1951
April 25

AHMET GAZI v. THE POLICE.

HALIL TAHIR OMBASHI v. THE POLICE.

[JACKSON, C.J., AND GRIFFITH WILLIAMS, J.]

(April 25, 1951)

AHMET GAZI, *Appellant*,

v.

THE POLICE, *Respondents*.

AND

HALIL TAHIR OMBASHI, *Appellant*,

v.

THE POLICE, *Respondents*.

(*Criminal Appeals Nos.* 1895 and 1896).

Criminal Law—Carrying Clasp Knives—Amendment of the Law—Notice of Amendment—Statutory Defence—Minimum penalty—Meaning of special reasons—Criminal Code Law, sections 79 & 80 *as amended by Criminal Code (Amendment) Law* 1951.

The statutory defence under either sections 79 and/or section 80 of the Criminal Code Law, which if proved entitle an accused person to acquittal, provides some guide to the reasons that could properly be regarded as special reasons to justify the reduction of the minimum penalty provided by the Law. They should be : " mitigating or extenuating circumstances not amounting in law to a defence, yet directly connected with the commission of the offence ".

Held: in the case of Halil Tahir Ombashi, that neither his age of 65 years nor his career as a mukhtar nor his character were special reasons to justify reduction of the minimum penalty in his case, as the reasons were special to him and not to the offence he had committed. However being a farmer or a shepherd it was only reasonable to suppose that a knife of some sort was necessary to him. Even though not at the time carrying the knife for a lawful purpose—(he pleaded guilty)—all the circumstances connected with his carrying the knife were not brought out by the evidence and if some but not all the essentials of a statutory defence are established these can be considered to be special reasons to justify reduction of the penalty. This should not be understood to delimit the only " special reasons " that might justify the reduction of the penalty, but the reason must be special to the case and not general nor special to the individual.

Held: in the case of Ahmet Gazi, that being a chauffeur there was no necessity for him to carry and use a clasp knife with a blade of more than 2½ inches in length for the purpose of cleaning sparking plugs. Although there might exist reasons personal to the appellant why a milder sentence might be given such reasons could not be considered reasons special to the case so as to justify the Court in awarding a less penalty.

The manner in which searches of persons by the Police under section 25 of the Criminal Procedure Law, 1948, have been carried out since the passing of the Law amending sections 79 and 80 relating to the carrying of knives, suggests that there may have been instances in which men have been searched rather on the chance that they were carrying a prohibited knife than on a reasonable suspicion that they had one in their possession. If that has in fact occurred searches in these circumstances would not be authorized by section 25.

N. Haji Gavriel for appellant Halil Tahir Ombashi.

Appellant Ahmet Gazi in person.

R. R. Denktash, Junior Crown Counsel, for respondents.

The facts sufficiently appear from the judgment of the Court which was delivered by the Chief Justice.

JACKSON, C. J.: In the two appeals now before us the appellants ask for a reduction of the sentence of six months imprisonment passed upon each of them by the District Court of Famagusta for carrying, outside his own house, a clasp-knife with a pointed blade more than two and a half inches long. Each of the appellants pleaded guilty to the charge and their appeals relate only to their sentences. They are the first appeals to reach us since the recent amendment of the law and for reasons which will appear, we shall deal with both of them together in this judgment.

The charges were framed under section 79 (2) of the Criminal Code as amended by a Law which was enacted on the 20th February in this year and came into operation on its publication on the following day. The sentence passed on each of the appellants was the minimum sentence prescribed by the sub-section, unless the Court, for "special reasons" which the judge was required to record, thought fit to pass a lesser sentence. One case was tried by the President and the other by the District Judge and in each case the trial judge thought that a fine would have been sufficient punishment. The District Judge in fact ordered the accused who was tried by him to pay a fine of £15 but, by the terms of the sub-section, his order had to be confirmed by the President. The latter took the view that in neither case could special reasons be found, of the kind required by the law, to authorize the imposition of a lesser penalty than the minimum prescribed. Consequently, although the President thought that a fine would have been sufficient punishment in the case tried by him, and although he thought that the fine imposed by the District Judge was sufficient punishment in that case, he considered that he was bound by the law to pass the minimum sentence of six months imprisonment on the accused tried by him and that he was equally bound to direct the District Judge to pass the same sentence in the other case.

