dated the 14th Dec. 1880)

(3) When a person **employs the agency of a firm for the import or export** of arms or ammunition which he is entitled to possess the transaction is within the exemption conferred by the second para. of sec. 6. (H. D. letter No. 21-LXX-VIII-30 dated the 6th February, 1931).

(4) An officer in Government service abroad who does possess a valid fire-arm certificate authorising him to hold his fire-arms in Great Britain is not allowed to **import any fire-arms or ammunition** (other than smooth bore shot-guns and ammunition therefor) save under a licence issued by the Board of Trade. (H. D. letter no. F. 21-XKVI-31 dated the 28th April, 1931).

(5) 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. (For Dept. letter no. 1327-I, dated the 23rd March 1891).

(6) 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. (H. D. no. 4638, dated the 6th August 1901.)

(7) 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 (*Vide* note no. (9) on page 34, *post*), 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. Dept. no. 523-527-17, dated the 24th January 1911).

(8) The transmission of arms and ammunition in **foreign postal articles** forwarded by other postal administrations in open transit (*a decouvert*), through the Indian 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. Dept. no. 8072—8074-55, dated the 29th Sept. 1913.)

(9) Under s. 19 of the Sea Customs Act, 1878 (VIII of 1878) and in supersession of the notn. of the Dept. of C. and I, no. 5377 dated the 26th July 1919, the Govt. of India has prohibited :—

(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 Berar, or

(b) by or 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 (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. (C. and I. Dept. no. 2112 dated the 2nd June 1924).

(10) The procedure for the exportation of arms, ammunition and military stores required for the Governments of Afghanistan and Nepal are laid down in the letters of the Govt. of India, 1287/Fr. dated the 5th December 1922 and of Govt. of Bengal, no. 2564 dated the 10th July 1925 (Vide rules 9A and 9B of Bengal Local Rules),

(11) Licensing authorities should refuse permission to import walking-stick-guns. Arms dealers possessing such stick-guns in stock may however sell them to persons who hold licences for them (H. D. letters no. F. 21—XXXIII-32 dated the 15th August 1932 and no. F. 21—XXXIII-32 dated 20th Jany. 1933)

(12) Licensing authorities should refuse permission to import pistols manufactured as a Stylograph pencil and its ammunition. The pistol can be used for firing shot cartridge and can also take standard .320 revolver ball cartridge. The cartridge supplied with pistol are loaded with 4.7 grams of smokeless powder and a glutinous bag containing a virulent liquid tear gas. (H. D. letter no. F. 21 XXI-31 dated 10th Sep. 1931).

(13) The automatic alarm pistols which are being advertised for sale as toys have been used by dacoits with success. These pistols fire alarm corks which are explosives of the 'Fulminate' class, the importation of which is prohibited without a licence. The importation of these weapons is restricted as they are considered to be of such a construction or character as to render them capable of being used otherwise than as toys. (Bengal Rule 67 H.)

(14) In exercise of the powers conferred by section 19 of the Sea Customs Act 1878 (VIII of 1878), and in supersession of Fin. Dept. notn. no. 38 dated the 18th June 1927, the Governor General in Council is pleased to restrict the bringing into British India dummy or imitation revolvers or pistols, to cases in which a permit to import the same has been granted, in the case of import at a Presidency Town or Rangoon, by the Commissioner of Police, and in the case of import elsewhere by the District Magistrate: Provided that the restriction imposed by this notification shall not apply to revolvers or pistols which are of such construction and character as to render them incapable of being used other than as toys or of being converted into lethal weapon. (Fin. Dept. notn. no. 35 dated the 6th September 1930)

(15) 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.

CAUSLEY

43 CAL. 421.

(16) Where the accused who was the servant of some lady in the Nepal State was proved to have brought the gun to British India for the purpose of having it repaired and he had no licence, under the Indian Arms Act, held, that he was guilty of an offence under s. 19 (c) of the Arms Act but that it was sufficient to impose a sentence of fine.

ORI

A. I. R. 1929, Oudh 157.

7. Notwithstanding anything contained in the Sea Customs Act, 1878, (VIII of 1878) 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.

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

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 import 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 notification in the Gazette of India,—

Power to prohibit transport.

(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 licence and to the extent and in the manner permitted by such licence, 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) 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 licensed or transported through any part of British India to the frontier, should be carefully restricted to such period as may be considered reasonable. (H. D. no. 44—1737, dated the 23rd Sept. 1879).

(2) 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 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. (For. Dept. no. 2864-I dated the 29th June 1887).

(3) Although the word “transport” as used in the Indian Arms Act, 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. (H. D. no. 88-2955, dated the 9th Nov. 1888).

(4) 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. (H. D. no. 3007, dated the 9th Nov. 1921).

11. The Local Government, with the previous sanction of the Governor General in Council, may, at any places along the boundary 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, 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 his office.

12. When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a licence 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.

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 licence and to the extent and in the manner permitted thereby.

Any person so going armed without a licence 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) For the officers empowered to disarm persons under this section—Vide Local Rules and Orders.

(2) For the purposes of this section, 'arms' includes also knives with pointed blades rigidly affixed, or capable of being rigidly affixed, to the handle, and measuring in all over 5 inches in length, which are intended exclusively for domestic, agricultural or industrial purposes. (Burma Act VII of 1923.)

(3) Holder of a licence to kill wild beasts is not bound to take out a licence if he uses his gun for shooting purposes.

BOMAYA CHETTY

5 MAR. 26

(4) Section 13 prohibits a person from "going armed" except under a licence but the licensee is not bound to take his licence with him whenever he goes armed.

KORAGA
KISHUNWA

1 WMR
20 CAL. 444

(5) When a licence to go armed is granted for protection only, the licensee cannot use it for sport or display.

VENKATARAYADU

1 WEIR 663

(6) A person who appears in 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 licence goes armed within the meaning of s. 13. The phrase "going armed" is not to be restricted to the meaning of carrying or bearing arms in the manner usual for the particular weapon in view.

NGA SHEW TON

A. I. R. 1927, RANG. 32, L. B. R. 1893-1900. 284

(7) 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.

NGA THA BAUNG

U B R. 1897-1901 VOL. 1, 4

(8) Vide NOTE (37) to sec. 4. NGA PO TEIN, U. B. R. 1892-1896, VOL. 1, 1,—page 29.

(9) Possession of a Jambia is not an offence under Sec. 13.

BALAJI MANAJI PATEL

A. I. R. 1930, 174

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 licence and in the manner and to the extent permitted thereby.

Unlicensed possession of firearms, etc.

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

[Note. Sections 13 and 14 are not in force in the Chittagong Hill Tracts—For the Regulations in force in those tracts—Vide Chittagong Hill Tracts Regulation I of 1900.]

NOTES

(1) The unserviceable remains of a gun could not be fairly described as a firearm within the meaning of Sec. 14.

CHAITOO GOND

12 C. P. L. R. CR. 8

(2) A gun-barrel so long as it can be used as a gun-barrel is an arm within the meaning of sec. 4, because it is a part of firearm. But it is not a firearm within the meaning of sec. 14, nor it is one of the articles mentioned in the section.

BARWAR TELI

12 C. P. L. R. CR. 10

(3) Firearms in this section include parts of firearms.

DHAN SINGH

3 N. L. R. 53

(4) Where a person kept a gun for some time and made it over to another to keep for him he cannot be convicted under sec. 19 (f). The only person who can be punished under s. 19. cl. (f) is the person who has in his possession or under his control any arm in contravention of secs. 14 and 19.

AKHIL NATH DUTT

15 C. W. N. 440

(5) 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.

CHAGANIPATE CHINO BASAVAPPA

291 I. C. 544

(6) Possession of parts of firearms is prohibited by this section read with s. 4.

HARSHA NATH CHATTERJEE

42 CAL. 1153, 19 C. W. N. 706

(7) 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.

SONAI MATHU AMBALAM

A. I. R. 1925, MAD. 585

(8) Where proceedings are instituted against any person for secret possession of arms in contravention of ss. 14 and 15, the accused should be discharged under

s. 20 if the intention to conceal the possession is not made out. Offences created by s. 20 are distinct from those under s. 19.

NGA PO CHIN

8. B. L. R. 452

(9) Section 13 prohibits an unlicensed person from **going armed with any kind of arms**, that is to say a person going armed with either a knife or a revolver comes within the provisions of the section. But with regard to **fire-arms** a further offence may be committed, namely, having them in possession or under control, without a licence. Section 14 covers this offence, and if this offence is committed with the intention referred to in s. 20, then a heavier punishment may be inflicted than for the simple offence under s. 14, the penalty for which is provided in s. 19 (f). To be in possession or control of arms other than those mentioned in s. 14 is not an offence, though it is an offence to go armed with them, as provided in s. 13. An unlicensed person **going armed with a revolver** may be convicted under either s. 13 or s. 14 of the Arms Act, and consequently may be convicted under s. 20

एच. सचिन्द्रा कार गुप्ता

35 CR. L. J. 125.

(10) *Vide* note (37) under s. 4—NGA PO TEIN,—U. B. R. 1892-1898, VOL. 1, 1, p. 29.

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 licence and in the manner and to the extent permitted thereby.

Possession of arms of any description without licence prohibited in certain 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 licence.

(2) This section does not apply to Burma as section 32, clause (2) of Act XXXI of 1860 did not apply to Lower Burma on the 1st Oct. 1878.

(3) Act XXXI of 1860 was repealed by this Act (XI of 1878).

(4) Section 15 has been extended to the following places—

Madras. The Malabar District.—It is hereby notified, 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).

Calicut, Ernad, Walavanad, Ponnani. (G. O. No. 355, dated the 6th Feb. 1885 and no. 260, dated the 30th June 1815.)

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

In exercise of the powers conferred by section 15 of the Indian Arms Act, XI of 1878 and in supersession of the Government of Bombay notifications No. 391 dated the 18th January 1893 and No. 8225 dated the 12th December 1898 the Governor in Council, with the previous sanction of the Governor General in Council, is pleased specially to extend this section to the whole of the Bombay Presidency (Bombay notification No. 3395 dated the 10th September 1932).

Bengal.—Section 15 of the Act is extended to all districts in Bengal and 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. (Bengal 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 becomes unlawful if the arms are among those notified under column 3 of Schedule II or among the exceptions noted in column 2 of schedule II of the Indian Arms Rules, 1924. (Bengal no. 1838—1866 dated the 15th May 1922 and para. 24B of Local Rules.)

Punjab.—Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. (Notn. no. 1635 of the 16th Nov. 1900.) (These districts, with the exception of Dera Ghazi Khan, are now within the jurisdiction of North-West Frontier Province).

(5) Clause 2 of sec. 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, XI of 1878, came into force; and the notification of the Government of Bombay, No. 1112 of the 19th Feb. 1878, which declared 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) sec., 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 licence in that taluka is not punishable under s. 19.

DODYAMA BASAPPA

9 BOM. 478

(6) The possession of a **sword or dagger** in a place to which s. 15 has not been extended is no offence.

FAKIR AHMED.

1 WEIR 666

(7) A person having a **sword without** a licence in a district which is disarmed, but not going armed with it, is no offence under the Act.

KUNJA ASARI.

1 WEIR 666

(8) The possession of a **bayonet** without a licence is not an offence under the Act, except in the district to which s. 15 has been extended.

NGA SIWE HLA.

L. B. R. 1872-1892-426

(9) The knowledge of the existence of firearms found in a hut on search should not, without further evidence, be imputed 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.

ROMESH CHANDRA

41 CAL. 35

(10) *Vide* note (4) under s. 14—AKHIL NATH DATT,—15 C. W. N. 440—p. 37, *ante*.

(11) *Vide* note (8) under s. 14—NGA PO CHIN.—8. B. L. R., 452, page 37 *ante*.

***16. (1) Any person possessing arms, ammunition or military stores the possession whereof has, in consequence of the cancellation or expiry of a licence 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 provision 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 the disposal, of anything 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 provisions, 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).

Note—For Rules framed by Local Governments—*Vide* Local Rules and Orders.

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 licence shall be granted; and may by such rules among other matters—

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

(b) fix a fee payable by stamp or otherwise in respect of any such licence 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 licence other than a licence for possession granted in any other place;

(c) direct that the holder of any such licence other than a licence for possession shall keep a record or account, in such form as the Local Government may prescribe, of anything done under such licence, 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 licence 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 licence or acting under any licence 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) *Vide* note (4) under sec. 13—KORAGA—1 WEIR 661.—page 36.

(2) The Act does not require a person who holds the licence for a gun or any other weapon to carry the licence on his person whenever he has the weapon with him. When 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.

MAHOMED IBRAHIM
KISHUNWA

24 O. C. 22 CR. L. J. 755
20 CAL. 444

(3) 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. 19 (f) for a breach of its provision within the extended time.

KALI NATH SINGH.

