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Local & Munl. (1897) Department.

INDEXED.

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G.O., No. 1662 M.—
1663 M.—

DATED 26-7-97

DESPATCHED

[Despatch Abstract.]

Cantonment Fund rules

Directing that a letter be despatched to the Govt of India, Combg the views of this Govt: together with the suggestions made by the Authorities Consulted on the draft —— proposed rules to be issued under sec. 26 of the Cantonments (India) Act XIII of 1889.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
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Government (1897) of Madras.

LOCAL AND MUNICIPAL.

Recd. } 1897. *Enclosures*

Regd. } 1897. *Spare copies*

G.O., No. 1662 M., 26th July 1897.

JULY.

Cantonment Fund Rules.

Directing that a letter be despatched to the Government of India communicating the views of this Government, together with the suggestions made by the authorities consulted, on the draft — proposed to be issued under section 26 of the Cantonments (India) Act XIII of 1889.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From the Collector and District Magistrate, North Arcot, dated Vellore, 3rd February 1897, Dis. No. 176.

From the Acting District Magistrate, Malabar, dated Camp, Angadipuram, 3rd February 1897, No. 166-Magl.

From the District Magistrate, South Canara, dated Camp, Coondapoor, 4th February 1897, Dis. No. 78/97-Magl.

From J. H. A. **TREMENHEERE**, Esq., Acting District Magistrate, Nilgiris, to the Secretary to Government, Local and Municipal Department, dated Camp, Karteri, 5th February 1897, No. 174.

As required by G.O., Mis. No. 99 M., dated 27th January last, I have the honour to submit a memorandum containing my remarks on the draft revised Cantonment rules.

2. I invite attention to the remark under section 261. The rules throw more work on the civil magistracy, more it may be than the present staff can carry out.

Memorandum.

Section 3.—Definitions—

(9) *Street.*—This should cover open spaces by the sides of roads, etc., over which the public have a right of way *or of access.*

Section 70 (1-*e*).—As in times of famine, emaciation is exhibited, this word might be inserted between 'deformity' and 'disease'.

(*g*) Gaming should be prohibited not only in streets and public places, but wherever it tends to create disorder even on private lands. I have known a prosecution fail when the gaming was on private land entirely open to public gaze and access.

(*k*) Advertisements may be affixed to trees, to the great untidiness of the cantonment; this should require sanction.

(*k*-ii) These words are too wide; it should not be a nuisance merely to *mark* a private tree.

(3) The deposit of rubbish, should be punishable when made not only by a servant, but by any other person under authority; *e.g.*, wife or child.

(7) "A common gaming house" is not wide enough; see (*g*) above.

(12) Letting an animal loose so as to cause annoyance is not enough; stray cattle, horses, pigs and asses are a great nuisance in some towns especially at night, though no annoyance can be legally proved. The clause should run "negligently allows any animal to be loose in such a manner as to be likely to cause annoyance in a public place." Section 144 does not apply, as there the animal must have been *left on the street*; and impounding under section 226 is not enough.

Section 71.—This section is too lax, in that it prevents the slaughter of dogs round whose necks a rag has been tied in token of ownership. The collar or mark should designate the owner, and all dogs should be licensed.

Section 72.—The words "sudder bazaar" convey no meaning in the South of India.

Section 93.—An important point here arises. On the analogy of the corresponding section in the District Municipalities Act, it would seem illegal to refuse consent to erect a building unless it would interfere with the conveniences mentioned in clauses (*a*) to (*e*), viz., free passage, space for circulation of air, for scavenging and fire prevention, ventilation with drains, privies, etc., level and stability, and line of frontage. If it is meant that permission may be refused on other reasonable grounds, this should be stated. For instance, it might be opposed to proper policy to allow a hut to be erected on private land just in front of the barracks, or in such a position as would spoil the effect of public gardens: at any rate, objectionable circumstances might exist, not covered by the clauses.

Section 93, *clause* 5.—It should not be enough merely to *begin* building within the year, for this would cover a mere pretence.

Section 100.—I see no power to cause a prickly-pear hedge to be removed, when another hedge or fence is ordered to be constructed. Such power is needed.

Section 180.—This obliges the cantonment authority to allow a public prostitute to reside in some specified part of a cantonment. It is suggested that power might be given to exclude a troublesome or notoriously infected prostitute.

Section 190.—Bubonic plague might be included in the definition of infectious or contagious disorders.

Section 261.—If Committees of Arbitration often sit in Wellington, a Justice of the Peace will have to be posted to Coonoor; for the District Magistrate will not have time, the Head Assistant Magistrate is often in the Wynaad, and the Deputy Magistrate cannot leave the Treasury.

Section 268.—An application for a building site should specify the survey number if there is one.

From the Acting District Magistrate of Chingleput, dated Camp, Sríperumbûdúr, 25th February 1897, Dis. No. 124 of 1897.

From **BANNATYNE MACLEOD**, Esq., B.A., Barrister-at-Law, Acting Collector and District Magistrate of Trichinopoly, to the Secretary to Government, Local and Municipal Department, dated 5th March 1897.

With reference to G.O., Mis. No. 99 M., dated 27th January 1897, referring for remarks the revised Cantonment rules referred to in the letter from the Government of India, Military Department, No. 2311 C., dated 10th December 1896, I have the honour to annex below my remarks and suggestions :—

Section 4—(1) "The District Magistrate or" may be inserted before the word "any" in line 14.

Section 221—(1) In Trichinopoly it would cause great dissatisfaction to let the Military authorities arbitrarily turn out South Indian Railway officers, Government Civil officers and well-behaved Native gentlemen from their houses.

From W. O. HORNE, Esq., Acting Magistrate, Vizagapatam, to the Secretray to Government, Local and Municipal Department, dated 10th April 1897, No. 442.

Referring to G.O., Mis. No. 99 M., dated 27th January 1897, I have the honour to submit my remarks on the revised Cantonment rules received therewith.

2. *Section* 10.—From the wording of section 10, it is to be inferred that no business can be transacted at a meeting of the Cantonment Committee unless the President is present. There seems no necessity for this, and it is inconsistent with section 4 (2).

Section 109 (*c*).—The definition should be altered, I think, so as to make any place where articles of any kind for human consumption are sold. For the words ". . . . meat down to milk" might be substituted "any articles of food or drink for human consumption", *i.e.*, the words in section 117 (*a*).

Section 125.—This would have to be altered to correspond with section 109 (*c*).

Section 137 (1).—The term "cattle" is not very definite. Presumably it excludes buffaloes which there is no reason to omit.

Section 186.—Instead of requiring a list of the names and addresses of the owners of clothes it would be better for obvious reasons to require a list of the names and addresses of all persons within the cantonment for whom the washerman washes.

Section 236.—It might be well to fix some period of absence which should necessitate the appointment of an Agent.

From H. A. STUART, Esq., Acting District Magistrate of Bellary, to the Secretary to Government, Local and Municipal Department, dated 12th April 1897, M.D. No. 321.

