

FOR WHAT PURPOSE.

Date taken out.

at.

C. No.

Year.

Initials of clerk taking the paper or of attender.

Date returned.

Initials of attender.

M.R.O. 1-77,000-8-6-37.

(1) Number of pages 20

(2) Date of repair 18-11-42

(3) Initials of the Referencer SG

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 2521

~~Press~~
Mis.

Dated 5-12-

1895.

Not to be folded or roughly handled

17-11-42

17-11-42

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2521.

Dated 5th Dec. 1895.

INDEXED.

[Despatch Abstract.]

POWERS OF MAGISTRATES AND POLICE TO DISARM IN MALABAR.

Approving the recommendation of the District Magistrate of Malabar that Magistrates, Police Officers and heads of Villages in that district should be empowered to disarm under section 13 of Act XI of 1878, and ordering publication of a notification in the Fort St. George Gazette.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

2071
 BOARD OF REVENUE,
 REV. SETT. & RECORDS & AGRICULTURE.
 Madras 23 SEP 1895
 Camp. Hindustan
 Sept 21 - 1895

My dear Price,
 Govt. Memo. 2150
 dated Sept 13th, reached
 me in Camp yesterday.
 2. In the only copy
 of the Indian Arms Act
 to which I have access
 the second clause of
 Sec. 13 reads as follows:-
 "Any person so going
 armed . . . may be
 disarmed by any
 Magistrate, Police officer,
 or other person empowered

by the Local Govt in
this behalf -

There is no coming after
the word "person", and
the phrase "empowered
by the Local Govt."

Therefore qualified
"person" only, and
does not qualify
"Magistrate" or "police
officer" - In other
words the section
confers on all magis-
trates and police
officers the power to
disarm, and enable

the Local Govt to confer
that power on any
other person -

3. I have no books
of reference with me,
and am unable to
refer to the G.O.s
quoted in the 6th foot
note to para 13 of
Rule VI of the
Arms Act Rules, to
which I merely refer -
If it has been ruled
that the word
"empowered" does
qualify "magistrate"

of police officer.
I beg that the above
circumstances may
excuse my having
expressed an opinion
to the contrary.

4. If my construction
of Sec. 13 is right,
all magistrates and
police officers have
already the power
which the notification
proposes to confer,
and the only question
is whether a similar
power should be given
to Heads of Villages.

2.

I doubt if it could be
shown that any crime
committed with lethal
weapons would have
been prevented had
the proposed notification
been in force -

No Adhigari possessing
the requisite courage
and resolution to
disarm an armed
and dangerous man
would be deterred

from doing his duty
by any misgivings
as to his legal
powers; and it is
plain that Sec 12 of
the Arms Act would
abundantly protect
him in following
the dictates of
common sense.

I don't think
the notification would
go far to strengthen

The Hon. Mr. J. J.

the feeble knees
These Adhigario
who prepared to find
some excuse for
leaving the dangerous
man alone,
pending the arrival
of the police or
magistrate -

At the same time
I don't see that the
issue of the notification
can do any harm -
Yrs sincerely

F. Price

Wm. Lister (M. Q. M.)

Judicial Dep
6

C. N^o 3693.

Refce. N^o 2150
2713.9.95

Referred to Mr. W.
Winterbotham with the request
that he will be good enough
favour Govt. with his opinion
as to the issue of the proposed
notification

do
11

H. M. Winterbotham Esq. *replied*
13/9
W. W.

Int. "the Hon. Mr. W."

Arms Act Rule

C.S.

of on 298

mag

From,

H. Moberly Esq.

District Magistrate
Malabar.

To

The Chief Secretary
to Government, Judicial Depart.
Cochin

Sir,

In the 6th footnote to para 13, Rule VI of the rules under the Indian Arms Act, 1878, it is said "No Magistrate, Police Officer, or other person has been specially authorized by the Madras Government under Section 13 of the Act summarily disarm persons without a license. Such persons be dealt with in accordance of the Criminal Procedure the occurrence reported to the Magistrate (G.O. dated 20th, No. 1184; 14th July 1879, No 1628)."

2. I beg to invite the attention of Government to Sections 51 and of the Criminal Procedure Code. By the former section "whenever a person is arrested without warrant the officer making the arrest may search such person"

safe custody all articles, other than necessary wearing apparel, found upon him". A Police officer may, without warrant, arrest a person committing an offence, under Section 19 of the Indian Arms Act, and consequently by Section 51 of the Criminal Procedure Code, a Police officer may disarm any person he arrests for an offence under Section 19 of the Indian Arms Act. Again Section 93 of the Criminal Procedure Code says the officer making any arrest under this Code may take from the person arrested any offensive weapon which he has on his person."