These appeals accordingly raise the question of the nature of the special reasons required by the law to authorize the imposition of less than the prescribed minimum penalty for carrying clasp-knives with pointed blades exceeding the permitted length. That question has not previously been raised in this Court, notwithstanding that minimum sentences for carrying prohibited knives have been prescribed since 1923 and since 1937 courts have been empowered to reduce the minimum sentence in such cases if special reasons could be found for doing so.

1951
April 25
—
AHMET GAZI
v.
THE POLICE.
—
HALIL TAHIR OMBASHI
v.
THE POLICE.

Since the recent amendment of the law that question has arisen in many cases and is likely to arise in many more. We shall therefore first consider it in its broad significance and apart from the particular circumstances of the two cases now before us. We shall then apply to each of those cases, taken separately, the particular considerations which seem to us to be applicable to each.

The question with which we are concerned is one of wide importance since it may be presumed that a large majority of the adult male population habitually carry knives of one sort or another. Outside the large towns it seems probable that the custom is practically universal. A knife of some kind is necessary to many thousands of men in the course of their work and to carry one is harmless in itself. But the practice has been controlled by law for more than sixty years because of the grave and sometimes fatal injuries which experience has shown that even men of good character may inflict on one another if, in a sudden quarrel, they lose control of themselves and have dangerous weapons ready to their hands.

The question raised by these appeals has assumed particular importance by reason of the amendment of certain sections of the Criminal Code which came into operation on the 21st of February in this year. For twenty-seven years before that date, ever since the enactment of the Knives (Amendment) Law in 1923, a clasp-knife with a folding blade, which could not be made rigid, had been excluded from the operation of the law if the blade, whether pointed or not, did not exceed four inches in length. Such clasp-knives could be carried anywhere by anyone without fear of punishment and no reason could be demanded of anyone for carrying one. On the 21st of February the protection which had for so long been given to persons who carried clasp-knives with pointed blades not exceeding four inches in length ended. Thereafter the carrying of a clasp-knife with a pointed blade became a punishable offence if the length of the blade exceeded, not four inches, but two and a half inches. There was a reduction of one and a half inches in the permissible length.

The amendment also made another change in the law as it had stood since 1923. From as early as 1911 heavier penalties were imposed for the carrying of prohibited knives in circumstances in which there was more than a normal possibility that brawls would occur. For that reason the penalty has long been heavier for the carrying of prohibited knives at weddings and fairs and in brothels and licensed premises. The present law on that subject is contained in section 80 of the Criminal Code. Under that section the minimum penalty, in the absence of special reasons, is one year, double the minimum in other circumstances. But when, in 1923, the maximum length of the

blade of a clasp-knife which was exempted from the operation of the law was fixed at four inches, whether the blade was pointed or not, the exemption was complete and no lower limit was prescribed for the length of the blade of a clasp-knife which might lawfully be carried on any particular occasion or in any particular place. So the law remained from 1923 until the recent amendment. By that amendment a difference was made, for the first time, in the length of the pointed blade of a clasp-knife which could safely be carried in ordinary circumstances and the length permissible at weddings, fairs and in premises of the descriptions already given. In ordinary circumstances the permissible length of a pointed blade was reduced, as we have already said, from four inches to two and a half inches. In the special circumstances mentioned the permissible length was reduced from four inches to two inches.

Enough has now been said to show that the amendment which took effect on the 21st February made an important and not entirely simple change in the law as it had stood for twenty-seven years. Acts which had been lawful throughout that long period became immediately punishable with minimum sentences of imprisonment, in some cases for a year and in others for six months. The number of people affected is impossible to calculate but it seems safe to assume that it must have been very large. The difference between what remained safe and what immediately became punishable was expressed in inches and half inches, measurements which are probably unfamiliar to very many to whom a difference of a fraction of an inch in the length of the pointed blade of a clasp-knife might mean imprisonment for six months or even for a year.

In these circumstances, it is relevant to our purpose to enquire what notice of the impending change in the law was given to the public. In many of the cases which have come before the District Courts under the new law the first excuse which the accused person gave was that he did not know of the change.