I have the honour to reply to G.O., Mis. No. 99 M., dated 27th January 1897.

2. I must, in the first place, express my regret for the delay that has taken place, but I have experienced considerable difficulty in ascertaining what is the exact position of the military station of Bellary with reference to Cantonment laws and rules.

3. So far as I can gather, the old Cantonment of Bellary having been established under the old Madras Acts continues to be a Cantonment under Act XIII of 1889, and the rules in force at the time of the passing of that Act continue in force by virtue of section 2 thereof. These rules are those contained in Chapters V and VI of the rules framed under Madras Act I of 1866, but the operation of the Chapter, relating to public prostitution has been suspended, and the rules contained in Chapter VI concerning the registration of births and deaths are in practice superseded by the corresponding provisions of the District Municipalities Act.

4. Bellary is, then, a cantonment in name only. It is included within the limits of the Bellary Municipality and it is governed by the municipal law.

5. If the proposed rules under Act XIII of 1889 are passed as they stand, all previous rules will be cancelled by virtue of clause (*a*) of the second rule. As already explained the rules under Madras Act I of 1866 are already inoperative and their formal cancellation is therefore unobjectionable.

6. Whether it is desirable to apply the general body of the rules to the Cantonment of Bellary is a matter regarding which I have considerable doubt; but if they are applied I am decidedly of opinion that the operation of the Local Municipal Act should be excluded, for otherwise collision between the two governing authorities seems to me inevitable. Moreover the draft rules contain a complete body of urban law and the Municipal Act is unnecessary, I gather that local military opinion is in favour of the Cantonment rules, while owners of houses within the cantonment limits would prefer to remain under the rule of the municipal council of which most of them are members. I do not think that any strong grounds for a change have been shown, and on the principle *quieta non movere* I am disposed to leave matters as they are.

7. As regards Rule 220, I beg to point out that it would be inoperative unless a Cantonment Magistrate is appointed. As I read the Act, section 5 makes the appointment of Cantonment Magistrate imperative, but the Government has decided that, on financial grounds, one cannot be appointed for Bellary. If a Cantonment Magistrate is appointed, I see no objection to Rule 220 for the exercise of the power given thereby is sufficiently safe-guarded by the right of appeal.

From the Deputy Adjutant-General, Madras Command, to the Secretary to the Government, Local and Municipal Department, dated Ootacamund, 13th April 1897, No. B—B-5988.

With reference to Proceedings of the Madras Government, Mis. No. 99 M., dated 27th January 1897, I am directed by the Lieutenant-General Commanding to submit the following remarks which His Excellency considers called for on the draft Cantonment rules forwarded therewith :—

Paragraph 3, *definition* (6).—"Bazaar" means any land set apart for occupation by natives of India. In Burma the term "Native of India" is used to distinguish the Indian Immigrant or his descendants from the Burman, Shan, or Chinaman, but the bazaar population in Burma is composed of all these, and in some cantonments (Bhamo for example) the non-Indian races predominate; confusion and litigation may result if the definition is allowed to stand as it is, and therefore for "Natives of India" read "Asiatics".

Paragraph 7 (1).—The term "Cantonment authority" might be clearly defined in paragraph 3.

Paragraph 15 (*c*).—This does not specify the particular individual who is to furnish the estimate and plans. It is suggested that the Sub-Divisional officer, Military Works Department or Public Works Department, be directed to do so, and he be paid for his trouble. This would also be necessary for works costing less than Rs. 500.

Paragraph 33 (*c*), *read with paragraph* 15 (*c*).—There is a difficulty as to the effect of these rules. The former permits the Officer Commanding the district to require (by an order in writing) that estimates for works exceeding Rs. 500 in cost be submitted for approval, and empowers him to name the authority by whom they shall be approved. The latter rule requires that *all* works, whatever their cost, be estimated for and sanctioned (sanctioning authority not named) before being paid for. That is to say, rule 15 is permissive and refers only to large works, while rule 33 as it stands is compulsory and applies both to large and to petty works. Thus, the Officer Commanding the district not being bound to make the order referred to in the former, if he does not make it, the latter rule will operate as a bar to all work, and even if he does, the order will not cover the case of works of Rs. 500 or under.

The intention may be to leave the sanctioning power in ordinary cases in the hands of the Cantonment authority, but to reserve to the Officer Commanding the district the power to control expenditure on works exceeding a certain sum. To make the point clear, however, it is suggested that paragraph 33 (*c*) be reconstructed as follows :—

> "In the case of expenditure on public works exceeding Rs. 500, of which detailed estimates have been required by the Officer Commanding the district under rule 15 (*c*), unless the estimates have been approved by the Superintending authority (if any) named by the Officer Commanding the district."

It appears very desirable that a certain sum should be budgeted annually for unforeseen emergencies, there is no necessity to expend the money but circumstances often arise requiring instant action especially as regards epidemics and unless funds are immediately available, the opportunity of grappling with the difficulty is missed before sanction for expenditure is received.

Paragraph 41.—" Overdrafts on the Cantonment funds " means overdrafts on the treasury or banking account of the fund—an overdraft on the fund itself being a confusion of ideas the rule should read :—

> " The treasury account of the Cantonment fund may be overdrawn only if sanctioned, ... &c."

Chapter VI, paragraph 70.—This defines a nuisance, and constitutes it a breach of rules, the penal clause relating to single nuisances being apparently paragraph 294.

But for working purposes, continuing nuisances should also find their place in this chapter. Take the offences described in paragraph 70, items (7), (10), (13) and (16) for example. In such cases one punishment is often useless. What is wanted is a punishment followed by an order prohibiting continuance of the particular nuisance, and some supervision to ensure that if the order is not obeyed the offender is again brought up. In the event of proved disobedience, the Magistrate should be empowered to impose a penalty measured by the number of days the disobedience has lasted. A rule authorizing this, with the necessary modification of paragraph 89, or an addition to paragraph 294, providing for a continuing penalty in such cases, is all that is required.

Paragraph 70 (*c*).—The words " or having the care or custody of any child under 7 years of age omits to prevent such child from committing a nuisance " should, it is considered, find a place in this paragraph.

Paragraph 72 (*e*).—" Sudder Bazaar ". For the sake of uniformity in the system of spelling should not this be " Sadr " or " Sadar " ?

Paragraph 78.—The following are suggested as additional clauses :—

(2) " The use of these receptacles and of the latrines provided under rule 77 shall be enforced by the officers named in rule 72, within the limits assigned to each officer. Should it appear that offensive matter or rubbish is being deposited in any unauthorized place in or near those limits, or that persons reasonably suspected to be inhabitants of houses within them resort to such place to ease themselves, the Sanitary officer of the cantonment, the officer responsible for the sanitary condition of the particular place, or the Cantonment Magistrate, shall, if the individual offender cannot be ascertained and the circumstances of the case render it desirable, recommend to the cantonment authority that the occupiers of the houses within the limits in question be called upon to show cause why they should not jointly and severally be held liable to the penalty prescribed by these rules for such nuisances when committed by individual offenders."