3 C. W. N. 394

(4) On the 1st Oct. 1900, the plaintiff applied to the District Magistrate to renew his existing licence for arms, and for the issue of an additional licence for fresh arms. The District Magistrate, however, cancelled the plaintiff's existing licence, and declined to grant him a licence for fresh arms. This order was sent on to defendant—the officer in charge of the police station at the village where plaintiff lived, with a direction that it should be communicated to the plaintiff, and that such arms as there might be in his possession should be attached. The defendant, accompanied by a *panch*, went to the plaintiff's house, communicated to him the contents of the order passed by the district Magistrate, and called upon him to give up the gun which he held under the cancelled licence. The plaintiff produced a gun; but the defendant suspecting that that was not the gun in respect of which the cancelled licence had been granted, searched the plaintiff's house, but no gun was found. The plaintiff thereupon sued the defendant for maliciously searching his house; *held*, that the defendant was not liable, (1) as he was acting in the discharge of a duty recognised by law when he searched the house, and (2) as it was not proved by the plaintiff that the defendant acted dishonestly and was prompted by a desire to injure the plaintiff.

NARA SIMHA SHANKAR DESHPANDE

27 BOM. 590.

18. Any licence 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 jurisdiction the holder of such licence 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 licence; or

(b) by any Judge or Magistrate before whom the holder of such licence 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 licences throughout the whole or any portion of the territories under its administration.

VI.—Penalties.

19. Whoever commits any of the following offences (namely):—

For breach of sections 5, 6, 10, 13 to 17. (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 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;

(h) 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.

So far as the Presidency of Bengal is concerned the following addition is made to this section.—

[19A. Notwithstanding anything contained in section 19,

For breaches of sections, 6, 13, 14 and 15 in respect of certain arms. whoever commits an offence under clause (a), (c), (e) or (f) of section 19 shall, if the offence is committed in respect of a pistol, revolver, rifle or shot gun, be punished with transportation for life or any shorter term, or with imprisonment for a term which may extend to fourteen years, or with fine.]

[Added by the Bengal Criminal Law (Arms and Explosives) Act, 1932 (Bengal Act XXI of 1932) and the Bengal Criminal Law Amendment Act 1934 (Bengal Act VII of 1934)].

[Section 19 is repealed and is not in force in the whole of the North West Frontier Province (N. W. F. Province Act I of 1934).]

NOTES.

(1) Under schedule II of the Code of Criminal Procedure 1898, offences under this section are bailable, and are triable by a Court of Sessions, Presidency Magistrate or a Magistrate of first class.

(2) **Clause (a).** *Vide* notes under sections 4, 5, 6 and 14 on pages, 26, 31, 32 and 37 *ante*.

(3) The possession of **gunpowder** without a licence, even though for the innocent purpose of making the fireworks, is an offence.

BOYINAPALLI VENKATARAJU

1 WEIR 655

(4) As **Khandesh** is neither a district on the **external land frontier** of British India nor a seaport district of British Burma, 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 licence.

SAKHARAM

RAT. UN. CR. C. 227

(5) 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. The **keeping of arms** under this section must be **keeping for sale**, not **keeping only**.

HARPAL RAI

24 ALL. 434

HARSHANATH CHATTERJI

42 CAL. 1153

(6) Where the weapon is made over merely for the purpose of **negotiating a sale**, such possession is not unlawful in as much as it is not possession of the weapon with the intention of using it as a weapon. Such temporary possession is not possession as contemplated by the Arms Act. Negotiations for sale where no delivery takes place is no offence. The possession of arms for which the licence has not been renewed is also punishable under section 19 (f) of the Act read with sec. 14 thereof. The word 'extent' in sec. 14 is not limited in its meaning to territorial extent.

MALCOIM AND ANR.

44 CR. L. J. 363, A. I. R. 1933 CAL. 218

(7) Manufacture of **Kirpan** is an offence under the Act. A Sikh found in possession of **Kirpans** of the length varying from 9 to 10 inches is guilty under section 19 (a) and 19 (d) as such Kirpans are not swords.

DALJIT SINGH FATEH SINGH.

A. I. R. 1930 Bom. 153.

BASTA SINGH

A. I. R. 1923 LAH. 267.

(8) 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.

CHHOTÉ

A. I. R. 1923, ALL. 33

(9) **Clause (b).**—*Vide* notes under section 5, page 31 *ante*.

(10) 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.

VENKIAH

1 WEIR 657

(11) 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. The room was accessible from outside. The accused were convicted under s. 19 (b): *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.

SUDHANYA BAWALI

21 C. W. N. 839

(12) **Clause (c).**—*Vide* notes under s. 13, page 36, *ante*.

(13) 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. Unless he is licensed to carry the weapon and is not exceeding the terms of his licence he may be properly convicted under s. 19 (c).

WILLIAMS

ALL. W. N. 1891, 208.

BHURE

15 ALL. 27

(14) 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.

MUHAMMAD ISMAIL ROWTHER

35 MAD. 596.

(15) *Vide* note (16) under sec. 6—ORI—A. I. R. 1929, OUDH 157, page 34.

(16) *Clause (d)*,—*Vide* notes under s. 10 page 35, *ante*.

(17) Where a person is accused of having, **more cartridges in his possession** than is covered by his licence, it is for the prosecution to prove definitely that the number of cartridges in his actual possession on any particular date exceeded the number covered by his licence. The Court cannot be called upon to draw an inference that he had in fact a larger number of cartridges in his possession on the conjectural ground that he could not have used those that he transported on the previous occasion in the meantime. An order for this inquiry cannot be made against a person who has been discharged unless the order is perverse.

DAULAT RAM

A. I. R. 1933 LAH. 166, 33 CR. L. J. 190.

(18) Where a person orders a gun from a dealer in Bombay ostensibly for an intending purchaser but in fact upon his own account, the act does not amount to offence of **transporting without licence under rule 19 (d)**. Under rule 24 of the Arms Rules it is for the consignor and not for the consignee to apply for and obtain licence and when the transporting is done by dealer in Bombay, it is fully covered by the licence. Conviction under s. 19 (d) cannot in such a case be sustained. It is sufficient that the person ordering the gun should, under rule 22, hold a licence to possess the gun and if he is found without one he is liable to prosecution, on receipt of the weapon for possessing it without licence.

VIRASAMI NAIDU

A. I. R. 1929, MAD. 864.

(19) *Clause (e)*.—*Vide* notes under ss. 13 and 14, pages 36 and 37 *ante*.

(20) 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 licence and that the gun should not be confiscated.

HURLEY

1881 ALL. W. N., 7.

(21) 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.

SHAIKH MOWLA SAHIB

1 WEIR 660.

(22) The **carrying of a spear** is not an offence under s. 19 (e), because spears are exempted from s. 13.

GANPAT

RAT. UN. CR. C. 507.

(23) 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.

TENKURAMAN BASAWAN

1 WEIR 662

(24) It must constantly happen that sportsmen on their way to and from the field hand over their guns to their **servants** 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 bearers 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.

NGA MYAT AUNG

U. B. R. 1897-1903 VOL. I, 1.

(25) 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 (e) 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*, 22 All. 118 (*Vide* note (47) on page 48), *post*. *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.

SONIA TELI

14 Q. P. L. R. 112.

(36) Accused was prosecuted by the police 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 the 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 term 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.

KAKA

4 L. B. R. 247.

(27) The accused was going armed without a licence within the meaning of s. 19 (e) and was not covered by his masters 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. The mere temporary possession, without a licence, of arms for purposes other than their use was not an offence within the meaning of s. 19.

HATAMATAI Walad MEHERKHAN

4 S. L. R. 214.

KOYA HANSJI

37 BOM. 187.

TOTA RAM

16 ALL. 276

(28) If the servant carries the gun for the purpose of the master or in the presence of his master, that may not be an offence under the Act; but to get 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).

VAIRAVAN SARVAI

A. I. R. 1924, MAD. 668, 47 MAD. 438.

(29) Where the weapon which was found to fit a *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*, that 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.

SURJAN SINGH

A. I. R. 1923, LAH. 10.

(30) A person who carries about a gun without any ammunition can be said to go armed. To define "armed" as meaning "one who is equipped with an arm capable of immediate use as an arm" seems contrary to the vernacular meaning of the word

"armed" and is also not safe. The offence is punishable under s. 19 (e) and the sanction of the District Magistrate is not required.

MUHAMMAD PUNJA

A. I. R. 1925, SIND 177.

(31) An accused charged under s. 452 I. P. C. for house trespass with preparation to cause hurt cannot be convicted under s. 19 (e) without a specific charge under the latter and with no opportunity to the accused to meet the altered charge.

NGA SHWE TON

A. I. R. 1927, RANG. 32, L. B. R. 1893-1900, 284.

(32) The licensee was convicted under s. 19, in respect of his having gone armed with his gun in a marriage procession; *Held*, that a marriage procession neither comes necessarily under the category of a religious procession nor of a public assemblage within the condition of the licence and therefore no special permission of the District Magistrate was required for the carrying of arms in such a marriage procession.

SETH BALKISHAN

A. I. R. 1928, NAG. 219.

(33) Where an accused having pleaded guilty was convicted under s. 19 (e) by the first class Magistrate and the Sessions Court acquitted him, it was held, that, as under s. 412 Cr. P. C., no appeal lay from the conviction, the order of acquittal made by the Court of Sessions was made without jurisdiction and must be set aside.

NGA LU GALE

A. I. R. 1928, RANG. 49.

(34) The offence under s. 19 (e) is distinct from offence under s. 324 I. P. C., and therefore a trial for an offence under s. 324 I. P. C., would not be a bar to the proceedings under s. 19 (e) of the Act

MANJUBHAI GORDHANDAS

A. I. R. 1929, BOM. 283.

(35) Clause (f). No proceedings under s. 19 (f) can be instituted without the previous sanction of the District Magistrate, or, in a Presidency town, of the Commissioner of Police, required under s. 29 of the Act. Also persons punishable under this section are not to be arrested without the previous sanction of the District Magistrate.

BOMAYA CHETY

5 Mad. 26,

NGA POKA

L. B. R. 1892-1896, 536.

PA TWE WA

U. B. R. 1892-1896, VOL. 1, 2.

GOPAL KRISHNA IYER

9 MAD. L. T. 475.

AHMED HUSAIN

27 CAL. 692, 4 C. W. N. 750.

ANGAD

A. I. R. 1929, ALL 69.

(36) The mere possession of arms, other than those mentioned in s. 14 is not a punishable offence.

NGA PO KA

L. B. R. 1872-1892, 536.

(37) 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. Where the offence has been committed by the accused, who was in possession of arms, the fact that the legal procedure (s. 25) was not followed in making the search would not, by itself, be sufficient ground to acquit the accused.

PA TWE WA

U. B. R. 1882-1896 VOL. I, 2.

(38) 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.

SUNDAR SINGH

24 P. R. 1913 Cr.

(39) The provisions of s. 32 of the Arms Act, 1860, not being in force in Dera Ghazi Khan, the previous sanction of the District Magistrate is necessary for a prosecution under s. 19 (f), in that District. Prosecution without such sanction is illegal.

ALIBEG

A. I. R. 1932 LAH. 869, 35 Cr. L. J. 1934, 109

(40) The previous sanction of the District Magistrate is required to a prosecution under sec. 19(f) not only in the Peshawar but also in the other four districts of the province,

FAZAI RAHIM

A. I. R. 1933 PESHAWAR 29, 34 Cr. L. J. 870

(41) For the purpose of supporting a conviction under s. 19 (f) and s. 20, the articles discovered must be clearly proved to have been in the possession of the accused. Admissions made to police are generally inadmissible as evidence under s. 25 of the Evidence Act.

NGA THA KU

10 BUR. L. T. 121.

(42) In the **Bijnor district** and certain other parts of the United Provinces in the north of the rivers Jumna and Ganges the sanction of the District Magistrate for a prosecution under s. 19 (f) is not necessary, as rule 92 of the U.P. Rules shows that all parts of the U. P. north of the river Sone have been disarmed.

AMIR AHMAD

A. I. R. 1926 ALL. 143

(43) Where the accused is clearly in possession of arms and ammunition without a licence, **no sanction** is necessary for starting prosecution under section 19 (f).

ABDUL GHAFUR

A. I. R. 1929 ALL. 68.

(44) According to s. 29, **sanction of the District Magistrate** was necessary to prosecute a person under s. 19 (f) for possessing arms without a licence in the district of Aligarh, only for three months after 15th March 1878 and not subsequently. [A. I. R. 1926 ALL. 143 and A. I. R. 1929 ALL. 68, (notes (38) and (39) above) *distd.*]

ANGAD

A. I. R. 1929 ALL. 69.

(45) 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 of the Act is necessary for a prosecution under s. 19 (f) for possession of a gun without licence.

PERUMAL CHETTI

1 WEIR 660.

(46) A collection of firearms, consisting of four small cannon, four pistols and thirty-one musket, had been kept as objects of worship in a **Sikh Temple in Patna** for upwards of two centuries. The Mahant of the temple neglected to take out a licence in respect of these arms. A police inspector, who was appointed to see that the provisions of the Arms 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 by the Deputy Magistrate of Patna 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 that their value and the fine should be divided between the informer, and the police inspector. *Held*, with reference to Act X of 1872, s. 579, and the heading to Schedule IV of the same Act, and to s. 19 (f) of Act XI of 1878, that the proceedings of the police inspector and the conviction of the accused were not illegal. There is nothing in the Arms Act to exempt the custodians of a temple from complying with the requirements of the Arms Act either by taking out a licence or obtaining exemption under s. 27. S. 25 of the Arms Act appears to refer to cases in which the Magistrate considers that arms whether under a licence 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.

TEGHA SINGH

8 CAL. 473

(47) *Vide* note (3) under sec. 20, AHMED HUSAIN—27 CAL. 692, page 55, *post*.

(48) 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. 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.