A Bill embodying the proposed changes was, in accordance with custom, published for general information in the Government *Gazette* of the 7th February. In many cases, and this was one, the effect of an amending Bill cannot be fully understood unless it is compared with the Law to be amended. The public must therefore rely on the statement of Objects and Reasons which always accompanies a published Bill. In this case the statement clearly set out the proposed changes in the law with which we are now concerned. We have ascertained that a full and accurate report, apparently based on the statement of Objects and Reasons, appeared on the following day in the principal Greek daily newspaper. Incomplete reports appeared on the same day in two other Greek daily

papers. So far as we can discover, no notification of the Bill appeared in any of the Turkish papers and no other means was taken to inform the public of the significance of the amendments which it was proposed to enact.

A Bill is not a Law and its publication does no more than notify the public of an intention to enact, generally on some undisclosed date, a law in the form of the Bill unless, in the meantime, sufficient reason is shown, either to drop the proposed measure, or to depart from the form of the Bill in any of its parts. As everyone knows, changes from the form of published Bills are not infrequently made when Laws based on them are later enacted. One such change was made in the form of this particular Bill but it does not affect the points which we are now considering. The public was not informed of the date when it was proposed that the Bill should become Law.

In fact the amending Law, without change from the material parts of the Bill, was enacted on the 20th February and came into immediate operation on its publication in the *Gazette* on the following day. Thus it appears that only two weeks elapsed between the first public notification, given through the *Gazette*, of the Government's intention to amend the Law and the date when the amendment took effect. The only full newspaper report, given by one Greek newspaper, appeared on the day after the publication of the *Gazette*.

In these circumstances it was hardly to be expected that knowledge of the proposed changes in the law could have penetrated, in so short a time, to large numbers of people, especially in the country districts, who would be affected by those changes in their daily lives and who, on some unknown day, would become liable to imprisonment for doing what anyone could have done legitimately for twenty-seven years. Even those who had heard of the proposed changes, and understood what they meant, could not have known how long an interval would be allowed to them to ensure that their clasp-knives complied with the new limitations.

As we have said, the amending law came into full operation immediately on its publication. Nor was there any delay in putting it into effect. In the twelve months of 1950 the total number of convictions for carrying prohibited knives of any kind, whether clasp-knives or not, was 95. In the two months following the publication of the amending law the number of prosecutions instituted in the District Court for carrying prohibited clasp-knives was, as nearly as we could ascertain, 130.

We have thought it necessary to give the above outline of the course of events because it had inevitably meant the appearance before the District Courts of many persons, charged under the amended law, upon whom Judges have thought that it would be harsh in the extreme to pass the

prescribed minimum sentences. For example, in one of the two cases now before us the convicted man is 65 years of age and had been a mukhtar for 20 years until he retired in 1949. He was said by the police to be of good repute and to have been helpful to them in the detection of crime while he held office. Yet they searched him while he was sitting in a coffee shop and found on him a clasp-knife with a pointed blade more than 2½ inches in length. He is now serving the minimum sentence of six months imprisonment because the President, though realising that the sentence was grossly excessive, thought that the Court was not empowered to reduce it.

We shall deal with that particular case later in this judgment but there has been a considerable number of cases of a similar kind and different Courts have taken different views of their powers to reduce the prescribed minimum sentences for carrying prohibited knives. In some cases of which we have knowledge, though they have not come before us on appeal, judges would seem to have put too narrow a construction on the relevant provisions of the law and in others a construction that is too wide. We shall presently indicate the considerations which, in our opinion, should lead to a proper construction of those provisions. It will be seen, however, that it is beyond the powers of the Courts to mitigate the harshness of minimum penalties in every case in which a judge may think that injustice will be done by imposing them. The discretion of Judges has been limited by law and they are compelled to observe those limitations. In such cases only executive authority can intervene.

We return now to the point of law raised by the two appeals before us, namely, the nature of the reasons for which a court may properly reduce a prescribed minimum sentence. They are called " special reasons " in those sections of the Criminal Code which deal with the carrying of knives and are unaffected by the recent amendment of those sections.

The leading English case on the meaning of " special reasons " in this particular connection is the case of *Whittal* and *Kirby* which came before Lord Goddard, C.J., and two other judges in 1946 on a case stated by the Birmingham justices (A.E.R. 1946 II 552). In that case a lorry driver pleaded guilty to two charges under the Road Traffic Act, 1930. One was for driving a motor car while under the influence of drink. We need not concern ourselves with the other. On the charge mentioned the justices imposed a penalty but refrained from ordering that the driver should be disqualified from holding a driving licence. They considered that " special reasons " existed, within the meaning of section 15 (2) of the Act, which entitled them to take that course. For the purposes of these appeals it can be taken that the provision relating to " special reasons "

in section 15 (2) of the English Act is the same as the corresponding provisions in the Criminal Code with which we are concerned.