(3) " And it shall be competent to the cantonment authority to issue such notice, and, in the event of failure to show cause against it, to impose such penalty." This rule should be specially useful where (as is often the case in the neighbourhood of a native village) it is found that the road sides and hedges have been used as latrines and rubbish depôts, but the actual offender cannot be detected. In such cases the presumption is that the villagers who do not themselves commit those nuisances do not object to them, and will not, except under compulsion, help to abate them.

Paragraph 137 (4).—To this add :—" Nor to meat slaughtered outside cantonment limits under conditions agreed upon between the cantonment and the municipal or other competent authority."

Paragraph 169.—Fifty feet is considered too close and 100 yards is suggested as the minimum distance,

Paragraph 174 (*b*).—After " slaughtered in India " add " or Burma "—for reason see note to paragraph 3.

Paragraphs 220 (3), 221, 223.—These should be made applicable to females as well as males.

Chapter XIX (*Paragraphs* 251 *to* 256) *and Schedule II and Rules* 112 (1), 128 *and* 230.—Any appeal from an executive order, even of the Cantonment Magistrate should not, it is considered, lie to the District Magistrate. The former is only subordinate to the latter in his judicial capacity. Executive matters in a cantonment are military

matters and, under the draft rules under review, the District Magistrate is no longer a member of the Administrative Committee. The objections to his sitting in appeal upon the orders of the cantonment authority are still stronger, inasmuch as the latter is in no sense subordinate to him.

It is quite conceivable that questions may arise in a cantonment, of which the civil aspect is the more important, but with most of these rule 14 (3) gives the District Magistrate power to deal matters which do not come before the cantonment committee and with which the District Magistrate has any concern, would fall to be dealt with by the Cantonment Magistrate judicially, as and such would (if appealable at all) properly be appealable to the District Magistrate as questions of law and fact. But anything tending to obscure the clear boundary between matters administrative and matters judicial, *i.e.*, between Military and Civil authority in a cantonment, should His Excellency thinks, be guarded against.

Paragraph 297 *read with paragraph* 295.—For cognizance of any *offence* under these rules, the complaint of the cantonment authority or of some one acting under him, is necessary (paragraph 295).

But paragraph (297) *a magistrate* if satisfied a prosecution undertaken by the cantonment authority is unreasonable, may direct the latter to compensate the accused (up to a limit of Rs. 50). This award is to be enforced as if it were a fine, *i.e.*, by distress and sale of the cantonment authority's property, if need be.

Several questions arise from this —

(*a*) Is the institution of an unreasonable prosecution " an offence " (for definition of " offence ", *vide* Imperial General Clauses Act, 1887, section 3, clause 9), if so, no Court can entertain a complaint of it from any aggrieved party, the cantonment authority must appear both as prosecutor and as accused.

(*b*) If not an offence, but a quâsi civil wrong similar to that described in Criminal Procedure Code, section 560, is the compensation payable by, and the fine leviable upon, the cantonment fund or the cantonment authority personally ?

(*c*) " A Magistrate," as defined in Imperial General Clauses Act of 1868, includes all persons empowered under the Criminal Procedure Code. Should not the working of this rule (if retained in any form whatever) be reserved to Magistrates of a rank high enough to pass such orders without thereby lowering the cantonment authority within his own command ?

(*d*) And should not the Cantonment Magistrate be exempted from the duty of censuring as a Judge (and in an especially unpleasant form) an authority to whom as an executive officer he is subordinate ?

A single case of this kind would make it very difficult for either officer to work with the other as if nothing had ever happened.

(*e*) What provision is there for appeal from a decision which, it may be taken as certain, will seldom be submitted to with a good grace ?

It is therefore suggested that paragraph 297 be cancelled, reserving however to the District Magistrate power to refer to the Officer Commanding the district, for final disposal or further reference to the General Officer of the Command (at the discretion of the Officer Commanding the district), any instance of unreasonable prosecution under these rules before the Cantonment Magistrate which may have to come to the District Magistrate's notice on revision or otherwise. Provided that no such reference be made except on judicial proceedings in which final orders have been passed by the Cantonment Magistrate.

Chapters XX, XXI and XXII.—The provisions of Chapter XX appear to apply only to owners of houses holding leases under paragraph 271 ; if so, it is desirable that owners of houses at present existing who are unable to produce a lease showing how they acquired their property which is especially the case in the cantonment of Belgaum, should be required to execute a lease in accordance with the paragraph quoted above, as much of the difficulty in regard to houses in cantonments arises from the owners having no leases.

There is nothing in the rules under review to compel landlords to execute leases and as some of the present owners have acquired their property by purchase in open market (in many cases when sold by order of civil courts) and have bought them absolutely with no conditions as to tenancy, amount of rent, &c., it cannot be supposed they will now sign a lease with Government, unless compelled to do so by making refusal an offence against criminal law.

2. Adverting to paragraph 4 of Government of India, Military Department, letter No. 2311-C, dated 10th December 1896, I am to state that it has already been decided that the rules for the administration of cantonment funds published in G.G.O., No. 297, dated 22nd May 1896, do not apply to the cantonment of Secunderabad. The rules under reference cannot also be acted upon in this cantonment unless specially made applicable to it, as Secunderabad has already been declared by the Government of India to be out of "British India." In this connection, therefore, definite orders as to whether the cantonment rules, when passed, will apply to the above cantonment or not, are solicited.

Order—No. 1662 M., dated 26th July 1897.

The following letter will be despatched to the Government of India:—

[Here enter letter No. 1663 M., dated 26th July 1897.]

(True Extract.)

G. S. FORBES,
Secretary to Government.

Government (1897) of Madras.

LOCAL AND MUNICIPAL.

Recd.	1897.	*Enclosures*
Regd.		*Spare copies*

Letter, No. 1663 M., 26th July 1897.

JULY.

Cantonment Fund Rules.

Communicating the views of this Government, together with the suggestions made by the authorities consulted, on the draft — proposed to be issued under Section 26 of the Cantonments (India) Act XIII of 1889.

LOCAL AND MUNICIPAL DEPARTMENT.

LETTER—from

G. S. FORBES, ESQ., I.C.S.,
Secretary to the Government of Fort St. George,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
MILITARY DEPARTMENT.

SIR,

I am directed to reply to your letter of the 10th December 1896, No. 2311-C., inviting an expression of opinion on the draft Cantonment rules proposed to be issued under section 26 of the Cantonments (India) Act XIII of 1889.