SANGAM LAL

15 ALL. 129.

(49) Where an unlicensed gun is found in a house where the members of a **joint Hindu family** live, a presumption is raised against all the adult male members that it was in their possession and control and they might one and all be tried on the charge under sec. 19 (f).

SIKHDAR

33 Cr. L. J. 719

(50) A license of 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.

KISHUNWA

20 CAL. 444.

(51) Certain persons, amongst them certain Rajas and members of the N. W. P. Legislative Council, 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 persons 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.

GANGADIN

22 ALL. 118, A. W. N. 1899, 213,

(52) In a prosecution under s. 19 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, which 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.

SHER ZAMAN

52 P. R. 1905 Cr.

(53) When a person who apparently had a licence 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, held, that such a temporary custody of the gun by the servant did not amount to "possession" or "control" contemplated by s. 19 (f).

KHUDDA GOND.

4 N. L. R. 140 Cr.

(54) A servant was found using a gun which was lent to him by his master who held a licence for the gun for his own purpose; Held that the act of the accused was an infringement of the possession of s. 19 (f) of the Act.

MADHO LAL

13 C. W. N. 124

(55) The petitioner was carrying a gun on behalf of his master with the licence to the Magistrate for the purpose of a renewal of the licence. 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 provision of the Act; Held, that the conviction of the petitioner cannot be upheld.

CHARU CHANDRA GHOSH

41 CAL. 11, 17 C. W. N. 978.

GOPAL

18 CR. L. J. 297

MALUA

20 " " " 432

(56) 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 Choudhuri 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 Session Judge on appeal reduced the fine to Rs. 100. The accused was again prosecuted under s. 19 (f) of Act XI of 1878; 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 which he snatched it up and fired it was not the possession contemplated by s. 14 of the Arms Act.

PRABHAT CHANDRA CHAUDHURI

35 CAL. 210, 12 C. W. N. 272.

(57) Where a certain firearm has been found from the possession of the accused who had concealed it under a heap of straw in order that visitors in the house should not see them, held that the concealment was not with the intention specified in s. 20 and the accused could, therefore be convicted only under s. 19 (f).

AZU WALAD BANGAR

1 S. L. R. 18, Cr.

(58) Vide note (4) under s. 14—AKHIL NATH DATTA,—15 C. W. N. 440—page 37.

(59) The first part of s. 20 does not apply to cases of concealments or of attempts of concealments made 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, only

on being arrested. It is meant to deal with cases of concealment 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).

GOPAL KRISHNA IYER

9 M. L. T. 475.

(60) 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 licence; *Held*, that the accused was rightly convicted, for he was the only person who had the possession and the control of the weapon.

JAFU BABU

14 BOM. L. R. 501.

(61) 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.

KHEM SINGH

8 P. R. 1915 CR.

(62) A person carrying a revolver in his pocket without a licence is guilty under s. 19 (f) and not under s. 20. When a revolver was found in the possession of one of the two men sitting together and it was proved that one time the revolver was possessed by one of the other of the two, both are guilty of possessing arms without a licence.

UDHAM SINGH

27 P. W. R. 1912 CR., 15 CR. L. J. 637.

(63) 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.

NISHI KANT LAHIRI

20 C. W. N. 732.

(64) A discovery of arms is on the information supplied by the accused that he had buried a revolver in his field, fulfils the requirements of sections 19 (f) and 20.

ISHAR SINGH

72 P. L. R. 1916.

(65) A pardanashin lady and her minor son, a young man of 17 years of age, lived together in the family house. In their house was a small collection of arms of various kinds which had belonged to the father who, as an honorary magistrate, was exempted from the operation of the Arms Act. There was evidence that the arms were kept clean and that the son at all events took a certain amount of interest in them. *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 s. 19, (f), was not open to objection.

GHULAM HUSAIN

40 ALL. 420

(66) 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.

ALIF DIN

A. I. R. 1922 LAH. 466.

(67) 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 therefore be given the benefit of doubt.

ALIA

A. I. R. 1923, LAH. 513.

(68) The accused was in secret possession of local made guns and cartridges. Sanction was obtained for prosecution under s. 29, but he was convicted both under s. 19 (f) and s. 20; *Held* that the conviction under s. 20 was legal but that under s. 19 (f) was bad for want of sanction.

NGA THA HLA

A. I. R. 1924 RANG. 85.

(69) A Sikh possessing or wearing one sword commits no offence under s. 19 by virtue of the exemption under Schedule II.

HARI SINGH

A. I. R. 1924, LAH. 600; 308

(70) The accused's father held a licence for a gun. The licence did not mention that he was entitled to hand over his gun to a retainer. The accused took out the gun of his father for the purpose of shooting birds and was found out by an officer of

the police and tahsildar; *Held*, that though the spirit of the law was not contravened, yet, the letter was certainly contravened. The sentence was reduced to a fine of Rs. 25

MUHAMMAD HASSAN

A. I. R. 1924 ALL. 175, 47 ALL. 267.

(71) When communal riots were taking place in different quarters of the town, the accused, **brother of a licence holder**, took out his brother's gun and fired shots in the air so that people mischievously inclined might know that it was not safe for them to do any mischief to the people living in the house; *Held*, that the possession of the gun was on **behalf of the brother** and the accused was not guilty under s. 19 (f).

BABU RAM

A. I. R. 1925, ALL. 396, 47 ALL. 606

(72) Something more than a mere **ordinary concealment** should be established in order to bring the possession within the meaning of s. 20. Where the gun was upon a charpoy on which the accused was sitting and was covered with a *dotahi* and the accused had been convicted under s. 20 the conviction was altered into one under s. 19 (f). [Ahmad-Husain 27 Cal. 692 *folld.*—*Vide* note (3) under s. 20, page 55.]

CHANNAN SINGH

A. I. R. 1924, LAH. 395, 6 LAH. 151

(73) Each case of **concealment of arms** must be decided on its own facts as to whether it falls under s. 19 or s. 20 of the Arms Act. For a conviction to fall under s. 20 there must be some special indication of an intention that the possession of the arms was being concealed from a public servant or from a railway official.

CHET SINGH

A. I. R. 1926 LAH. 262

(74) **Proceedings are 'instituted'** against a person in respect of an offence under s. 19 (f) of the Arms Act only when he is placed before the Court. The fact that the sanction of the Commissioner of Police for a prosecution under s. 19 (f) was not obtained before entering the case in the case book and making out a charge but only before placing the accused before the Court does not, therefore, vitiate a trial.

ISMAIL KHAN

A. I. R. 1927 CAL. 721

(75) **Want of compliance with the provisions of s. 25** will not render conviction under sections 19 and 20 illegal.

SHIAM LAL

A. I. R. 1927 ALL. 516.

(76) If a person carries on his person a small weapon such as a pistol, a dagger, or a blade of a *chhavi*, he naturally puts it in his pocket or *dab*, and if with that weapon in his pocket or *dab* he is in his house or in his village or in a *bazar* or in a court compound, it cannot be inferred that he was so **carrying the weapon** with the intention specified in section 20.

GHULAM MOHAMMED

A. I. R. 1927 LAH. 561

(77) Where two or more **persons conspire to possess firearms** without a licence they are guilty of an offence under s. 120 B. I. P. C., read with S. 19 (f) of the Arms Act.

NIRMAL CHANDRA DE

A. I. R. 1927 CAL. 265, 31 C. W. N. 239

(78) Where an article, the possession of which is forbidden by the Arms Act, has been discovered by reason of **information given by an accused person**, his conviction based upon that evidence is valid.

NAURANG SINGH

A. I. R. 1927, LAH. 900 (1)

(79) Where the **cartridges of a rifle** were found in the house of a person who was charged with theft, and he stated that the cartridges were not within his knowledge but might have been **placed in the house by his brother** who had formerly been employed in the military, *held*, that he cannot be convicted of an offence under sec. 19 (f) of the Act.

MANIGER

A. I. R. 1927, CAL. 571

(80) Where the **portion of a house** in which an article is found is not in the exclusive possession of any one member of the **joint family**, but is used by or accessible to, all the members of the family there is no presumption that the article is in the possession or control of any person other than the house-master or the head of the family. But it is open to the prosecution to prove that the possession was with some other member of the family, and that member would then be liable to account for it. (15 All. 129, Sangam Lal (note 44 on page 47) *folld.*)

DULA SINGH AND ANOTHER

A. I. R. 1928, LAH. 272.

(81) Where the form of a licence contained a description of a gun as a **full barrelled gun**, it cannot be held as a licence to hold a **half barrelled gun**.

MURLI SINGH

A. I. R. 1928, LAH. 759 (1).

(82) As in the case of a suit, a **proceeding is instituted** when for the first time the adjudication of a Court of competent jurisdiction is sought. Therefore the expression "**proceedings**" in s. 29 mean legal proceedings in Court and not searches or arrests or investigations made by the police in exercise of the powers conferred upon them by the Criminal P. C., or any other law.

GHULAM NABI AND OTHERS

A. I. R. 1928, PAT. 146.

(83) Before the Police entered the house which was to be searched, certain persons inside were seen throwing down something from their person, and on a search being made **certain cartridges were discovered** under the **chowki** on which the accused were sitting conversing with others. The cartridges were not proved to be in their possession, nor was it proved that they knew that they were there; **Held**, that the charge against them rested on suspicion and their guilt not being proved they cannot be convicted under section 19 (f).

BAZLAR RAHMAN AND OTHERS

A. I. R. 1929, CAL. 302.

(84) In the case of a **house occupied by a joint family** there is an initial presumption that an article found therein is in the possession of the head of the family: thus where a house was occupied by a person, his father who was 80 years old, and the person's wife, and a **chhavi** blade was found in wife's possession the mere fact that the father is 80 years old is not sufficient to establish that the person was in possession of the **chhavi**.

KARAM SINGH

A. I. R. 1929, LAH. 872 (1).

(85) Sentence of **solitary confinement cannot be awarded** under the Arms Act.

NAZIR SINGH

LAH. 1924, 667

(86) Under section 19 a Magistrate having found the accused guilty, was bound to **pass some sentence** though it was open to him to pass a nominal sentence. S. 24 shows that the order of confiscation is an addition to the sentence that may be passed.

GANGAMMA

1 WEIR 664.

(87) The Arms Act is **highly penal and must be strictly construed**.

SANGAM LAL

15 ALL. 129.

(88) In a case of **technical offence, a nominal sentence is always quite sufficient** to meet the ends of justice.

SANT SINGH

16 P. R. 1910 CR : 22 P, W R. 1910 CR.

EBRAHIM ALIBHOY

7 B. L. R. 474.

(89) A penal enactment like the Arms Act must be **construed in favour of the individual person** where any doubt exists.

SETH BALKISHAN

A. I. R. 1928, NAG. 219.

(90) Where the accused was bound under section 110 Cr. P. C., and was made to execute a bond in the sum of Rs. 500/-, with two sureties on the ground that he was a habitual thief and dacoit, and where before the expiry of the bond, he was convicted for being in possession of a **chhavi** under s. 19 (f) and sentenced to three years imprisonment, where it was proved that while he was found in possession of the **chhavi** he was on a wandering expedition and where after his conviction, the Courts below forfeited the full amount of the security furnished by the sureties, **held**, that the order of confiscation of security was fully justified.

BUTA SINGH AND RODA SINGH

3 P. R. 1917 CR.

(91) *Vide* note (9) to sec. 13—BALAJI MANAJI PATEL—A. I. R. 1930 BOM. 174, page 37.

(92) R, a boy of 18, **occupied with others a house** which the police searched in connection with a burglary. In the Zenana portion of the house, a room was locked. R. who had not the key, got it from a woman in the Zenana, and in that room two cartridges and one double barrelled gun were found. R. was sentenced, but was acquitted on appeal. On appeal by local Govt. against acquittal it was **held** that R could not be convicted under s. 19 (f) as the prosecution failed to prove that the gun and cartridges were recovered from R's possession. The word "**locality**" is a comprehensive word and may well include villages within three or four miles of the village where the search is to be conducted.

MAST RAM

A. I. R. 1931 OUDH. 115.

(93) An essential ingredient of sec. 20 is that the man doing any act mentioned in clause. (a), (c), (d), or (f), of sec. 19, should do it in such a manner as to indicate an intention that such act may not be known to any public servant and consequently merely keeping of a *chhavi blade* in one's own house and possessing a stick that would fit into it, cannot be regarded as falling within the purview of sec. 20. The case would fall more appropriately under the definition of sec. 19 (f).

IDA

A. I. R. 1931 LAH. 561 (1), 33 Cr. L. J. 346.

(94) The accused who was the servant of a license-holder was in possession of his master's gun on behalf of his master who was away and who had left the place where the accused was guarding his master's money for a short time only: *Held*, that the accused was not liable to be convicted.

PARMESHVAR SINGH

A. I. R. 1933 PAT. 600, 35 Cr. L. J. 1934., 127.

(95) A stolen revolver was found in possession of the accused who were engaged in collecting arms and explosive substances and it appeared that the theft was not at all recent: *Held* that the mere fact of possession was not sufficient for a conviction under s. 411, Penal Code. A person cannot be convicted both under ss. 20 and 19 (f), in respect of the same revolver.

DHARANIKANT CHAKRABARTY AND OTHERS

35 Cr. L. J. 1934. 227.

(96) A joint trial of the accused for offences under s. 29, Frontier Crimes Regulation and s. 19, Arms Act, is not open to any objection.