The justices gave the reasons which they considered to be "special reasons" entitling them to exempt the lorry driver from the disqualification which would normally be entailed by his conviction. Their reasons were: that the lorry driver had no previous convictions for motoring offences, that a licence was necessary to him to enable him to earn his living and that in fining him a substantial sum they took account of their intention to refrain from disqualifying him.

It was held by the Divisional Court that none of the reasons given by the justices for having acted as they did were "special reasons" within the meaning of the Act and the case was sent back to the justices with a direction that they should impose a disqualification.

In the course of his judgment Lord Goddard, C.J., remarked that "special" is the antithesis of "general" and he adopted the following passage from the judgment in an Irish case as an accurate description of the nature of a special reason in this connection.

> "A 'special reason' within the exception is one which is special to the facts of the particular case: that is, special to the facts which constitute the offence. It is, in other words, a mitigating or extenuating circumstance, not amounting in law to a defence to the charge, yet directly connected with the commission of the offence, and one which the Court ought properly to take into consideration when imposing punishment. A circumstance peculiar to the offender as distinguished from the offence is not a 'special reason' within the exception".

The more recent case of *Reay* v. *Young* (1949) 1, A.E.R. 1102, also arose under the Road Traffic Act, 1930. In that case a man allowed his wife, who had not a driving licence, to drive his car in circumstances which amounted to an offence under a particular section of that Act. Both the man and his wife were convicted and the section provided that conviction entailed disqualification from holding or obtaining a licence unless the Court for special reasons ordered otherwise. The justices who tried the case held that there were special reasons and refrained from disqualifying the defendants. Their reasons were: that the place of the offence was a lonely moorland road where there was no traffic except a motor cycle ridden by the police officer who saw the offence; that the husband, who held a licence, was in the car with his wife; and that she had driven very slowly, in broad daylight, for a distance of not more than 150 yards. The prosecutor appealed. The Divisional Court, consisting of Lord Goddard, C.J., and two other Judges, dismissed

the appeal. They held that, while the existence of special reasons is a question of law, it was impossible to say that the facts found by the justices were not special reasons within the meaning of that section of the Road Traffic Act under which the respondents had been charged.

We must be guided by the principles laid down or adopted by the Lord Chief Justice in the cases that we have cited. It was suggested to us by the Crown Counsel that the meaning given to the term special reasons in the case of *Whittal* and *Kirby* was influenced by the character of the penalties prescribed by the Act which was considered in that case and that the same meaning need not be given to the same term in the Criminal Code which prescribes the punishment of imprisonment. There are differences between offences under the English Road Traffic Act and offences under the sections of the Criminal Code with which we are concerned and we shall presently refer to them but we see no reason to suppose that the opinion expressed by Lord Goddard in the case cited was in any way influenced by the consideration suggested by the Crown Counsel or by anything else than the meaning of the term special reasons when the law prescribes their necessity to justify a court in refraining from imposing a specified penalty in a particular case.

The Crown Counsel went on to give what he considered a possible interpretation of the term special reasons as used in the sections of the Criminal Code with which we are concerned and suggested that the Courts might properly adopt it. We need only say of that interpretation that it would take away every vestige of meaning, not only from the term " special reasons ", but also from those provisions in the Code by which minimum penalties are imposed.

It must be recognised that the legislature has thought fit, for whatever reason, to limit the discretion of the Courts in the imposition of sentences in these cases and if injustice results, it is not always within the power of the Courts to remove it.

If the principles of the English cases are followed, as we think they must be, it will be seen that some reasons which might ordinarily influence a court towards leniency when passing sentence cannot be taken into account when " special reasons " are required by law for the reduction of a minimum penalty.

While ignorance of the law is never a defence to a criminal charge, a court might ordinarily think that some leniency in sentence would be justified if some act which had been lawful for a long period had for the first time been made punishable by a law enacted after such short notice that the majority of people had not had time to become aware of it. But such a reason would be a general and not a special reason and could not justify the reduction of a

1951 April 25

AHMET GAZI v. THE POLICE

HALIL TAHIR OMBASHI v. THE POLICE.

minimum penalty when the law requires that special reasons for reduction must exist. Similarly the good character of an offender, or the fact that it is his first offence, is a circumstance special to him and not to the offence which he has committed.