2. The suggestions made by the authorities who were consulted are contained in the papers enclosed, which will in due course receive the consideration of the Government of India. Before inviting attention to certain points in the rules, which seem to deserve more special notice, His Excellency in Council would offer for the consideration of the Government of India a few general observations regarding their application. His Excellency in Council considers that, so far as this Presidency is concerned, the application of the rules should be restricted to places which are *bonâ fide* cantonments, that is, to places which are mainly inhabited by troops and their followers and which would fall into decadence if the troops were removed. It would, in the opinion of this Government, be a very serious obstruction to good administration to apply them in their integrity to places in which a small number of troops are quartered within the limits of a municipality, which has an existence and an organization quite independent of the presence of the troops and is not likely to be materially affected if they should happen to be withdrawn. Most of the military stations in this Presidency fall under the latter class and, in such cases, any arrangement which would amount to the establishment of an *imperium in imperio* and which would lead to the employment of one body of persons to conduct the civic administration within the cantonment limits and of another body to conduct it within the more considerable and more important surrounding municipal limits will be of no real advantage; on the contrary, His Excellency in Council believes that it will be productive of harm, for it will weaken the municipal administration which it is most desirable to strengthen. His Excellency the Governor in Council is of opinion that in such places in regard to all questions of sanitation, the maintenance of roads, the provision of water-supply, the enforcement of vaccination and other matters which are covered by the ordinary municipal law, the existing system should be maintained, whereby the administration lies with the municipal council, strengthened to such extent as may be deemed desirable by the military authorities, whose wishes in this matter this Government would readily accede to, by the nomination to it of the Commanding Officer of the cantonment or of one or more officers named by him. Under clause 2 of section 27 of the Act it would appear that the application of the rules is in the direction of the Governor-General in Council; and accordingly in view of the circumstances which have been explained and of the fact that there are no large cantonments in this Presidency to which the whole of the rules can suitably be applied, this Government trusts that before the rules which may be made under the Act are notified as operative, it

may be consulted fully as to the extent to which they should be given effect in all the cantonments under its jurisdiction. In order thereto, it would appear necessary that the rules themselves shall contain a provision enabling them to be applied in whole or in part in any cantonment as may be decided to be advisable. I am to add, so that the position may be clear, that this Government has no objection at all to the introduction in all cantonments of those rules which deal with matters not provided for by the existing municipal laws.

3. The only points in the rules to which this Government would invite attention are the following:—

(1) *Rule* 2.—With reference to the query contained in paragraph 2 of your letter under reply, this Government does not consider it necessary that any of the orders referred to in this rule should be exempted from cancellation.

(2) *Rule* 3.—(i) It is recommended that the term "Asiatic natives" may be substituted for "natives of India" occurring in the definition of "bazar," in clause (6) of this rule. The term "native of India" is used in Burma to distinguish the Indian immigrant or his descendants from the Burman, Shan or Chinaman and as the bazar population in the cantonments in Burma is composed of all these and in some cantonments the non-Indian races predominate, it is desirable that the definition should clearly include persons belonging to all these communities.

(ii) It seems also desirable to amend the definition of the term "street" given in clause (9) of this rule so as to make it clear that open spaces by the sides of roads, &c., over which the public have a right of way or of access are also covered by it. His Excellency the Governor in Council would therefore suggest the adoption of the following definition of this term, given in section 5 of the Madras District Municipalities Act Amendment Act III of 1897 (M.):—

"'*Street*' includes any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public has a right of way, together with the drains on either side and with the land, whether covered or not by any pavement, verandah or other erection which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property be private property or property reserved by Government for other purposes; and also includes the roadway over any public bridge or causeway."

(3) *Rule* 4.—It has been suggested that the words "the District Magistrate or" should be inserted before "any Magistrate of the first class" in clause (1) of this rule. The Government supports this suggestion. In some districts, the District Magistrate himself would be the Magistrate who could most conveniently attend the meetings of the Cantonment Committee. Objection might be taken to this proposal on the ground that in some cases the District Magistrate is constituted the appellate authority against the orders of the Cantonment Committee (*vide* Schedule III); but such cases are few and not particularly important and it might be ruled, if necessary, that when they come before the Cantonment Committee, the District Magistrate should not take part in their disposal.

(4) *Rule* 6.—This rule appears to be superfluous with reference to section 6 of the Act.

(5) *Rules* 12 *and* 13.—In these rules, the term "presiding member" should be substituted for "President" as it seems plain that the member presiding under rule 4 (2) is to have the powers conferred by those rules. In rules 10 and 11 it is not clear whether the "President" also includes the presiding member under rule 4 (2), and the ambiguity should be removed.

(6) *Rule* 15.—Attention is invited to the remarks of the Lieutenant-General Commanding the Forces, Madras.

(7) *Rule* 18.—This rule seems to be partly superfluous and partly in derogation of section 6 of the Act and to be therefore invalid.

(8) *Rule* 33.—Clause (*c*) of this rule lays down that no money shall be paid from the Cantonment Fund in the case of expenditure on Public Works, unless detailed estimates have been prepared and sanctioned. There seems, however, to be no rule

specifically declaring in all cases by whom plans and estimates are to be prepared. Further it is a question whether it is not going too far to require *detailed estimates* for every petty operation which falls under the head of Public Works. Some limit, within which the necessity for detailed estimates may be dispensed with, for instance, Rs. 200, should be fixed, or power may be given to the General Officer Commanding to prescribe a limit from time to time.

(9) *Rule* 41.—Attention is invited to the alteration suggested in this rule by the Lieutenant-General, Madras Command. There should also be a clear understanding that Imperial funds must meet such overdrafts, as Provincial cannot do so.

(10) *Rule* 70.—(i) It is recommended that on the analogy of section 3 (ii) of the Madras Towns Nuisances Act III of 1889 (M), the words "having the care or custody of any child under seven years of age, omits to prevent such child from committing a nuisance or" should be added at the end of sub-clause (*e*); and that the words "tree or" should be added at the end of sub-clause (*k*) (i) of clause (1) of this rule.

(ii) The words "or other person under his authority" should be inserted after "servant" in clause (3) of this rule; and clause (7), it is suggested, may be modified on the lines of section 6 of the Madras Towns Nuisances Act III of 1889, which runs as follows:—

> "Whoever opens, keeps or uses or permits to be used any common gaming house, or conducts or assists in conducting the business of any common gaming house, or advances or furnishes any money for gaming therein. * * *"

(iii) It seems also desirable to amend clause (12) of this rule so as to make it a nuisance not only when an animal is let loose so as to cause injury, danger, annoyance, &c., but also when it is permitted to stray. This is a cause of serious annoyance in some towns. Rule 144 will not apply to such cases unless the animal was left on the street, and impounding under rule 226 is frequently ineffective in checking the nuisance. The rule might therefore be altered as follows:—

> "(12) Negligently allows any horse, cow, pig, ass or other animal to be loose or to stray in such a manner as to be likely to cause injury, danger, alarm or annoyance in a public place."

(11) *Rule* 72—The word "Sudder" occurring in clause (*e*) of this rule should be spelt "Sadr" or "Sadar". The expression "Sadar bazar", however, conveys no meaning in Southern India.

(12) *Rule* 78.—The Government cannot support the addition to this rule suggested by the Lieutenant-General Commanding the Forces, Madras.

(13) *Rule* 89.—The provisions of this rule authorizing the imposition of a daily fine for continuing breaches of rules seem to require reconsideration with reference to the arguments adduced by the Government of India (Home Department—Judicial) in its letter to this Government, No. 1580, dated 30th October 1895, in regard to similar provisions in the Bill to amend the Madras District Municipalities Act IV of 1884. It is a question whether sub-section 4 of section 27 of the Act itself may not be open to the same objection.