AKBAR

35 Cr. L. J. 1934 399

(97) When the house of the accused was searched by the Police on receipt of certain information, an unlicensed muzzle loading pistol was found concealed under a heap of grain inside a vessel and inside the barrel of the pistol some percussion caps were also found on removing a wad of cloth from the muzzle of the pistol. It appeared that only the accused and his sons and their wives were living in the house in which the pistol was found: *Held*, that it was most unlikely that an article of such size and description as the pistol should remain concealed in the house without the knowledge of the head of the family and that in the circumstances there could be no doubt that the accused must have been aware of the presence of the pistol in his house and he was "in possession and control" of it within the meaning of s. 19 (f), Arms Act. Every case of this kind must be decided upon its own facts.

JWALA

35 Cr. L. J. 1934 428, A. I. R. 1934 ALL. 548.

(98) If a man fires off a firearm while a Police Officer is attempting to arrest him, the natural conclusion is that he is attempting to shoot the Police Officer. If the defence is that he had merely the intention of frightening the police officer by firing in the air, then the burden of proving that fact is upon the defence. Wherein a trial by jury the accused was charged with an offence under s. 19 (f), Arms Act, and the jury gave a verdict of not guilty, but on reference by the Sessions Judge the High Court found him guilty under s. 19 (f) read with s. 20, Arms Act: *Held*, that it was open to the High Court to convict him under s. 19 (f), read with section 20, Arms Act, though he was charged with an offence under s. 19 (f) only.

YASHPAL

A. I. R. 1933 ALL. 627, 35 Cr. L. J. 1934 578.

(99) The phrase, "the possession of the arms or control over the arms" referred to in clause (f) of s. 19 of the Arms Act, implies physical possession or control of the arms or ammunition in respect of which the charge has been lodged. Where the arms are found concealed underneath a gunny cloth spread inside a bullock cart and the persons who jumped out of it and tried to escape but were caught, must alone be deemed to be in joint physical possession of the arms, found in the cart, and they alone were liable to punishment under s. 19 (f) of the Arms Act.

LAKHAN SINGH AND OTHERS

35 Cr. L. J. 1934, 973, A. I. R. 1934 OUDH 220

(100) The offence of being in possession of arms without a licence is a cognizable offence and the fact that the sanction of the District Magistrate is necessary to constitute proceedings in respect of a specific offence itself is no bar to the institution of proceeding in respect of an offence of criminal conspiracy to commit the substantive offence itself.

MAGANLAL BAGDI AND OTHERS

35, Cr. L. J. 1934, 1097.

(101) When a person is acquitted of the charge brought against him in respect of the possession of cartridges, he cannot, as long as the order of acquittal remains in force, be deemed to have committed that offence. The fact that certain persons were

convicted in respect of possession of a stolen revolver under ss. 411 and 414, Penal Code, respectively, is no bar to their being convicted in respect of it under s. 19 (f) of the Arms Act.

MUNNOO

A. I. R. 1933 OUDH 470, 35 CR. L. J. 1934, 36.

(102) The definition of arms in s. 4, Arms Act, is intentionally wide and the list of weapons referred to therein is not exhaustive. It cannot be said that every type of air gun or air pistol must be excluded from the definition. The essence of the offence under s. 19 (f) is the possession of arms without a license and a license is required for each separate weapon. When once the prosecution fails to connect the accused with knowledge of the revolver, he cannot be convicted of conspiracy. It would be impossible to infer merely from the fact that he gave shelter to the co-accused that he was privy to any offence the latter might commit. In such a case the accused is entitled to an acquittal.

ABANI MOHAN BHATTACHARJEE

35 CR. L. J. 1934, 766.

(103) Whether a case falls under sec. 19 (f) or sec. 20 depends on the facts of each case; but for sec. 20 to apply there must be some special indication of an intention to conceal the possession of the arms from a public servant, railway official or public carrier. Where two revolvers, some cartridges and a pistol were recovered from a trunk which was carried in a railway compartment; held that the accused must be presumed to have intended to conceal them from railway officials and the offence fell under sec. 20.

PREM KUMAR

33 CR. L. J. 110.

(104) Where in a search of two persons revolver cartridges are found in the person of one of them but nothing incriminating is found in the other, sec. 34, I. P. C., does not apply and the conviction of the latter under sec. 19 (f), Arms Act, is not proper, nor can he be convicted for abetment in as much as conviction for abetment will be justifiable only if the accused had an opportunity to meet a case based on sec. 28 of the Arms Act and the Court was satisfied with the proof of the elements of that offence.

MANMATHA NATH BISWAS

A. I. R. 1933 CAL. 132, 34 CR. L. J. 299.

(105) Where in the case of a house search, two loaded cartridges were found in a cornbin in the house of the accused, and he was prosecuted for an offence under the Arms Act, on the ground that he being the head of the family should be held responsible for the arms recovered and was convicted under sec. 19 of the Arms Act: held, that in all such cases it was necessary to prove not only the presence of the article in the house but the possession of some particular person over the article in order to justify a conviction. (Sikhdar 33 CR. L. J. 719 (note (45, on page 47 over ruled).

KAUL AHIR

A. I. R. 1933 ALL 112, 34 CR. L. J. 12.

(106) Where the Police suspecting that the accused's house contained stolen property, searched the house and the accused led them to a cattle shed near the house which was open and accessible to outsiders and produced a revolver from there and it appeared that the accused was living in the house with his father and brother. Held, that although it was the accused who led the Police to the shed and pointed out the place where the revolver was lying, yet the mere knowledge of the fact that the revolver was lying in the shed or the pointing out the place from which it was actually found, without proof that the place was in the exclusively possession of the accused, is not sufficient to bring home the offence and that he was not guilty under s. 19 (f), Arms Act.

GIAN CHAND

A. I. R. 1933 LAH. 314, 34 CR. L. J. 1256.

(107) Where a magistrate under sec. 30 powers committed two persons to the sessions the charges being, respectively, murder and a charge under sec. 19 (f) of the Arms Act against the first accused, and attempted murder and similar charge under the Arms Act against the second accused and the Sessions Judge after disposing of the case against the first accused for murder, recommended that the committal for the second charge be quashed; held that the magistrate acted rightly in framing charges and passing committal orders under both the Arms Act and the Penal Code and sending the cases up for trial to the Sessions Court.

UJAGAR SINGH

34 CR. L. J. 314.

(108) Where a person is charged under sec. 19 (f) of the Arms Act, pleaded guilty and finding that the possession of arms with him was connected

with his political views, he was awarded the maximum sentence under the section: *held* that it was very necessary that the powers of the Court should be employed in putting down these very dangerous crimes of possession and concealment of arms, and that there was nothing calling for interference of the High Court.

NIL RATAN GANGULY

60 CAL. 471, A. I. R. 1933 CAL. 124, 34 CR. L. J. 633.

(109) The previous sanction of the District Magistrate is required for a prosecution of s. 19 (f) of the Arms Act not only in the Peshawar but also in the other four districts of the Frontier Province. It is an elementary principle of the construction of statute that the words have to be read in their literal sense. The courts cannot put upon them a construction which they believe to represent the intention of the legislature at the time of passing of the statutes.

FAZAL RAHIM

34 CR. L. J. 670.

(110) Where under sec. 19 (f) and sec. 20 of the Arms Act, sentence was passed only under sec. 20, but not under sec. 19 (f) and on appeal the Sessions Judge set aside the conviction on the ground of the magistrate having no jurisdiction to try the accused under sec. 20 and observed that if the magistrate wished to proceed with the matter, he might commit the accused to the Sessions Court, but magistrate without holding any further inquiry under Chapter XVIII Cr. P. C. committed the accused to Sessions under both the sections: *Held* that the order of commitment having been made without an inquiry under Chapter XVIII Cr. P. C., was wrong in law, and *held* further, that sec. 403 Cr. P. C. did not operate as a bar to the prosecution of the accused under sec. 19 (f) or sec. 20 of the Arms Act.

NAGENDRA NATH SARKER

33 CR. L. J. 770

(111) Possession of those parts of a revolver which have not so changed their original character as to have ceased to be parts of a fire-arm, and with nothing to suggest that they could not be assembled together either with or without other parts in such a way as to be capable of being used as a fire-arm, is an offence under s. 19 (f), Arms Act. In such cases the question is not so much whether the particular weapon is serviceable as a fire-arm but whether it has lost its specific character and has so ceased to be a fire-arm.

SANTA SINGH PANJABI

A. I. R. 1933 CAL. 495, 37 C. W. N. 234, 34 CR. L. J. 916.

(112) When a person is found in the possession of a stolen revolver without a license, he can be tried under the Arms Act as well as under the Penal Code and can be punished under both the enactments in as much as it is not the act or omission which constitutes the offence under the two enactments. Section 26, General Clauses Act, is no bar to the double punishment. Where an article stolen in October was recovered from the possession of the accused in the following May, the court under s. 114, Evidence Act is entitled to presume that the accused is either a thief or retainer of stolen goods, knowing them to be stolen unless he can account for his possession of the goods.

REOTA

34 CR. L. J. 1018.

(113) *Vide* note no (9) under sec. 14—SACHINDRA KAR GUPTA—A. I. R. 1933 CAL. 592, 34 CR. L. J. 125, page 38.

(114) *Vide* note (3) under Sec. 20—AHMED HUSAIN—27 Lah. 692, page 55, *post*.

(115) *Vide* note (29) under sec. 20, PIR SABJAT ULLAH SHAH—A. I. R. 1931 Sind 9, pages 57-58, *post*.

(116) *Vide* note (2) under Sec. 21, KALYAN CHAND GOPAL CHAND—A. I. R. 1933, Bom. 35, page 59, *post*.

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.

NOTE. So far as the Province of Bengal is concerned, the following additions have been made to this section.

[Provided that if an offence committed under this section is in respect of a pistol, revolver, rifle or shot-gun, the offender shall be punished with transportation for life or any shorter term, or with imprisonment for a term which may extend to fourteen years, or with fine. [The Bengal Criminal Law (Arms and Explosives) Act XXI of 1932.]

[20A. Notwithstanding anything contained in this Act, who-
Enhanced punish- ever goes armed with a pistol, revolver, rifle
ment in certain or other fire-arm in contravention of the pro-
cases. visions of section 13, or has any such fire-
arm in his possession or under his control in contravention of
the provisions of section 14 or section 15, under circumstances
indicating that he intended that such firearm should be used for
the commission of any offence of murder, shall, if he is tried by
Commissioners appointed under the Bengal Criminal Law Amend-
ment Act, 1925, be punished with death, or with transportation
for life or any shorter term or with imprisonment for a
term which may extend to fourteen years, to which fine may
be added. (The Bengal Criminal Law Amendment Act VII of 1934)]

NOTES.

(1) Under Sch. II., Cr. P. C. 1898, offences under this section are not bailable and triable only by a Court of Sessions. They can, of course, be tried by officers specially empowered under S. 30 of the Code.

(2) An offence under s. 20 is not triable by a first class magistrate.
SHUNSHUNNISA

2 L. B. R. 244.

(3) The license of the accused for the possession of fire-arms and ammunition was cancelled in August 1897. He was suspected of being in possession of arms after the cancellation of his licence. The Assistant Magistrate of Purneah, with a number of police, went to the house of the accused to search for arms. They surrounded it, arrested the accused and then searched his house. 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 re-loading were discovered in the house. There was nothing to show that the sanction required by s. 29 of the Arms Act was given before proceedings were instituted against the accused. Accused was convicted and sentenced under ss. 19 and 20 of the Arms Act. Held that the conviction under s. 20 was not sustainable but that the accused must be taken to have had arms and ammunition as defined by the Arms Act, within the meaning of s. 19 (f) and the conviction under that section must be confirmed. Held, further, that with respect to the question of whether or not any previous sanction had been given under s. 29, the Court was not unmindful of the suggestion that the charge in this case was, in the first instance, in respect of an alleged offence under s. 20 and not of one under s. 19; but that ss. 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.

ARMED HUSAIN

27 CAL. 692.

with his political views, he was awarded the maximum sentence under the section: *held* that it was very necessary that the powers of the Court should be employed in putting down these very dangerous crimes of possession and concealment of arms, and that there was nothing calling for interference of the High Court.

NIL RATAN GANGULY

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(109) The previous sanction of the District Magistrate is required for a prosecution of s. 19 (f) of the Arms Act not only in the Peshawar but also in the other four districts of the Frontier Province. It is an elementary principle of the construction of statute that the words have to be read in their literal sense. The courts cannot put upon them a construction which they believe to represent the intention of the legislature at the time of passing of the statutes.

FAZAL RAHIM

34 CR. L. J. 670.

(110) Where under sec. 19 (f) and sec. 20 of the Arms Act, sentence was passed only under sec. 20, but not under sec. 19 (f) and on appeal the Sessions Judge set aside the conviction on the ground of the magistrate having no jurisdiction to try the accused under sec. 20 and observed that if the magistrate wished to proceed with the matter, he might commit the accused to the Sessions Court, but magistrate without holding any further inquiry under Chapter XVIII Cr. P. C. committed the accused to Sessions under both the sections: *Held* that the order of commitment having been made without an inquiry under Chapter XVIII Cr. P. C., was wrong in law, and *held* further, that sec. 403 Cr. P. C. did not operate as a bar to the prosecution of the accused under sec. 19 (f) or sec. 20 of the Arms Act.