Then Section 12 of the Arms Act says "If a person is found carrying any arms 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 for any unlawful purpose, any person may without warrant apprehend him and take such arms from him". The phrase "unlawful purpose" is nowhere defined. If a man goes out hunting, for which he has no licence

licence, cannot it be said that he intends to use the gun for an unlawful purpose?

8
4. In view of Sections 51 and 53 of the Criminal Procedure Code, I doubt whether Police officers need be empowered to disarm under Section 13 of the Indian Arms Act. It is very necessary, however, that in this District Magistrates, Police officers, and head villages (adbigaris) should be empowered to disarm under Section 13 of Act XI of 1875 and I request therefore, that, in order to clear all doubt, Government will please to issue the necessary notification under Section 13 of the Arms Act.

5. I submit the following draft notification for approval:-

Under Section 13 of the Indian Arms Act (No XI of 1875) His Excellency the Governor in Council is pleased to empower all Magistrates, Police officers, and adbigaris in the District of Malabar to disarm any person going armed without a licence or in contravention of the provisions of the licence.

I have the honor to be,
Sir,
your most obedient servant
Frederick
District M.

Official Sept 1
CURRENT No. 3693

From,
The District Magistrate
Malabar.

Arms and Ammunition

The Chief Secretary
to Govt. Just Sept
ooka camund

Rome 2987
magl.

dated 28th July 1895

Despatch 1-8-95

Despatch 3-8-95

SECRET
AUG 95
duly sent

Noting that it is necessary
in this District, Magistrates,
Police officers and heads
of Villages should be em-
powered to disarm under
Sec. 13 of Act XI of 1878 and
requesting that the necessary
notification be issued
under the arms Act

For orders.

As to whether the draft notification
may be approved & published in the Fort St. George
Gazette? - SS 51, 53 of the C.C. &
12 & 13 of the arms Act near together
are not quite clear. If Mr. Roberts
is correct § 13 of the latter is almost
superfluous. A notification under § 13 is
therefore desirable if H.M. approves
power of empowering Magistrates & Police
officers to disarm men in Malabar.

16/8/95

The D.M. does not state why
it is desirable to empower
the officers mentioned by him
disarm. Magistrates seem
enough but to empower the
ordinary constables and village
officers rather risky

h.D.
21/8/95

I should say that in the
it was right that the
named Mr. [unclear] have power to do
Possibly the omission of the word
may lead to a row sometime
So Circ

26/8/95

I, too, think that it is desirable to make
I think the notification may issue. It
but I should
like first to know
more about

J. DEPARTMENT.

C. No. 3693

S.D.O. 574

FOR ORDERS.

Please see notes & orders on
the current within.

Mr. Winterbottom thinks that
the notification, if it did little good
as far as the series are con-
cerned, it does no harm.

This copy of the Act appears,
however, to have been incorrect.
Every copy consulted here
has no comma after "Police
officer". Even if there was a
comma, Mr. W's interpretation
seems to be incorrect for
if the words "empowered" the
only qualified "person" the
clause of naturally have
in any Magistrate & Police

It has already been held
 to go. $\frac{1628}{14.7.79}$ That the
 words "improved" ... qualify
 registrars; "police officers", and
 "other person" too, & this
 interpretation seems right.

Althaus ^{not} me ^{Magistrates}, as
per. clauses Act I of 1868
sec. 2. (13) defines ^{Magte.}

including "all persons ex-
ercising all or any of the
powers of a Mag^{ty} under
the C.C.P." and sec 1 (c) of the C.C.P.
the Code does not apply to them.

the Code does not apply to him.
for orders as to whether
the notification may now be
reissued or require to be specially
empowered as well
as the Police.

order: 5 December 1950

The D. A. G. S. recommendation is approved & the following ratification published in the P. S. G. &.

(H. E. Notⁿ in favor of D. A. G. S. letter)

12/12/50

on 12/12/50

12/13/50

(from order)

FOR ORDERS.

So I think - If empowered to "re-
ferred only to person" it is hardly
likely that the section would go on
"or by virtue of his office" - Besides,
the wording would be "any Magistrate
or Police officer or any person"
as suggested in the note.

I think so

27/11/95 28/11/95

12-13

20-8-09

16-6-10

1-8-22 100

28-9-32 1

46-8-34 1

15-10-35 1

2-3-36 1

7/11/36 1