(14) *Rule* 93.—The Government considers that huts should be exempted from the operation of clause (2) of this rule as it will press hard on the poor who cannot furnish plans and specifications.

(15) *Rules* 109 *and* 125.—There appears to be no objection to the amendment of these rules in the manner suggested by the District Magistrate of Vizagapatam.

(16) *Rule* 137.—(i) This rule appears to His Excellency in Council to be unnecessarily stringent, and it should be omitted. There appears to be no reason why a man who wants to sell his beasts to the butcher should be required to get the written permission of the Cantonment authority before he can drive them into the cantonment for the butcher to see and bargain for them. In some places there may be a regular cattle market within the cantonment and the enforcement of this rule will be a great hardship.

(ii) If this rule is retained, clause (4) should be amplified by the addition proposed by the Lieutenant-General, Madras Command.

(17) *Rule* 174.—It is recommended that the words "or Burma" should be added after "India" in clause (*b*) of this rule with reference to the suggestion regarding rule 3 *supra*.

(18) *Rule* 220.—The Government sees no objection to the provisions of this rule as the exercise of the power given by it is sufficiently safe-guarded by the right of appeal provided in Chapter XIX.

(19) *Rule* 221.—It should, His Excellency in Council considers, be provided that any person who has been excluded from a cantonment under this rule, should have a right of appeal to the Local Government or at least to the General Officer of the Command. To allow an appeal only to the Officer Commanding the District is not sufficient. In the opinion of this Government, it is of vital importance that the power conferred by rule 221, which does not apply only to disorderly or criminal persons, being of an extremely arbitrary character, should be safe-guarded in the fullest manner possible.

(20) *Rule* 236.—The period of absence which should necessitate the appointment of an agent should be definitely stated. Under the rule, as it now stands, any owner of a building or land will have to appoint an agent even in the case of a temporary absence of, say, one or two days.

(21) The Government sees no objection to the provisions of Chapter XIX.

(22) *Chapter XXI* prescribes the procedure to be followed in regard to applications for building sites on Government land in cantonments. With regard to the remarks of the Lieutenant-General Commanding, it is understood that this chapter applies only to applications and leases made and executed in the future. His Excellency in Council thinks this is rightly so. If it is desired to question the title of persons already in occupation of land or houses within cantonment limits, this should be done through the machinery of the regular courts and not by the application of a *post factum* rule made under the Act. Many of the rules in this chapter will, it is feared, be found impracticable to work in the case of applications for land required for the erection of petty buildings in bazars—*see* remarks *supra* on rule 93. Some simplification of the procedure would seem to be needed to meet such cases.

(23) *Rule* 268.—A provision should be inserted requiring that applications made under this rule for building sites on Government land should also specify the survey number, if there is one.

(24) *Rule* 295.—It is recommended that the words "a servant" should be substituted for "Secretary" and that the expression "or a member of the police force employed in the cantonment" should be inserted after the words "committee" in the explanation to this rule.

(25) *Rule* 297.—The Government supports the suggestion made by the Lieutenant-General, Madras Command, that this rule should be omitted.

I have the honour to be,
Sir,
Your most obedient Servant,

OOTACAMUND,
26th July 1897.

G. S. FORBES,
Secretary to Government.

Exd. W. D'Moss.

[illegible]

Government (1897) of Madras.

LOCAL AND MUNICIPAL.

Press

Please strike off at once
& send six copies by special
messenger to Dep. Secy. to Govt. of
India — the matter is very
urgent.
E.P.
29/7

Recd. } 1897. *Enclosures*

Regd. *Spare copies*

G.O., No. 1662 M., 26th July 1897.

JULY.

Cantonment Fund Rules.

Directing that a letter be despatched to the Government of India communicating the views of this Government, together with the suggestions made by the authorities consulted, on the draft — proposed to be issued under section 26 of the Cantonments (India) Act XIII of 1889.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From the Collector and District Magistrate, North Arcot, dated Vellore, 3rd February 1897, Dis. No. 176.

From the Acting District Magistrate, Malabar, dated Camp, Angadipuram, 3rd February 1897, No. 166-Magl.

From the District Magistrate, South Canara, dated Camp, Coondapoor, 4th February 1897, Dis. No. 78/97-Magl.

From J. H. A. TREMENHEERE, Esq., Acting District Magistrate, Nilgiris, to the Secretary to Government, Local and Municipal Department, dated Camp, Karteri, 5th February 1897, No. 174.

As required by G.O., Mis. No. 99 M., dated 27th January last, I have the honour to submit a memorandum containing my remarks on the draft revised Cantonment rules.

2. I invite attention to the remark under section 261. The rules throw more work on the civil magistracy, more it may be than the present staff can carry out.

MEMORANDUM.

Section 3.—Definitions—

(9) *Street.*—This should cover open spaces by the sides of roads, etc., over which the public have a right of way *or of access.*

Section 70 (1-*e*).—As in times of famine, emaciation is exhibited, this word might be inserted between 'deformity' and 'disease'.

(*g*) Gaming should be prohibited not only in streets and public places, but wherever it tends to create disorder even on private lands. I have known a prosecution fail when the gaming was on private land entirely open to public gaze and access.

(*k*) Advertisements may be affixed to trees, to the great untidiness of the cantonment; this should require sanction.

(*k*-ii) These words are too wide; it should not be a nuisance merely to *mark* a private tree.

(3) The deposit of rubbish, should be punishable when made not only by a servant, but by any other person under authority; *e.g.*, wife or child.

(7) "A common gaming house" is not wide enough; see (*g*) above.

(12) Letting an animal loose so as to cause annoyance is not enough; stray cattle, horses, pigs and asses are a great nuisance in some towns especially at night, though no annoyance can be legally proved. The clause should run "negligently allows any animal to be loose in such a manner as to be likely to cause annoyance in a public place." Section 144 does not apply, as there the animal must have been *left on the street*; and impounding under section 226 is not enough.

Section 71.—This section is too lax, in that it prevents the slaughter of dogs round whose necks a rag has been tied in token of ownership. The collar or mark should designate the owner, and all dogs should be licensed.

Section 72.—The words "sudder bazaar" convey no meaning in the South of India.

Section 93.—An important point here arises. On the analogy of the corresponding section in the District Municipalities Act, it would seem illegal to refuse consent to erect a building unless it would interfere with the conveniences mentioned in clauses (*a*) to (*e*), viz., free passage, space for circulation of air, for scavenging and fire prevention, ventilation with drains, privies, etc., level and stability, and line of frontage. If it is meant that permission may be refused on other reasonable grounds, this should be stated. For instance, it might be opposed to proper policy to allow a hut to be erected on private land just in front of the barracks, or in such a position as would spoil the effect of public gardens: at any rate, objectionable circumstances might exist, not covered by the clauses.

Section 93, *clause* 5.—It should not be enough merely to *begin* building within the year, for this would cover a mere pretence.