NAGENDRA NATH SARKER

33 CR. L. J. 770

(111) Possession of those parts of a revolver which have not so changed their original character as to have ceased to be parts of a fire-arm, and with nothing to suggest that they could not be assembled together either with or without other parts in such a way as to be capable of being used as a fire-arm, is an offence under s. 19 (f), Arms Act. In such cases the question is not so much whether the particular weapon is serviceable as a fire-arm but whether it has lost its specific character and has so ceased to be a fire-arm.

SANTA SINGH PANJABI

A. I. R. 1933 CAL. 495, 37 C. W. N. 234, 34 CR. L. J. 916.

(112) When a person is found in the possession of a stolen revolver without a license, he can be tried under the Arms Act as well as under the Penal Code and can be punished under both the enactments in as much as it is not the act or omission which constitutes the offence under the two enactments. Section 26, General Clauses Act, is no bar to the double punishment. Where an article stolen in October was recovered from the possession of the accused in the following May, the court under s. 114, Evidence Act is entitled to presume that the accused is either a thief or retainer of stolen goods, knowing them to be stolen unless he can account for his possession of the goods.

REOTA

34 CR. L. J. 1018.

(113) *Vide* note no (9) under sec. 14—SACHINDRA KAR GUPTA—A. I. R. 1933 CAL. 592, 34 CR. L. J. 125, page 38.

(114) *Vide* note (3) under Sec. 20—AHMED HUSAIN—27 Lah. 692, page 55, *post*.

(115) *Vide* note (29) under sec. 20, PIR SABJAT ULLAH SHAH—A. I. R. 1931 Sind 9, pages 57-58, *post*.

(116) *Vide* note (2) under Sec. 21, KALYAN CHAND GOPAL CHAND—A. I. R. 1933, Bom. 35, page 59, *post*.

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.

NOTE. So far as the Province of Bengal is concerned, the following additions have been made to this section.

[Provided that if an offence committed under this section is in respect of a pistol, revolver, rifle or shot-gun, the offender shall be punished with transportation for life or any shorter term, or with imprisonment for a term which may extend to fourteen years, or with fine. [The Bengal Criminal Law (Arms and Explosives) Act XXI of 1932.]

[20A. Notwithstanding anything contained in this Act, who-
 Enhanced punish- ever goes armed with a pistol, revolver, rifle
 ment in certain or other fire-arm in contravention of the pro-
 cases. visions of section 13, or has any such fire-
 arm in his possession or under his control in contravention of the provisions of section 14 or section 15, under circumstances indicating that he intended that such firearm should be used for the commission of any offence of murder, shall, if he is tried by Commissioners appointed under the Bengal Criminal Law Amendment Act, 1925, be punished with death, or with transportation for life or any shorter term or with imprisonment for a term which may extend to fourteen years, to which fine may be added. (The Bengal Criminal Law Amendment Act VII of 1934)]

NOTES.

(1) Under Sch. II., Cr. P. C. 1898, offences under this section are not bailable and triable only by a Court of Sessions. They can, of course, be tried by officers specially empowered under S. 30 of the Code.

(2) An offence under s. 20 is not triable by a first class magistrate.

SHUNSHUNNISA

2 L. B. R. 244.

(3) The license of the accused for the possession of fire-arms and ammunition was cancelled in August 1897. He was suspected of being in possession of arms after the cancellation of his licence. The Assistant Magistrate of Purneah, with a number of police, went to the house of the accused to search for arms. They surrounded it, arrested the accused and then searched his house. 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 re-loading were discovered in the house. There was nothing to show that the sanction required by s. 29 of the Arms Act was given before proceedings were instituted against the accused. Accused was convicted and sentenced under ss. 19 and 20 of the Arms Act. *Held* that the conviction under s. 20 was not sustainable but that the accused must be taken to have had arms and ammunition as defined by the Arms Act, within the meaning of s. 19 (f) and the conviction under that section must be confirmed. *Held*, further, that with respect to the question of whether or not any previous sanction had been given under s. 29, the Court was not unmindful of the suggestion that the charge in this case was, in the first instance, in respect of an alleged offence under s. 20 and not of one under s. 19; but that ss. 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.

AHMED HUSAIN

27 CAL. 692.

(4) **Proceedings may be instituted against any person under s. 20 for the secret possession of arms in contravention of the provisions of sec. 14 or sec. 15 without previous sanction under sec. 29.** If however in such a case the Magistrate finds that the intention to conceal the possession is not made out he should discharge the accused under sec. 20. Proceedings under sec. 19 (f) may then be instituted if and when the necessary sanction thereto is given, under sec. 29. The absence of sanction is a defect which cannot be cured by sec. 537. Cr. P. C.

NGA PO CHIN

8 L. B. R. 452, 9 BUR. L. T. 287

(5) 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. *Held* also, that where unlicensed arms are found concealed upon premises which though legally the joint property of a joint Hindu family, are in fact, at the time of the finding in the exclusive possession and control of one member of the family can properly be held to be in possession of such arms.

RAM SARUP.

28 ALL. 302.

(6) The first part of sec. 20 does not apply to cases of concealments or attempts at concealments made by an accused who has arms on his person or in a bag which he is carrying or which is otherwise in his immediate personal possession only on being arrested. It is meant to deal with cases of concealment before arrest.

GOPAL KRISHNA IYER,

MAD. L. T. 475.

(7) S. 20 of the Act though widely worded is in practice only applied to cases where the import or export of arms is attempted and not to ordinary cases of concealment of arms.

IBRAHIM

9 P. R. 1912 C.

GAHNA.

13 P. L. R. 1914.

(8) *Vide* note (61) under s. 19 (f). KHEM SINGH,—8 P. R. 1915, Cr., page 49.

(9) *Vide* note (62) under sec. 19 (f), UDHAM SINGH—15 CR. L. J. 637, page 49.

(10) *Vide* note (57) under sec. 19 (f), AZU Walad BANGAR—1 S. L. R. 18 Cr., page 48.

(11) The only additional element necessary to constitute an offence under sec. 20 is that the possession should be in such a manner as to indicate an intention that such act may not be known to any public servant.

HARSHA NATH CHATTERJI

42 CAL. 1153, 19 C. W. N. 706.

(12) Sentence of three years rigorous imprisonment without special grounds is very heavy and ought to be reduced.

BALAMBOIL BUTTASHARI AHMAD

17 CR. L. R. 80.

(13) *Vide* note (64) under sec. 19 (f) ISHAR SINGH,—72 P. L. R. 1916, page 49.

(14) The eight appellants were on a joint trial convicted by the Sessions Judge of dacoity under ss. 359-397, I. P. C., 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 charge as he held he could not be legally convicted of that offence and 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.

JAI SINGH

44 P. R. 1917 Cr. 156.

(15) Where an approver makes a statement disclosing his illegal possession of firearms and is released on pardon it is illegal to try him under s. 20.

SHIAM SUNDAR

19 ALL., L. J. 717

(16) 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.

SHER ALI

A. I. R. 1923, LAH. 79, 52 P. R. 1905 Cr.

(17) Merely because the weapon concealed is *chhavi*, maximum sentence ought not to be inflicted.

FAKIRA

3 Lah. L. J. 145

(18) Where the arms were discovered on the information given by the accused the concealment of the *chhavi* and other arms recovered from the possession of the accused is clearly within the intention of this section.

ALI AHMAD

A. I. R. 1933, LAH. 434

(19) *Vide* note (72) under sec. 19, CHANNAN SINGH,—A. I. R. 1925, LAH. 395, page 50.

(20) *Vide* note (29). under sec. 19. SURJAN SINGH,—A. I. R. 1923, LAH. 10, page 45.

(31) Sec. 20 lays down distinct offences and the Court should therefore distinctly state whether the first or the second part of the section is meant.

NGA THA HLA,

A. I. R. 1924 RANG. 85.

(22) The power of search in respect of an offence punishable under s. 19 (f) must be exercised in the presence of some officer specially appointed by name or in virtue of the office by the Local Government in this behalf. A search conducted by a Police officer in charge of a reporting station, specially empowered as above without obtaining a warrant from a Magistrate, is not illegal.

BABURAM

A. I. R. 1925, ALL. 396, 47 ALL. 606.

(23) Keeping ammunition and part of arms hidden under clothes, falls under s. 20 and not under s. 19.

MT. BABO

A. I. R. 1926, LAH. 61.

(34) Each case of concealment of arms must be decided on its own facts whether it falls under s. 19 or s. 20. (*Vide* note (73) under sec. 19, page 50.)

CHET SINGH

A. I. R. 1926 LAH. 262.

(25) Each case of concealment of arms must be decided on its own facts as to whether it falls under s. 19 or s. 20, but for s. 20 to apply there must be some special indication of an intention to conceal the possession of arms from public servant, railway official or public carrier.

KARIM BUKHSH

A. I. R. 1928, LAH. 193.

(26) *Vide* note (76) under sec. 19, GHULAM MOHAMMAD,—A. I. R. 1927, LAH. 561, page 50.

(27) In every case it is a question of fact whether the person found in possession of a concealed weapon is carrying the weapon in such a way as to indicate an intention to hide the article from the classes of persons referred to in s. 20. But the fact that a person is concealing a weapon while he is on a railway platform must indicate an intention to conceal that weapon from *inter alia* railway officials who are about that platform. The fact that there was a suspicion in the mind of the police that the accused was about to take part in a criminal undertaking is not a circumstance which a Court can take into consideration in arriving at an appropriate punishment for the actual offence which has been proved under section 20.

ABDUL WAHID

A. I. R. 1928 LAH. 110.

(28) The fact that the accused secreted the spear-head next to his skin does not indicate any intention that the possession by the accused of the spear-head might not be known to any public servant. The fact that the accused ran away when challenged by the constable indicates an intention of the character mentioned in s. 20. But where the accused had a companion who also ran away but upon whose person nothing incriminating could be found, as no such intention can be credited to the companion on the ground he also ran away, it cannot be attributed to the accused as well.

HARNAM SINGH

A. I. R. 1929, LAH. 576.

(29) Each case has to be decided on its own merits to see whether the intention indicated in sec. 20 is to be found in each particular case. Where the *toikhaung* (store-room) in which the arms and ammunition were found was no more than a store house for safe custody of goods and therefore a place where arms and ammunition would naturally be kept and where there was no attempt to conceal the *toikhaung* itself, it having an obvious door which would not escape the notice of the persons making the search, it was held that it could not be said that the

accused possessed the fire-arms in such a manner as to indicate an intention that his possession should not be known to public servants and that he could not be convicted of an offence under sec. 20, though clearly he was guilty of an offence under sec. 19 (f). If an accused person is convicted of an offence punishable under sec. 20, by the trying Magistrate, there is nothing to prevent the appellate Court from altering the conviction to one under sec. 19 (f).

Where sanction to prosecute is given under sec. 29 Arms Act, for unlawful possession and concealment of arms and ammunition and for an offence under sec. 20 read with sec. 19 (f), it was held that as no sanction was required by sec. 29 for an offence under sec. 20, the sanction should be treated as one given for an offence under sec. 19 (f) and thence conviction under sec. 19 (f) is not illegal. Where the offence reported to the Magistrate under sec. 157, C. P. C., was an offence under sec. 20, Arms Act, and the proceedings, prior to the application for sanction to prosecute and sec. 19 (f), were proceedings under sec. 20, for which no sanction is necessary under sec. 29, the objection that the prosecution was bad for failure to obtain the previous sanction of the District Magistrate for an offence under sec. 19 (f) could not be sustained.

(PIR) SABJATULLAH SHAH

A. I. R. 1931, SIND 9.

(30) *Vide* note (93) to sec. 19, IDA, A. I. R. 1931, LAH. 561, page 52.

(31) Section 20, Arms Act, is not restricted in its operation to cases of importation and exportation of arms in bulk. But, for s. 20 to apply, there must be some special indication of an intention to conceal possession or the arms from a public servant, Railway official or public carrier.

SAUCHENDRA KAR GUPTA

A. I. R. 1933 CAL. 692, 35 Cr. L. J. 1934, 125.

(32) Where the evidence was that the accused had tucked up in the top part of the dhoti where the folds were a heavy revolver which was not in perfect working order as the trigger did not engage the hammer but it was quite capable of being used by the well-known method of pressing back the hammer and then letting it go again without the assistance of the trigger and it appeared that he had a cap of '13 bore cartridges which would not in the least fit in with the revolver and the suggestion of the defence was that another man had the revolver and had managed to throw it into the dhoti of the accused; held that the plea of the defence could not be accepted and the accused was guilty under sec. 20.

ANANTA KUMAR MUKERJI

A. I. R. 1933 CAL. 677, 37 C. W. N. 509.

(33) Where the accused was found to be in illegal possession of a revolver in loose parts without a licence and it appeared that the parts were in a rusty condition and they could be used if cleaned and oiled, held, that the articles possessed by the accused were arms and he was liable to be convicted under section 19 (f).

SANTA SINGH PUNJABI

A. I. R. 1933. CAL. 495, 37 C. W. N. 234.

(34) Accused who was charged under sec. 120 B, I. P. C., read with secs. 19 and 20 of the Arms Act, for having joined in a conspiracy with others to possess arms in contravention of the Arms Act, was absconding and when arrested he was found in possession of arms: Held, that separate proceedings can be taken for the possession of arms on the second occasion, that the two cases are wholly independent and that the evidence or the conviction in one cannot be considered in the others.