But there is one important difference between two of the sections of the Criminal Code which impose minimum penalties for the carrying of knives and the sections of the English Act which the Lord Chief Justice was considering in the cases that we have cited. Each of the Cyprus sections prescribes a statutory defence to a charge framed under it, while the English sections, for obvious reasons, contain no similar provision. By section 79 of the Criminal Code it is made an offence to carry a knife, whether pointed or not, other than clasp-knives excluded from the operation of the law. But sub-section (3) of that section provides that no one shall be deemed to have committed an offence against it if he can show that he was carrying the knife for some lawful purpose for which "such" knife was necessary. Similarly it is a defence to a charge under section 80, which relates to the carrying of knives at weddings and fairs, etc., if a person can show that he was carrying the knife in the exercise of his trade or calling. The defence is narrower under section 80 than it is under section 79 but in each case the statutory defence provides, in our opinion, some guide to reasons which could properly be regarded as "special reasons" justifying the reduction of a minimum penalty when the complete defence cannot be established.

If an accused person can establish all the essentials of the statutory defence prescribed by the section under which he is charged, he is, of course, entitled to an acquittal. But though he may not be able to establish all the essentials of that defence he may be able to establish some. Those which he can establish could, we think, be properly considered to be special reasons falling within the description adopted by Lord Goddard in the case of *Whittal* v. *Kirby*. In our view they could properly be regarded as "mitigating or extenuating circumstances, not amounting in law to a defence, yet directly connected with the commission of the offence" and to be properly considered by a Court when imposing sentence.

We have already referred to some of the facts in one of the cases now before us, namely, the case of Halil Tahir Ombashi, a man of 65 years of age and a retired mukhtar. Neither his age, nor his career nor his character were special reasons, as the trial Court thought they were, which would justify the reduction of the minimum penalty in his case. Those were reasons which were special to him and not to the offence which he had committed. But he described himself as a farmer and shepherd and it is only reasonable to suppose that, in either capacity, a knife of some sort was

1951
April 25

AHMET GAZI
v.
THE
POLICE

HALIL TAHIR
OMBASHI
v.
THE
POLICE.

necessary to him. Both the judge who tried him and the President who had to review the sentence thought that a fine would have been punishment enough. The President was concerned only to review the sentence and not the conviction but it must be assumed that, in the opinion of the trial Judge, all the elements of the statutory defence to a charge under section 79 (3) had not been proved ; that is to say, the accused man had not shown to the satisfaction of the Court, that, at the particular time when he was found with the knife, he was carrying it for a lawful purpose for which that knife was necessary.

But, assuming the conviction to have been correct—and, since the accused pleaded guilty, the correctness of the conviction is not before us—there were many other circumstances to be considered in deciding whether or not special reasons existed for the reduction of the minimum penalty. Though all the essentials of the statutory defence had not been proved, it seems extremely likely that some were present. Is a knife ordinarily necessary for a man who works as a farmer and a shepherd as well ? We have already said that, in our view, it seems reasonable to assume that it is.

Was the knife of such a description that it could be said to be necessary to such a man in his lawful occupations ? We have seen the knife and there is nothing in its appearance to suggest that it was one which a farmer and shepherd could not lawfully carry for his lawful occupations. It is a clasp-knife and the pointed blade is 3½ inches in length. The appellant could have carried it anywhere before the recent amendment of the law.

We have already mentioned that the knife was found on the accused man when he was searched by the police while he was sitting quietly in a coffee-shop. Did he simply turn in there for a cup of coffee, or for some other reason, when he was on his way to or from his work ? In other words, was the time when he was found with the knife merely a brief interval in a much longer period when it would have been lawful for him to carry it ?

It does not appear that any enquiry into any of the circumstances which we have mentioned was made by the trial judge in his search for special reasons which would justify him in doing what he wanted to do, namely, to reduce the minimum sentence which he felt, as did the President, would be unjust. Nor was any similar enquiry made in the other case which is before us on appeal or in any of the cases which, though not now before us, have come to our knowledge.