Section 100.—I see no power to cause a prickly-pear hedge to be removed, when another hedge or fence is ordered to be constructed. Such power is needed.

Section 180.—This obliges the cantonment authority to allow a public prostitute to reside in some specified part of a cantonment. It is suggested that power might be given to exclude a troublesome or notoriously infected prostitute.

Section 190.—Bubonic plague might be included in the definition of infectious or contagious disorders.

Section 261.—If Committees of Arbitration often sit in Wellington, a Justice of the Peace will have to be posted to Coonoor; for the District Magistrate will not have time, the Head Assistant Magistrate is often in the Wynaad, and the Deputy Magistrate cannot leave the Treasury.

Section 268.—An application for a building site should specify the survey number if there is one.

From the Acting District Magistrate of Chingleput, dated Camp, Sríperumbûdúr, 25th February 1897, Dis. No. 124 of 1897.

From BANNATYNE MACLEOD, Esq., B.A., Barrister-at-Law, Acting Collector and District Magistrate of Trichinopoly, to the Secretary to Government, Local and Municipal Department, dated 5th March 1897.

With reference to G.O., Mis. No. 99 M., dated 27th January 1897, referring for remarks the revised Cantonment rules referred to in the letter from the Government of India, Military Department, No. 2311 C., dated 10th December 1896, I have the honour to annex below my remarks and suggestions :—

Section 4—(1) "The District Magistrate or" may be inserted before the word "any" in line 14.

Section 221—(1) In Trichinopoly it would cause great dissatisfaction to let the Military authorities arbitrarily turn out South Indian Railway officers, Government Civil officers and well-behaved Native gentlemen from their houses.

From W. O. HORNE, Esq., Acting Magistrate, Vizagapatam, to the Secretray to Government, Local and Municipal Department, dated 10th April 1897, No. 442.

Referring to G.O., Mis. No. 99 M., dated 27th January 1897, I have the honour to submit my remarks on the revised Cantonment rules received therewith.

2. *Section* 10.—From the wording of section 10, it is to be inferred that no business can be transacted at a meeting of the Cantonment Committee unless the President is present. There seems no necessity for this, and it is inconsistent with section 4 (2).

Section 109 (*c*).—The definition should be altered, I think, so as to make any place where articles of any kind for human consumption are sold. For the words " . . . . meat down to milk" might be substituted "any articles of food or drink for human consumption", *i.e.*, the words in section 117 (*a*).

Section 125.—This would have to be altered to correspond with section 109 (*c*).

Section 137 (1).—The term "cattle" is not very definite. Presumably it excludes buffaloes which there is no reason to omit.

Section 186.—Instead of requiring a list of the names and addresses of the owners of clothes it would be better for obvious reasons to require a list of the names and addresses of all persons within the cantonment for whom the washerman washes.

Section 236.—It might be well to fix some period of absence which should necessitate the appointment of an Agent.

From H. A. STUART, Esq., Acting District Magistrate of Bellary, to the Secretary to Government, Local and Municipal Department, dated 12th April 1897, M.D. No. 321.

I have the honour to reply to G.O., Mis. No. 99 M., dated 27th January 1897.

2. I must, in the first place, express my regret for the delay that has taken place, but I have experienced considerable difficulty in ascertaining what is the exact position of the military station of Bellary with reference to Cantonment laws and rules.

3. So far as I can gather, the old Cantonment of Bellary having been established under the old Madras Acts continues to be a Cantonment under Act XIII of 1889, and the rules in force at the time of the passing of that Act continue in force by virtue of section 2 thereof. These rules are those contained in Chapters V and VI of the rules framed under Madras Act I of 1866, but the operation of the Chapter, relating to public prostitution has been suspended, and the rules contained in Chapter VI concerning the registration of births and deaths are in practice superseded by the corresponding provisions of the District Municipalities Act.

4. Bellary is, then, a cantonment in name only. It is included within the limits of the Bellary Municipality and it is governed by the municipal law.

5. If the proposed rules under Act XIII of 1889 are passed as they stand, all previous rules will be cancelled by virtue of clause (*a*) of the second rule. As already explained the rules under Madras Act I of 1866 are already inoperative and their formal cancellation is therefore unobjectionable.

6. Whether it is desirable to apply the general body of the rules to the Cantonment of Bellary is a matter regarding which I have considerable doubt; but if they are applied I am decidedly of opinion that the operation of the Local Municipal Act should be excluded, for otherwise collision between the two governing authorities seems to me inevitable. Moreover the draft rules contain a complete body of urban law and the Municipal Act is unnecessary, I gather that local military opinion is in favour of the Cantonment rules, while owners of houses within the cantonment limits would prefer to remain under the rule of the municipal council of which most of them are members. I do not think that any strong grounds for a change have been shown, and on the principle *quieta non movere* I am disposed to leave matters as they are.

7. As regards Rule 220, I beg to point out that it would be inoperative unless a Cantonment Magistrate is appointed. As I read the Act, section 5 makes the appointment of Cantonment Magistrate imperative, but the Government has decided that, on financial grounds, one cannot be appointed for Bellary. If a Cantonment Magistrate is appointed, I see no objection to Rule 220 for the exercise of the power given thereby is sufficiently safe-guarded by the right of appeal.

From the Deputy Adjutant-General, Madras Command, to the Secretary to the Government, Local and Municipal Department, dated Ootacamund, 13th April 1897, No. B—B-5988.

With reference to Proceedings of the Madras Government, Mis. No. 99 M., dated 27th January 1897, I am directed by the Lieutenant-General Commanding to submit the following remarks which His Excellency considers called for on the draft Cantonment rules forwarded therewith:—

Paragraph 3, *definition* (6).—"Bazaar" means any land set apart for occupation by natives of India. In Burma the term "Native of India" is used to distinguish the Indian Immigrant or his descendants from the Burman, Shan, or Chinaman, but the bazaar population in Burma is composed of all these, and in some cantonments (Bhamo for example) the non-Indian races predominate; confusion and litigation may result if the definition is allowed to stand as it is, and therefore for "Natives of India" read "Asiatics".

Paragraph 7 (1).—The term "Cantonment authority" might be clearly defined in paragraph 3.

Paragraph 15 (*c*).—This does not specify the particular individual who is to furnish the estimate and plans. It is suggested that the Sub-Divisional officer, Military Works Department or Public Works Department, be directed to do so, and he be paid for his trouble. This would also be necessary for works costing less than Rs. 500.

Paragraph 33 (*c*), *read with paragraph* 15 (*c*).—There is a difficulty as to the effect of these rules. The former permits the Officer Commanding the district to require (by an order in writing) that estimates for works exceeding Rs. 500 in cost be submitted for approval, and empowers him to name the authority by whom they shall be approved. The latter rule requires that *all* works, whatever their cost, be estimated for and sanctioned (sanctioning authority not named) before being paid for. That is to say, rule 15 is permissive and refers only to large works, while rule 33 as it stands is compulsory and applies both to large and to petty works. Thus, the Officer Commanding the district not being bound to make the order referred to in the former, if he does not make it, the latter rule will operate as a bar to all work, and even if he does, the order will not cover the case of works of Rs. 500 or under.