SUKHDEV RAJ

A. I. R. 1933, LAH. 231, 34 Cr. L. J. 637.

(35) The first part of s. 20 Arms Act, is not inapplicable to cases where arms are found on a search being made under s. 25 of the Act. The two parts of s. 20 are quite independent of one another. In view of the severe restrictions imposed by the authorities on the possession of revolvers, there is, in the nature of things, a strong presumption that a person in unlicensed possession of such a weapon thereof, has procured it for unlawful purposes, and has a fixed intention that his possession thereof shall not become known to these public servants, namely, the police, whose duty it is to enforce the provision of the Arms Act. The intention referred to in the first part of s. 20 is only one of the factors that would have to be taken into consideration in deciding what sentence would be appropriate in any particular case, and it does not follow that a person who has been convicted under the first part of s. 20 will necessarily receive a heavier sentence than would have been inflicted on him under s. 19 (f) of the Act. The presumption referred to above

is one which could very easily be rebutted in the case of persons whose only fault has been carelessness, thoughtlessness or ignorance of the law and who has not been inspired by any deliberate intention of keeping the fact of their being in possession of an unlicensed revolver from the knowledge of the authorities. Mere possession of an unlicensed weapon is ordinarily punishable under s. 19 (f), but, if the circumstances are such as to indicate an intention that the possession may not be known to the police, the offence is punishable under s. 20. Whether the intention referred to above exists or not is a pure question of facts, and this question must therefore, be determined in each particular case with reference to the fact proved in that case. Each case has to be considered on its own merits.

JOGENDRA MOHAN GUHA

34 CR. L. J. 879.

(36) In a prosecution under s. 20, Arms Act, the question whether the circumstances justify the intention as indicated in s. 20, depends on the particular circumstances of each case. When a person is about to proceed on a dacoity and he travels to the place not by railway or public vehicle, it cannot be reasonably inferred that a weapon which is found in his pocket or in his clothes has been placed there with the express intention of concealing the possession of the weapon from any of the persons specified in s. 20. The mere fact that the weapon is not exposed to view does not necessarily indicate the intention mentioned in s. 20.

GANGA PRASAD

A. I. R. 1933 PAT. 493, 34 CR. L. J. 890.

21. Whoever, in violation of a condition subject to which a licence 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.

For breach of licence.

NOTES.

(1) Under Sch. II, Cr. P. C. 1898, offences under this section and under sections 22 or 23 are bailable and triable by any Magistrate

(2) 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, becomes a public assemblage.

KALYAN CHAND GOPAL CHAND

A. I. R. 1923, BOM. 35, 24 BOM. L. R. 487.

For knowingly purchasing arms, etc., from unlicensed persons,

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

For delivering arms, etc., to persons not authorised to possess them.

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. (H. D. no. 2964, dated the 11th August 1909.)

(2) **The manager of a licensed vender** of arms, ammunition and military stores sold certain military stores without previously ascertaining whether the buyer was legally authorised to possess the same. *Held* that the licensee was liable to punishment under this section, 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.

TYAB ALI

24 BOM. 423

(3) 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."

MUKUNDA

4 N. L. R. 78

(4) 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 section 22 of the Arms Act, with having delivered the rifle into the possession of an unauthorised person. *Held*, that the delivery into possession contemplated by section 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 section 22.

ADAMS

5 L. B. R. 183

(5) Where a **gunmaker** acting under the directions of the licence-holder made over his gun to a person merely to carry it to its owner and not with any authority to use it as an arm; *held*, that the gunmaker did not commit an offence under s. 22. A licence-holder of a gun can permit another person who is not so licensed to carry his gun.

MANZUR HUSAIN

A. I. R. 1928. ALL. 55.

(6) The word 'sword' in the table of Schedule II of the Indian Arms Rules, 1924, includes sword-sticks: *held*, that the selling of sword sticks and their possession without licence amounted to an offence under s. 22.

MAULIA BOYJI

A. I. R. 1933 BOM. 438, 35 BOM. L. R. 884.

(7) *Vide* note (27) under sec. 20, ABDUL WAHID,—A. I. R. 1928. LAH. 110, page 57.

(8) *Vide* note (35) under sec. 20, KARIM BAKSH,—A. I. R. 1928. LAH. 193, page 57.

(9) *Vide* note (77), under sec. 19, NIRMAL CHANDRA DE,—A. I. R. 1927, CAL. 265, 31 C. W. N. 239, page 50.

(10) *Vide* note (29) to sec. 20, PIR SABJATULLAH SHAH—A. I. R. 1931, SIND 9, pages 57-58.

23. Any person violating any rule made under this Act, and for

Penalty for breach
of rule.

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.

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) For Rules Relating to the disposal and confiscation of arms, ammunition and military stores under this section—*Vide* Local Rules and Orders.

(2) Confiscated arms, ammunition and military stores may be sold to licensed dealers or to other persons entitled to possess them, and such 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. (H. D. no. 1404 dated the 11th June 1907 and no. 1628 dated the 9th Oct 1907).

(3) For delay in getting a licence 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 licence entitling the holder to possess the gun.

KOTTUWA ROWTHER

15 CR. L. J. 21

(4) Confiscation is in addition to some sentence which the Magistrate is bound to pass.

GANGAMMA.

1 WEIR 664

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,

Search and seizure by Magistrate.

or that such person cannot be left in the possession of any such arms, ammunition or military stores 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 licence, 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) For Officers empowered under this section to conduct searches—*Vide* Local Rules and Orders.

(2) Where the accused were convicted of offences under ss. 225-302, 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 for 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 of Arms Act; *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, which section of the Arms Act does not override s. 165 of the Crim. Pro. Code.

SHARAF KHAN.

144 P. L. R. 193

(3) 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 normal. 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. 165, 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 authorising 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 authorises 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.

BROJENDRA KISHORE RAI CHOWDHURI

36 CAL. 433, 13 C. W. N. 456.

(4) On appeal to the Privy Council, Their Lordship 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.

BROJENDRA KISHORE RAI CHOWDHURI

39 CAL. 953, 16 C. W. N. 865

(5) *Vide* note (63), under s. 19 (f), NISHI KANTA LAHIRI,—20 C. W. N. 732, p. 49.

(6) Search for arms would be illegal if it was not ordered by a Magistrate in pursuance of s. 25.

NGA PO TEIN

U. B. R. 1892-1896 VOL. I, 1.

(7) *Vide* note (14) under s. 20, JAI SINGH,—44 P. R. 1917 CR. 156, p. 36.

(8) *Vide* note (46) under Sec. 19, TEGHA SINGH—8 Cal. 473, page 47.

(9) *Vide* note (48) under Sec. 19, SANGAMLAL—13 All. 129, page 47.

(10) 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 licence, 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.

GADDAM PANCHALU

43 MAD. 46.

(11) Although the search, is illegal, a person can be convicted if the evidence against him is conclusive. The ordinary meaning of "in the course of any proceedings instituted" in this section is in the course of any legal proceedings which have already begun. "In the presence of some officer" mean that there must be two persons, namely, the person making the search and the officer specially appointed.

KUTROO

A. I. R. 1925, ALL. 434, 47 ALL. 575.

(12) Where the police officer made a search under s. 165 Cr. P. C., and a stolen gun and cartridges were found; held, that the accused could be convicted under s. 20 and that the want of compliance with the provisions of s. 25 will not render conviction under ss. 19 and 20 illegal.

SHAIM LAL

A. I. R. 1927, ALL. 516.

26. The Local Government may at any time order or cause to be seized any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

27. The Governor General in Council may, from time to time, by notification published in the "Gazette of India"—
Power to exempt.

(a) exempt any person by name or in virtue of his office, or any classes of persons, or exclude any description of arms or ammunition, or withdraw any part of British India from the operation of any prohibition or directions contained in this Act; and

(b) cancel any such notification, and again subject the persons or things or the part of British India comprised therein to the operation of such prohibition or direction.

NOTES.

(1) For persons or classes of persons exempted—*Vide* Schedule I.

(2) For arms, ammunition or military stores excluded—*Vide* Schedules II and III.

(3) For parts of British India withdrawn—*Vide* Schedule IV.

(4) Exemption from the operation of 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 license under the Act.

KALI NATH SINGH

3 C. W. N. 394.

(5) 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. Daks of the kind described in the 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.

NGA NE U

L. B. R. 1893-1900, 416.

(6) As the notification of the Government of India exempts all soldiers in the service of Her Majesty the Queen-Empress of India from the operation of certain provisions of ss 13-16 of the Arms Act, 1878, and as by the orders of the Government of India the term 'soldiers' includes reservists the possession of a double barrelled gun by the accused did not constitute an offence against the provisions of the Arms Act. **There is no provision of law or of any rule having the force of law whereby the Army Regulations, India, can be held legally to restrict the powers exercised by the Governor-General in Council under s. 27 of the Arms Act**

BISHAN SINGH

1 P. R. 1902 CR., P. L. R. 1902.

(7) The petitioner proceeded on leave from his regiment in April 1884 when he held the rank of a Havildar in the regiment. On 22nd June 1884 one A was found carrying a gun which he said belonged to the petitioner who, on being questioned about it, admitted that it was his, and said he had a pass from the Officer Commanding his detachment. At the trial it was found that the pass was not given by the Officer Commanding as alleged and the petitioner was accordingly convicted of having been in possession of arms without a licence. In appeal it was brought to notice that the petitioner has been promoted to the rank of Jamadar with retrospective effect from the 1st June 1884, and that, therefore, he fell within the exemption extended to **commissioned officers of the Native Army**. The Sessions Judge held that as petitioner was only a Havildar, so far as the public orders were concerned on the date of the offence, the fact of his subsequent promotion with retrospective effect was of no avail: **Held** that the petitioner having obtained a Commission on date prior to the 22nd June 1884, must be held to have been a Commissioned Officer on the date, the fact of the order promoting him bearing a later date notwithstanding, and that, therefore, he fell within one of the classes exempted by the Government of India from the operation of the prohibition contained in ss. 14 and 15 of the Arms Act.

NARAIN SINGH

27 P. R. 1885 CR.

28. Every person aware of the commission of any offence punishable under this Act shall, in the absence of information to be given regarding reasonable excuse, the burden of proving which offences. shall lie upon such person, give information of the same to the nearest Police Officer or Magistrate, and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest Police officer regarding any box, package or bale in transit which he may have reason to suspect contains arms, ammunition or military stores in respect of which an offence against this Act has been or is being committed

Note—Such persons are however eligible for rewards.—*Vide* Local Rules and Orders.

29. Where an offence punishable under section 19, clause (f), has been committed within three months from the date on which this Act comes into force in any province, district or place to which section 32, clause 2 of Act XXXI of 1860, applies at such date or where such an offence has been committed in any part of British India not being such a district, province, or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the Magistrate of the District, or, in a Presidency town, of the Commissioner of Police.

Note.—This section has been repealed by North-West Frontier Province Act I of 1934, so far as that province is concerned.

NOTES.

- (1) *Vide* notes under clause (f) of sec. 19, page 46.
- (2) The case against the accused was found on facts which constituted an offence under the Arms Act as well as under section 30 of the Rangoon Police Act; *Held*, that the accused should not have been charged and convicted twice as for two offences under each of the said Act.
PO KA 3 L. B. R. 218
- (3) *Vide* note (70) to sec. 19, ISMAIL KHAN,—A. I. R. 1927, CAL. 721,—page 50.
- (4) *Vide* note (78) to sec. 19 (f), GHULAM NABI AND OTHERS—A. I. R. 1928, PAT. 146,—page 51.
- (5) *Vide* note (29) to sec. 20, SUBJATULLA SHAH, A. I. R. 1931, Sind. 9, page 58.
- (6) In the United Provinces, an officer in charge of a Police Station is empowered to conduct a search. An officer who takes action under a particular section must be deemed to have full powers until the contrary is proved. Whether the search was legal or illegal, arms have been found in the possession of the accused, no question of the legality of the search or otherwise can be raised by him. (Kutroo A. I. R. 1925, All. 434 note (11) to sec. 25, page 63 *Rel. on*).
* ABDUL GHAFUR A. I. R. 1929 ALL. 68.
- (7) According to s. 29, sanction of the District Magistrate was necessary to prosecute a person under s. 19 (f) for possessing arms without a licence in the Aligarh District, only for three months after 15th March 1878 and not subsequently, A. I. R. 1929, ALL. 69.
ANGAD

30. Where a search is to be made under the Code of Criminal Procedure, or the Presidency Magistrates Act, 1877, in the course of any proceedings instituted in respect of an offence punishable under section 19, clause (f), such search shall, notwithstanding any thing contained in the said Code or Act, be made in the presence of some officer specially appointed by name or in virtue of his office by the local Government in this behalf, and not otherwise.

NOTES.