We repeat that if some, but not all, of the essentials of a statutory defence can be established, those essentials which have been established can, in our view, be properly considered to be special reasons which, if the Court thinks them sufficient, may justify the reduction of a prescribed

minimum penalty. In other words, if a man is nearly entitled to acquittal but not quite, or partly entitled but not altogether, it seems reasonable to regard him as less guilty than if none of the elements of a statutory defence existed in his case.

The elements of a statutory defence do not, of course, exhaust the special reasons which may exist for reducing a minimum penalty, but those elements suggest a line of enquiry along which special reasons may be found and a line which does not appear to have been followed in either of the cases now before us or in any similar cases which have come to our knowledge. The two English cases which we have cited may suggest possible lines of enquiry along which special reasons of other kinds may be found.

We have now said enough about the facts in the case of Halil Tahir Ombashi, the retired mukhtar, to enable us to consider what action we should take on that appeal. One possible course would be to send the case back to the District Court with a direction that the Court should reconsider the question of special reasons, on the lines and according to the principles that we have indicated and, having come to a conclusion on that question, should pass sentence accordingly. But the appellant has already served twelve days of a sentence of imprisonment, though both the trial judge and the President considered that he would have been sufficiently punished by a fine. To send the case back for further enquiry would mean that this appellant's imprisonment would be prolonged for some further time.

Upon the whole we think that the facts which we have already set out in our consideration of his case entitle us to conclude that there were special reasons which, if the trial judge had directed his mind to that line of enquiry, would have justified him in reducing the minimum penalty. We think therefore that, having regard to all the circumstances known to us, we shall be justified in reducing it ourselves and in ordering that this appellant be now released from prison and that he must pay a fine of two pounds.

The other appellant, Ahmed Gazi, is a motor driver of 21 years of age. On the 31st March, he pleaded guilty to the same charge as the appellant whose case we have just considered, that is to say, to a charge of carrying a clasp-knife with a pointed blade exceeding 2½ inches in length. He had no previous convictions of any kind. At the time of his offence and, as he said, for three years previously, he was in charge of a bulldozer and carried the knife for the purpose of scraping the sparking plugs of the engine. He said he had been using it for that purpose on the night of his arrest. On that night he was waiting at Famagusta for a lorry on which his bulldozer was to be loaded and brought to Nicosia. The lorry was late and, while waiting for it, he went into a house to see a girl. According to the police

evidence he was under the influence of drink and was making a nuisance of himself. For that reason he was searched and the knife was found on him.

It will be seen that his case differs materially from that of the other appellant. A knife of some sort may be a convenience to someone who has to look after a motor vehicle, whether a bulldozer or another kind. We have seen the knife in this case also and it would have been lawful for the appellant to carry it anywhere before the recent amendment of the law. The blade is less than 3 inches in length. But it would be difficult to say that a clasp-knife with a blade of more than two and a half inches in length is necessary for the purpose of cleaning sparking plugs or for any other purpose connected with this man's particular work. None of the elements of the statutory defence appear to have been established in this case and we see no reason to think that special reasons of another kind might be found if further enquiry were made.

The case was tried by the President who held that he was obliged to pass the minimum sentence of six months imprisonment because he could find no special reasons which would justify him in reducing it. On the evidence before him we agree with that view. Nevertheless the President thought that a fine would have been a sufficient punishment. He gives no reason for thinking so. The man was a first offender and was only 21 years of age. The President believed his statement that he was not aware of the recent change in the law. Those might have been sufficient reasons to justify a punishment of no more than a fine if the law had not prescribed a minimum sentence. But the law does prescribe a minimum sentence for the offence of which this appellant was convicted and effect must be given to that requirement, unless there are reasons of the kind which the law itself prescribes for departing from it. That law may result in hard cases and, as we have said, it is not always in the power of Courts to mitigate them. In this case we think that the appeal must be dismissed.

In conclusion we think it desirable to add a word on the exercise of the powers of search which are given to the police by section 25 of the Criminal Procedure Law, 1948. Under that section any police officer, may, without warrant, detain and search any person whom he reasonably suspects of carrying any article in respect of which any offence is being committed. Some prosecutions which have been instituted since the recent amending law relating to the carrying of knives suggest that there may have been instances in which men have been searched rather on the chance that they were carrying a prohibited knife than on reasonable suspicion that they had one in their possession. If that has in fact occurred searches in those circumstances would not be authorized by the section quoted.