The intention may be to leave the sanctioning power in ordinary cases in the hands of the Cantonment authority, but to reserve to the Officer Commanding the district the power to control expenditure on works exceeding a certain sum. To make the point clear, however, it is suggested that paragraph 33 (*c*) be reconstructed as follows:—

> "In the case of expenditure on public works exceeding Rs. 500, of which detailed estimates have been required by the Officer Commanding the district under rule 15 (*c*), unless the estimates have been approved by the Superintending authority (if any) named by the Officer Commanding the district."

It appears very desirable that a certain sum should be budgeted annually for unforeseen emergencies, there is no necessity to expend the money but circumstances often arise requiring instant action especially as regards epidemics and unless funds are immediately available, the opportunity of grappling with the difficulty is missed before sanction for expenditure is received.

Paragraph 41.—" Overdrafts on the Cantonment funds " means overdrafts on the treasury or banking account of the fund—an overdraft on the fund itself being a confusion of ideas the rule should read :—

> " The treasury account of the Cantonment fund may be overdrawn only if sanctioned, ... &c."

Chapter VI, paragraph 70.—This defines a nuisance, and constitutes it a breach of rules, the penal clause relating to single nuisances being apparently paragraph 294.

But for working purposes, continuing nuisances should also find their place in this chapter. Take the offences described in paragraph 70, items (7), (10), (13) and (16) for example. In such cases one punishment is often useless. What is wanted is a punishment followed by an order prohibiting continuance of the particular nuisance, and some supervision to ensure that if the order is not obeyed the offender is again brought up. In the event of proved disobedience, the Magistrate should be empowered to impose a penalty measured by the number of days the disobedience has lasted. A rule authorizing this, with the necessary modification of paragraph 89, or an addition to paragraph 294, providing for a continuing penalty in such cases, is all that is required.

Paragraph 70 (*c*).—The words " or having the care or custody of any child under 7 years of age omits to prevent such child from committing a nuisance " should, it is considered, find a place in this paragraph.

Paragraph 72 (*e*).—" Sudder Bazaar ". For the sake of uniformity in the system of spelling should not this be " Sadr " or " Sadar " ?

Paragraph 78.—The following are suggested as additional clauses :—

(2) " The use of these receptacles and of the latrines provided under rule 77 shall be enforced by the officers named in rule 72, within the limits assigned to each officer. Should it appear that offensive matter or rubbish is being deposited in any unauthorized place in or near those limits, or that persons reasonably suspected to be inhabitants of houses within them resort to such place to ease themselves, the Sanitary officer of the cantonment, the officer responsible for the sanitary condition of the particular place, or the Cantonment Magistrate, shall, if the individual offender cannot be ascertained and the circumstances of the case render it desirable, recommend to the cantonment authority that the occupiers of the houses within the limits in question be called upon to show cause why they should not jointly and severally be held liable to the penalty prescribed by these rules for such nuisances when committed by individual offenders."

(3) " And it shall be competent to the cantonment authority to issue such notice, and, in the event of failure to show cause against it, to impose such penalty." This rule should be specially useful where (as is often the case in the neighbourhood of a native village) it is found that the road sides and hedges have been used as latrines and rubbish depôts, but the actual offender cannot be detected. In such cases the presumption is that the villagers who do not themselves commit those nuisances do not object to them, and will not, except under compulsion, help to abate them.

Paragraph 137 (4).—To this add :—" Nor to meat slaughtered outside cantonment limits under conditions agreed upon between the cantonment and the municipal or other competent authority."

Paragraph 169.—Fifty feet is considered too close and 100 yards is suggested as the minimum distance.

Paragraph 174 (*b*).—After " slaughtered in India " add " or Burma "—for reason see note to paragraph 3.

Paragraphs 220 (3), 221, 223.—These should be made applicable to females as well as males.

Chapter XIX (*Paragraphs* 251 *to* 256) *and Schedule II and Rules* 112 (1), 128 *and* 230.—Any appeal from an executive order, even of the Cantonment Magistrate should not, it is considered, lie to the District Magistrate. The former is only subordinate to the latter in his judicial capacity. Executive matters in a cantonment are military matters and, under the draft rules under review, the District Magistrate is no longer a member of the Administrative Committee. The objections to his sitting in appeal upon the orders of the cantonment authority are still stronger, inasmuch as the latter is in no sense subordinate to him.

It is quite conceivable that questions may arise in a cantonment, of which the civil aspect is the more important, but with most of these rule 14 (3) gives the District Magistrate power to deal matters which do not come before the cantonment committee and with which the District Magistrate has any concern, would fall to be dealt with by the Cantonment Magistrate judicially, as and such would (if appealable at all) properly be appealable to the District Magistrate as questions of law and fact. But anything tending to obscure the clear boundary between matters administrative and matters judicial, *i.e.*, between Military and Civil authority in a cantonment, should His Excellency thinks, be guarded against.

Paragraph 297 *read with paragraph* 295.—For cognizance of any *offence* under these rules, the complaint of the cantonment authority or of some one acting under him, is necessary (paragraph 295).

But paragraph (297) *a magistrate* if satisfied a prosecution undertaken by the cantonment authority is unreasonable, may direct the latter to compensate the accused (up to a limit of Rs. 50). This award is to be enforced as if it were a fine, *i.e.*, by distress and sale of the cantonment authority's property, if need be.

Several questions arise from this —

(*a*) Is the institution of an unreasonable prosecution " an offence " (for definition of " offence ", *vide* Imperial General Clauses Act, 1887, section 3, clause 9), if so, no Court can entertain a complaint of it from any aggrieved party, the cantonment authority must appear both as prosecutor and as accused.

(*b*) If not an offence, but a quâsi civil wrong similar to that described in Criminal Procedure Code, section 560, is the compensation payable by, and the fine leviable upon, the cantonment fund or the cantonment authority personally ?

(*c*) " A Magistrate," as defined in Imperial General Clauses Act of 1868, includes all persons empowered under the Criminal Procedure Code. Should not the working of this rule (if retained in any form whatever) be reserved to Magistrates of a rank high enough to pass such orders without thereby lowering the cantonment authority within his own command ?

(*d*) And should not the Cantonment Magistrate be exempted from the duty of censuring as a Judge (and in an especially unpleasant form) an authority to whom as an executive officer he is subordinate ?

A single case of this kind would make it very difficult for either officer to work with the other as if nothing had ever happened.

(*e*) What provision is there for appeal from a decision which, it may be taken as certain, will seldom be submitted to with a good grace ?

It is therefore suggested that paragraph 297 be cancelled, reserving however to the District Magistrate power to refer to the Officer Commanding the district, for final disposal or further reference to the General Officer of the Command (at the discretion of the Officer Commanding the district), any instance of unreasonable prosecution under these rules before the Cantonment Magistrate which may have to come to the District Magistrate's notice on revision or otherwise. Provided that no such reference be made except on judicial proceedings in which final orders have been passed by the Cantonment Magistrate.