- (1) For officers empowered to make searches under this section, *Vide* Local Rules and Orders.
- (2) The provisions of sections 29 and 30, apply to proceedings instituted under sec. 19 (f). When the case falls within s. 20 of the Act, ss. 29 and 30 do not apply either to the search for arms, to the arrest of the possessor or to the sending of the case for trial before a magistrate. As there are no special provisions governing cases under s. 20, the effect of s. 5 of the Cr. P. C. is that the police must act under that Code, which treats cases punishable with imprisonment for three years and upwards as cognizable. In cases to which s. 25 applies magistrates will have to be guided by it, but that section does not restrict the action of the police under the Cr. P. C. in cases which fall within s. 20*** (Burma A. M., Edn. 1926, page 135).
- (3) *Vide* note (22) to sec. 20, BABURAM—A. I. R. 1925 All. 396, on page 57.
- (4) Search in this section refers to searches of house or premises occupied by suspected persons and not to searches of persons. Even if the search of the accused was illegal it made no difference to the fact that the accused was in illegal possession of arms.
KHEM SINGH 3 P. R. 1915 CR.
- (5) *Vide* note (11) to s. 25, KUTROO—A. I. R. 1925, ALL. 434, page 63.

(6) Entering a case in the case book and making out a charge is not institution of proceedings.

ISMAIL KHAN

A. I. R. 1927, CAL. 721.

31. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the Act: Provided that no person shall be punished twice for the same offence.

NOTES.

(1) The accused was sentenced to a term of imprisonment for an offence under the Arms Act. The sentence was ordered to run concurrently with another sentence previously passed upon him under s 123, Cr P C. Held that the sentence for the substantive offence must commence at once and cannot be postponed to take effect after the expiry of the period of imprisonment in default of giving security for good behaviour which the accused was undergoing at the date of the conviction, that sec. 35, Cr. P. C., applies to sentence or conviction for offences at one trial and has no application to imprisonments under s 123, Cr P C.

KANJI JOY SINGH

5 Bom. L. R. 26

(2) The case against the accused was found on facts which constituted an offence under the Arms Act as well as under section 30 of the Rangoon Police Act. Held that the accused should not have been charged and convicted twice as for two offences under each of the said Act.

PO KA

3 L. B. R. 218.

(3) Where a case might properly have been tried under the Arms Act or the Explosives Act, but the public prosecutor did not ask the High Court to order a retrial, the High Court cannot convict the accused under either of those two enactments without a fresh trial.

JOSEPH KANGANI

8 M. L. T. 289

32. The local Government may from time to time, by notification in the local official Gazette, direct a census to be taken of all fire-arms in any local area, and empower any person by name or in virtue of his office to take such census.

Power to take
census of fire arms.

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms when so required 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.

33. No proceeding other than a suit shall be commenced against any person for anything done in pursuance of this Act, without having given him at least one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.

Notice and limita-
tion of proceedings.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.—(SEE SECTION 3)

| Number and year. | Title. | Extent of Repeal. |
|-------------------|--|---|
| XVIII of 1841 ... | An Act for consolidating and amending the enactments concerning the exportation of military stores. | So much as has not been repealed. |
| XXX of 1854 ... | An Act to provide for the levy of duties of Customs in the Arracan, Pegu, Martaban and Tenasserim Provinces. | In the preamble, the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited." Section 11. |
| XXXI of 1860 ... | An Act 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 power of disarming in certain cases. | So much as has not been repealed. |
| VI of 1866 ... | An Act to continue Act No. 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 power of disarming in certain cases) and for other purposes. | The whole. |
| III of 1872 ... | The Santhal Parganas Settlement Regulation. | So much of the Schedule as relates to Act XXXI of 1860 and Act VI of 1866. |
| XV of 1874 ... | An Act for declaring the local extent of certain enactments and for other purposes. | So much of the first Schedule as relates to Act XVIII of 1841. |

THE SECOND SCHEDULE—ARMS, ETC., LIABLE TO DUTY.

[Repealed by the Repealing and Amending Act, 1891 (Act XII of 1891).]

THE INDIAN ARMS RULES, 1924, as amended up to the
1st May 1935.

CONTENTS.

RULES.

1. Short title.
2. Interpretation.

Application of the Act.

3. Exemption, exclusion and withdrawal.
4. Extension.

Import.

5. Restriction upon import of cannon and certain other articles.
6. Restriction upon import of arms, ammunition and military stores from Portuguese India.
7. Restriction upon import of certain rifles.
8. Import of arms, ammunition or military stores into certain ports.
9. Import of arms, ammunition or military stores by sea from Madras, Rangoon or Bombay into certain ports.
10. Import by land or river of arms, ammunition or military stores.
11. Import from Berar.
12. Scrutiny by Railway authorities of consignments.
13. Production and delivery of import licences.

Export.

14. Restriction upon export by sea of cannon and certain rifles.
15. Export by sea of arms, ammunition or military stores from and to certain ports.
16. Export by sea of arms, ammunition or military stores from certain ports to ports in States in India or foreign territory.
17. Export by land or river of arms, ammunition or military stores.
18. Export to Berar.
19. Delivery of export licences.

Import and Re-export.

20. Import and re-export by sea of arms, ammunition and military stores.

Transport.

21. Prohibition of transport by post of arms, ammunition or military stores within the province of Burma.
22. Prohibition of transport of arms, ammunition or military stores otherwise than under licence.
23. Restriction upon transport of cannon and certain other articles.
24. Transport of arms, ammunition or military stores.
25. Delivery of transport licences.

Import, Transport and Re-export.

26. Licence for import, transport and re-export of arms, ammunition and military stores

RULES.*Export and Re-import.*

27. Licence for export and re-import of arms, ammunition and military stores.

Manufacture and Sale.

28. Manufacture, conversion, sale and keeping for sale of arms, ammunition or military stores.

Keeping for safe custody.

29. Licence to keep for safe custody firearms and ammunition.

Possession.

30. Restriction upon possession of cannon and certain other articles.
31. Possession of arms, ammunition or military stores.
32. Licence for the possession and use of firearms for purposes of target practice.

Possession and Going Armed.

33. Possession of arms and ammunition and going armed for sport, protection or display.
34. Temporary licence for possession of arms and ammunition and for going armed by *bona fide* traveller.
35. Possession of arms and ammunition and going armed for the destruction of wild animals.
36. Possession of arms and ammunition, and going armed for the protection of crops.
37. Going armed on a journey.

Possession and Import or Transport.

38. Possession by dealers of certain balled ammunition, with liberty to import.

Applications for, and grant of, Licences.

39. Previous sanction in certain cases.
40. Application for licences.
41. Form and language of licences.
42. Duration and renewal of licences.
43. Discretion and control of authorities empowered to grant licences.
44. Obligation to produce licences.
45. Production of arms.
46. Fees payable for licences.
47. Fees payable for duplicates.
48. Collection and refund of fees.

Cancellation and Savings.

49. Cancellation of the Indian Arms Rules, 1920.
The Schedules—1 to VIII.
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GOVERNMENT OF INDIA, HOME DEPARTMENT,
NOTIFICATION, No. F. 829-1-22, DATED THE 3RD NOVEMBER, 1923,
(as amended up to the 1st May 1935.)

In exercise of the powers conferred by sections 4, 10, 17 and 27 of the Indian Arms Act, 1878 (XI of 1878), the Governor-General in Council is pleased to make the following rules:—

Short title.

1 (1) These rules may be called the Indian Arms Rules, 1924.

(2) They shall come into force on the 1st January, 1924.

Interpretation.

2. (1) In these rules, unless there is anything repugnant in the subject or context,—

“District Magistrate” means in the case of Aden, the Superintendent of Police: in the case of the suburbs of Calcutta, as defined in the Government of Bengal notification, dated the 21st September 1880, the Commissioner of Police, Calcutta, and, in cases where the Local Government so directs in respect of any district or part thereof, an Additional District Magistrate;

“Form” means a Form as set out in Schedule VIII; and

“the Act” means the Indian Arms Act, 1878 (XI of 1878).

(2) The General Clauses Act, 1897, shall apply for the purpose of the interpretation of these rules in like manner as it applies for the purpose of the interpretation of an Act of the Governor-General in Council.

[NOTE—In Bihar and Orissa the powers and duties, by clause (1) of rule 2, of a “Magistrate of the District” shall be exercised and performed by the additional District Magistrate of Manbhum within the Dhanbad Sub-division of that District. (B. and O. notn. no. 4400 P, dated the 8th November, 1921)]

Application of the Act.

Exemption, exclusion and withdrawal.

3. (1) The persons and classes of persons, the arms and ammunition, and the parts of British India specified or described in Schedules I to IV are, respectively, exempted, excluded and withdrawn to the extent and subject to the conditions therein specified from the operation or prohibitions and directions contained in the Act:

Provided that the exemptions specified in Schedule I are made subject to the following conditions, namely:—

(a) they shall not be deemed to render lawful the import of arms or ammunition, save from Berar, or the transport within the Province of Burma of arms, ammunition or military stores, through the medium of the Post Office;

(b) save in the case of persons included in entry (1) (b), entry (2) or entry (6) (e) of the said Schedule, any person so exempted shall register in such manner as the local Government may prescribe any firearm or ammunition for the same in respect of which he is exempted from the operation of any provision of the Act;

(c) every person shall, on the loss or theft of any arm in respect of which he is so exempted, forthwith report the occurrence at the nearest police station; and

(d) the Governor-General in Council may, by notification in the *Gazette of India*, direct that any such exemption conferred on a class of persons shall cease to extend to any person included in that class who may be named in the notification.

(2) Any person failing to comply with any condition of exemption set out in provisos (b) and (c) to sub-rule (1) shall be deemed to have violated these rules.

NOTES

(1) The exemption granted to jumma tenure holders in Coorg, by entry (5) of Schedule I, ceases to extend to K. Somayya a Jumma Coorg (H. D. notn. no. 2206 of the 4th Nov. 1924)

(2) The exemption conferred, by entry (9) in Schedule I, ceases to extend to—

(i) Sati Muhammad, son of Ghuman Lambarder, of Chak No. 246, Rakh Branch, Lyallpur District, Punjab, (H. D. notn. no. F. 21-XV-24 dated the 22nd April 1924.)

(ii) Bhai Mohindar Singh Ahluwalia of Batala, District Gurdaspur, Punjab. (H. D. notn. no. R. 21/XV/35 dated the 13th March 1935).

(3) The exemption granted, by entry no. (6) (a), ceases to extend to—

(i) M. R. Ry. Indran Ramasami Pandia Taliavar Avargal, Zamindar of Taliaivankothai, an ancient Zamindar of the Madras Presidency (H. D. notn. no. F. 21/LV-33 dated the 20th September 1933)

(ii) M. R. Ry. Vijaya Raghunadha Theruvengada Pannikondar, Zamindar of Neduvasal Pattukottai taluk, Tanjore district, Madras Presidency. (H. D. notn. no. F. 21/XIV/35, dated the 13th March, 1935).

(4) The exemption conferred, by entry no. (6) (g) in Schedule I, ceases to extend to Raja Ambikeshwar Pratap Singh, Talukdar of Mankapur Estate in the Gonda District (H. D. notn. no. F. 21-XLVII/34 dated the 8th Nov. 1934)

4. For the purposes of the definition of "military stores" in

section 4 of the Act all sections of the Act are extended throughout British India to all lead,

sulphur and saltpetre.

Import.

Restriction upon
import of cannon and
certain other articles.

5. (1) A licence for the import of—

(a) cannon,

(b) articles designed for torpedo service,

(c) war-rockets, or

(d) machinery for the manufacture of arms or ammunition, may be granted in Form I only by the Governor-General in Council.

(2) A copy of every licence granted in accordance with sub-rule (1) shall forthwith be sent—

(a) where the articles are consigned to a Presidency town or Rangoon—to the Commissioner of Police, or

(b) where they are consigned to any other place—to the District Magistrate of the district in which such place is situated.

Restriction upon
import of arms, am-
munition and military
stores from Portu-
guese India.

6. A licence shall not be granted for the import of any arms, ammunition or military stores from Portuguese India:

Provided that nothing in this rule shall be deemed to limit or otherwise affect any power conferred by these rules to grant a licence for the import of ammunition which, in the opinion of the authority granting the licence, is intended in good faith for blasting purposes.

7. (1) A licence shall not be granted for the import by sea or by river or land, save from Berar—

Restriction upon
import of certain
rifles.

(a) (i) of rifles of '303 or of '450 bore or of parts of, or fittings for, rifles of such bores or, save as otherwise provided by rule 38, of ammunition which can be fired from such rifles; or

(ii) of rifles of any other bore containing the following components capable of use in rifles of '303 or of '450 bore, namely, actions, breech blocks, breech-bolts, bodies, magazine cases, cocking pieces and breech bolt heads; or

(iii) of pistols or revolvers of '441, '455 or any intermediate bore, or of parts of, or fittings for, pistols or revolvers of such bores; or save as otherwise provided by rule 38, of ammunition which can be fired from such pistols or revolvers; or

(iv) of appliances, the object of which is the silencing of fire-arms; or

(b) save with the previous sanction of the Governor-General in Council, of rifles, other than those specified in clause (a), or of parts of, or fittings for rifles, other than those so specified, or

(c) of any arms or ammunition through the medium of the Post Office.

(2) Nothing in clause (b) of sub-rule (1) shall be deemed to limit or otherwise affect any power conferred by these rules to grant, save as otherwise provided by rule 6, a licence for the import of rifles, or parts of, or fittings for rifles, which, in the opinion of the authority granting the licence, are intended in good faith for sporting purposes.

NOTES

(1) Attention is invited to proviso (1) to sub-rule (1) of rule 33 of the Indian Arms Rules, 1924. Several instances have come to the notice of the Government of India in which licensing officers have granted licences for the possession of weapons of prohibited bore without first satisfying themselves that such weapons have been lawfully imported into British India, in fact, before the weapons have been imported at all and such possession licences have been produced at Customs Houses as the authority for importing the weapons which being of prohibited bore can only be imported under an import licence issued by the Governor-General in Council. There seems to be an impression among certain licensing officers that the prohibition against the import of such weapons does not apply to weapons required for personal use. This impression is quite unjustified and to correct it as desired by the Government of India, the local Government desires to impress on licensing officers the necessity of strict compliance with the provisions of the Arms Rules in this respect. The Government of India have instructed the Customs authorities in all cases of the kind referred to above to detain the weapon under section 6 of the Arms Act, pending a reference to them and the local Government. (H. D. no. F. 21-XVII-23, dated the 9th Sept. 1925 and Bengal Rule 58A).

(2) The importation of rifles with "sub-target rifle machines" is strictly prohibited by the Government of India. (H. D. 2516-19, dated the 8th Nov. 1906).

(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. (H. D. no. 4638 dated the 6th August 1901).

(4) Persons who are already in possession of rifles of '303 bore and of '450 bore and pistols and revolvers of '441, '455 or any intermediate bore, and wish to obtain cartridges for their own use, are allowed to possess such ammunition to the extent of 200 rounds only for each class of rifle or revolver subject to the condition that they obtain under rule 33 of the Indian Arms Rules a licence which should be made over to the selected dealers referred to in rule 28 (3). In the case of person or persons entitled to a free licence for arms a licence may be granted free. (H. D. nos. 606 and 867 dated, respectively, the 20th Feb. 1901 and 30th March 1905).

(5) Although the prohibition against the import of rifles of '303 bore became absolute on the 28th October 1906, in the case of rifles of '450 bore on the 1st May 1907, in the case of revolvers of '450 bore on the 1st January 1924, and in the case of '441, '455 or any intermediate bore, with effect from 1st August, 1924, it may be presumed that the import of rifles and revolvers of these bores was lawful where such rifles or revolvers have been in the possession of owners or of the persons from whom the present owners bought from before the introduction of the Rules of 1920, or in the case of revolvers of '450 bore from before the 1st Jan. 1924, and in the case of '441, '455 or any intermediate bore with effect from 1st August, 1924. A declaration to this effect from an applicant for a licence of such a weapon should generally entitle him to a licence. (H. D. no. 2166 and dated, the 11th September, 1906, no. 454—66, dated the 14th Feb. 1907, and no. F-21-XXX-23 dated the 23rd April 1924.)

(6) In the case of weapons described as '450/400, '557/450, '500/450, the former of the two figures represent the size of the chamber and the latter figure the size of the bore. Consequently, while a weapon described as '450/400 is not of prohibited bore, weapon described as '577/450 or '500/450 and ammunition to fit them are subject to the restrictions imposed on weapons and ammunition of the prohibited bores. (H. D. no. 1343, dated the 9th June, 1911.)

(7) An exempted person may, without an order or licence, import rifles of a non-sporting character through an agent—(i) when the arms are sent to him direct and (ii) if the arms are sent to an agent and the latter obtains a certificate from the exempted persons that the imported arms are *bona-fide* his property and the agent only clears them from the Customs House and forwards them. [H. D. no. 22-1321, dated the 24th Aug. 1896, and no. 2531, the 9th Dec. 1897.]

(8) The sight of guns and rifles should be regarded as parts of arms within the meaning of the Indian Arms Act, 1878. The sights for rifles of '303 bore fall accordingly within the restriction imposed by rule (7) (i) (a) upon the importation of rifles, or parts of such rifles, of such bore. (H. D. no. 909, dated the 1st May 1911.)

(9) Appliances such as **hand-grenades** and **riot pistols** which are designed to render helpless for the time being a mob or an individual without causing permanent injury are "arms" within the meaning of the Act and their importation should not be allowed and that all applications for licences under the Arms Act for importation of weapons of this character should be refused. (H. D. no. F. 21-L. V-28 dated the 28th Feb. 1929.)

(10) It has been decided that licences shall not in future be required in case of re-importation of rifles of military patterns and pistols and revolvers of '441, '455 or any intermediate bore, and that it may be left to the Customs authorities to give necessary permission to re-import, a reference being made to the Local Government in doubtful cases. The following conditions have accordingly been laid down to govern cases of re-importation and subject to them, the Customs authorities have discretion to admit weapons of the classes referred to :—

(i) that the examination of the arms at the Customs House at the time of export shall be compulsory ;

(ii) that, as a general rule, export passes giving a full description of the weapons to be exported shall be obtained from the Collector of Customs by the person exporting the weapons ;

(iii) that these passes shall be accepted by the Collector of Customs as the best proof of export of the weapons being satisfactorily identified at the time of re-importation ; and

(iv) that in cases in which such export passes have not been obtained, it will rest with the Collector of Customs personally to accept such other proof of export as he may consider reasonable and proper. (Burma Cir. No. 42 1903, based on orders of the Govt. of India no. 2752 dated the 20th July, 1903, and no. F-21-LXVIII-24, dated the 8th Dec. 1924).

Import of arms, ammunition or military stores into certain ports.

8. Save as otherwise provided by rules 5 to 7, a licence may be granted in Form II for the import by sea—

(a) of arms, ammunition or military stores, at a Presidency town or Rangoon—by the Commissioner of Police ;

(b) of arms, ammunition or military stores, at the ports of Calicut, Karachi, Cochin and Aden—by the District Magistrate ;

(c) of saltpetre or lead, at the ports of Akyab and Moulmein—by the District Magistrate ;

(d) of sulphur in reasonable quantities, at the port of Tuticorin and Cocanada—by the Board of Revenue in Madras on satisfactory proof that the sulphur is required in good faith for medicinal, manufacturing or agricultural purposes ; and

(e) of sulphur at the port of Chittagong—by the District Magistrate on satisfactory proof that the sulphur is required in good faith for manufacturing or agricultural purposes.

Provided that all arms, ammunition or military stores imported into Aden shall be landed at the Abkari Pier at Tawahi only, and removed thence by the importer to such Government warehouse as the Political Resident may appoint in that behalf.

Provided further that any consignment of sulphur imported at Chittagong and destined for a place outside that town shall be unloaded under the supervision of Customs officers direct from the ship into railway wagons, which shall be rivetted and sealed on the jetty, and shall be despatched direct to its destination without further handling or transhipment.

Import of arms, ammunition or military stores by sea from Madras, Rangoon or Bombay into certain ports.

9. Save as otherwise provided by rules 5 to 7, a licence for the import by sea of arms, ammunition or military stores—

(a) from the port of Madras into the ports of Tuticorin, Bimlipatam, Cocanada, Negapatam, Mangalore, Gopalpore, Vizagapatam, Pamban, or Masulipatam, or

(b) from the port of Rangoon into the ports of Akyab, Moulmein, Sandoway, Kyaukpyu, Tavoy, Mergui, or Victoria Point, or

(c) from the port of Bombay into the port of Mangalore, may be granted in Form II by the District Magistrate of the district in which the port of import is situated.

Import by land or river of arms, ammunition or military stores.

10. (1) Save as otherwise provided by rules 5 to 7, a licence for the import by land or river of arms, ammunition or military stores may be granted in Form III,—

(a) Where the arms, ammunition or stores are consigned to a Presidency town or Rangoon—by the Commissioner of Police, or

(b) where they are consigned to any other place—by the District Magistrate of the district in which such place is situated.

(2) Such a licence may be granted for the import of arms which—

(a) belong to any person who resides in a State in India and is exempted under Schedule I from the necessity of taking out a licence for going armed with, or for possessing, such arms, and

(b) are imported solely for the purpose of repair, by the Political Officer for such State; and such licence shall also cover the re-export of such arms to the State from which they were imported.

(3) Where the arms, ammunition or stores are imported from a State in India otherwise than under sub-rule (2), a copy of the licence shall forthwith be sent to the Political Officer for such State.

(4) Where the arms, ammunition or stores are imported by road or river from elsewhere than Berar and are consigned to a district not on the frontier of British India, a copy of the licence shall forthwith be sent to the District Magistrate of the district into which they cross such frontier; and such Magistrate may, in his discretion, require the licensee to produce them for his inspection before allowing them to be taken out of the district.

(5) (a) Where the arms, ammunition or stores are imported by land or river from Berar under a licence, the importer shall deliver the licence, within six days of the consignment at its destination,—

(i) in a Presidency town or Rangoon—to the Commissioner of Police, or

(ii) in any other place—to the District Magistrate of the district in which the place of destination is situated, or such other Magistrate as the District Magistrate may appoint for this purpose.

(b) Any officer to whom a licence is delivered under clause (a) shall satisfy himself—

(i) that the arms, ammunition or military stores correspond with the description given in the licence, and

(ii) that any deficiency is properly accounted for, and any subordinate Magistrate to whom a licence is delivered under sub-clause (ii) of that clause shall forward it to the District Magistrate.

(6) Where the arms, ammunition or stores are imported by rail, a copy of the licence shall forthwith be sent by the authority granting it to the railway authorities at the place to which such arms, ammunition or stores are consigned.

11. A certified copy of a licence to export from Berar into British India arms, ammunition or military stores granted under the Berar Arms Rules, 1924,
 Import from Berar.

shall be deemed to be a licence for import into British India granted under these rules.

12. (1) The railway authorities to whom a copy of a licence has been sent under sub-rule (6) of rule 10 shall require the consignee to produce the original licence and shall satisfy themselves—

(a) that the arms, ammunition or stores claimed by him correspond with the description given in such licence, and

(b) that such licence is identical in substance with the copy sent to them.

(2) Where, in any case referred to in sub-rule (1)—

(a) the consignee fails to produce the original licence, or

(b) the arms, ammunition or stores claimed by him do not correspond with the description given in such licence, or

(c) the licence is not identical in substance with the copy sent to the railway authorities,

such authorities shall not deliver the consignment and shall forthwith inform the nearest Magistrate.

13 (1) The consignee of arms, ammunition or military stores imported under a licence from elsewhere than Berar shall—

(a) where the consignment crosses the frontier by land or river, produce the licence within six days of such crossing before the District Magistrate of the district into which the consignment so crosses, or before such other officer as the District Magistrate may appoint in that behalf; and

(b) in any case in which the consignment is imported by land or river, deliver the licence within six days of the arrival of such consignment at its destination—

(i) in a Presidency town or Rangoon—to the Commissioner of Police, or

(ii) in any other place—to the District Magistrate of the district in which such place is situated.

(2) Every officer before whom a licence is produced or to whom a licence is delivered under sub-rule (1) shall satisfy himself—

(a) that the arms, ammunition or stores correspond with the description given in the licence; and

(b) that any deficiency is properly accounted for.

Export.

Restriction upon export by sea of cannon and certain rifles.

14. (1) A licence for the export by sea of—

(a) cannon, or

(b) rifles, or parts of or fittings for rifles,

may be granted in Form IV or Form V only by, or with the previous sanction of, the Governor-General in Council:

Provided that nothing in this rule shall be deemed to limit or otherwise affect any power conferred by these rules to grant a licence for the export by sea of rifles, or parts of or fittings for rifles, which, in the opinion of the authority granting the licence, are intended in good faith for sporting purposes.

Export by sea of arms, ammunition or military stores from and to certain ports.

15. (1) Subject to the provisions of rule 14, a licence for the export by sea of arms, ammunition or military stores may be granted in Form IV—

(a) at a Presidency town or Rangoon—by the Commissioner of Police, or

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

(2) Save as otherwise provided in sub-rule (3), every licence, granted under sub-rule (1) shall be for export either—

(a) to such one of the ports specified in clause (a) or clause (b) of sub-rule (1), or

(b) in the case of export from the port of Madras—to such one of the ports mentioned in clause (a) of rule 9, or

(c) in the case of export from the port of Rangoon—to such one of the ports mentioned in clause (b) of rule 9, or

(d) in the case of export from the port of Bombay—to such one of the ports mentioned in clause (c) of rule 9, or—

(e) to such other place in His Majesty's dominions outside India, as may be specified or described in the licence.

(3) A licence may be granted at any of the ports mentioned in clause (a) or clause (b) of sub-rule (1) for the export by sea of salt-petre or lead to the ports of Akyab or Moulmein.

(4) A copy of every licence of the nature referred to in clauses (a), (b), (c) and (d) of sub-rule (2) and in sub-rule (3) shall forthwith be sent—

(a) where the arms, ammunition or stores are consigned to a Presidency town or Rangoon—to the Commissioner of Police, or

(b) where they are consigned to any other place—to the District Magistrate of the district in which such place is situated.

Export by sea of arms, ammunition or military stores from certain ports to ports in States in India or foreign territory.

16. (1) (a) A licence for the export by sea of arms, ammunition or military stores from any of the ports of Madras, Bombay, Calcutta, Rangoon, Calicut, Karachi or Aden to any port in a State in India or other foreign territory may be granted in Form V by the Governor-General in Council :

Provided that a licence shall not be granted for export to a port on the sea-board of Arabia other than a port in the political charge of the Political Resident at Aden or of the Political Resident in the Persian Gulf.

(b) A licence for the export by sea of arms (other than arms in respect of which the restriction imposed by rule 14 applies),