Chapters XX, XXI and XXII.—The provisions of Chapter XX appear to apply only to owners of houses holding leases under paragraph 271 ; if so, it is desirable that owners of houses at present existing who are unable to produce a lease showing how they acquired their property which is especially the case in the cantonment of Belgaum, should be required to execute a lease in accordance with the paragraph quoted above, as much of the difficulty in regard to houses in cantonments arises from the owners having no leases.

There is nothing in the rules under review to compel landlords to execute leases and as some of the present owners have acquired their property by purchase in open market (in many cases when sold by order of civil courts) and have bought them absolutely with no conditions as to tenancy, amount of rent, &c., it cannot be supposed they will now sign a lease with Government, unless compelled to do so by making refusal an offence against criminal law.

2. Adverting to paragraph 4 of Government of India, Military Department, letter No. 2311-C, dated 10th December 1896, I am to state that it has already been decided that the rules for the administration of cantonment funds published in G.G.O., No. 297, dated 22nd May 1896, do not apply to the cantonment of Secunderabad. The rules under reference cannot also be acted upon in this cantonment unless specially made applicable to it, as Secunderabad has already been declared by the Government of India to be out of "British India." In this connection, therefore, definite orders as to whether the cantonment rules, when passed, will apply to the above cantonment or not, are solicited.

Order—No. 1662 M., dated 26th July 1897.

The following letter will be despatched to the Government of India:—

(True Extract.)

Secretary to Government.

Here enter Letter Nº 1663 M of 26/7/97) SP

Exd. W. D'Mose.

40

Government (1897) of Madras.

LOCAL AND MUNICIPAL.

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~~G.O.~~, No. 1663 M., 26th July 1897.

Letter

JULY.

Cantonment fund rules. Communicating the views of this Govt.; together with the suggestions made by the authorities consulted, on the draft — proposed to be issued under Section 26 of the Cantonments (India) Act XIII of 1889.

LOCAL AND MUNICIPAL DEPARTMENT.

Letter—from

G. S. FORBES, Esq., I.C.S.,
Secretary to the Government of Fort St. George,

To

The SECRETARY to the GOVERNMENT of INDIA,
Military Department.

Sir,

I am directed to reply to your letter of the 10th December 1896, No. 2311-C., inviting an expression of opinion on the draft Cantonment rules proposed to be issued under section 26 of the Cantonments (India) Act XIII of 1889.

2. The suggestions made by the authorities who were consulted are contained in the papers enclosed, which will in due course receive the consideration of the Government of India. Before inviting attention to certain points in the rules, which seem to deserve more special notice, His Excellency in Council would offer for the consideration of the Government of India a few general observations regarding their application. His Excellency in Council considers that, so far as this Presidency is concerned, the application of the rules should be restricted to places which are *bonâ fide* cantonments, that is, to places which are mainly inhabited by troops and their followers and which would fall into decadence if the troops were removed. It would, in the opinion of this Government, be a very serious obstruction to good administration to apply them in their integrity to places in which a small number of troops are quartered within the limits of a municipality, which has an existence and an organization quite independent of the presence of the troops and is not likely to be materially affected if they should happen to be withdrawn. Most of the military stations in this Presidency fall under the latter class and, in such cases, any arrangement which would amount to the establishment of an *imperium in imperio* and which would lead to the employment of one body of persons to conduct the civic administration within the cantonment limits and of another body to conduct it within the more considerable and more important surrounding municipal limits will be of no real advantage; on the contrary, His Excellency in Council believes that it will be productive of harm, for it will weaken the municipal administration which it is most desirable to strengthen. His Excellency the Governor in Council is of opinion that in such places in regard to all questions of sanitation, the maintenance of roads, the provision of water-supply, the enforcement of vaccination and other matters which are covered by the ordinary municipal law, the existing system should be maintained, whereby the administration lies with the municipal council, strengthened to such extent as may be deemed desirable by the military authorities, whose wishes in this matter this Government would readily accede to, by the nomination to it of the Commanding Officer of the cantonment or of one or more officers named by him. Under clause 2 of section 27 of the Act it would appear that the application of the rules is in the direction of the Governor-General in Council; and accordingly in view of the circumstances which have been explained and of the fact that there are no large cantonments in this Presidency to which the whole of the rules can suitably be applied, this Government trusts that before the rules which may be made under the Act are notified as operative, it

may be consulted fully as to the extent to which they should be given effect in all the cantonments under its jurisdiction. In order thereto, it would appear necessary that the rules themselves shall contain a provision enabling them to be applied in whole or in part in any cantonment, as may be decided to be advisable. I am to add, so that the position may be clear, that this Government has no objection at all to the introduction in all cantonments of those rules which deal with matters not provided for by the existing municipal laws.

3. The only points in the rules to which this Government would invite attention are the following:—

(1) *Rule* 2.—With reference to the query contained in paragraph 2 of your letter under reply, this Government does not consider it necessary that any of the orders referred to in this rule should be exempted from cancellation.

(2) *Rule* 3.—(i) It is recommended that the term "Asiatic natives" may be substituted for ~~the~~ "natives of India" occurring in the definition of "bazar," in clause (6) of this rule. The term "native of India" is used in Burma to distinguish the Indian immigrant or his descendants from the Burman, Shan or Chinaman and as the bazar population in the cantonments in Burma is composed of all these and in some cantonments the non-Indian races predominate, it is desirable that the definition should clearly include persons belonging to all these communities.

(ii) It seems also desirable to amend the definition of the term "street" given in clause (9) of this rule so as to make it clear that open spaces by the sides of roads, &c., over which the public have a right of way or of access are also covered by it. His Excellency the Governor in Council would therefore suggest the adoption of the following definition of this term, given in section 5 of the Madras District Municipalities Act Amendment Act III of 1897 (M.):—

"*Street*" includes any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public has a right of way, together with the drains on either side and with the land, whether covered or not by any pavement, verandah or other erection which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property be private property or property reserved by Government for other purposes; and also includes the roadway over any public bridge or causeway."

(3) *Rule* 4.—It has been suggested that the words "the District Magistrate or" should be inserted before "any Magistrate of the first class" in clause (1) of this rule. The Government supports this suggestion. In some districts, the District Magistrate himself would be the Magistrate who could most conveniently attend the meetings of the Cantonment Committee. Objection might be taken to this proposal on the ground that in some cases the District Magistrate is constituted the appellate authority against the orders of the Cantonment Committee (*vide* Schedule III); but such cases are few and not particularly important and it might be ruled, if necessary, that when they come before the Cantonment Committee, the District Magistrate should not take part in their disposal.

(4) *Rule* 6.—This rule appears to be superfluous with reference to section 6 of the Act.

(5) *Rules* 12 *and* 13.—In these rules, the term "presiding member" should be substituted for "President" as it seems plain that the member presiding under ~~section~~ rule 4 (2) is to have the powers conferred by those ~~sections~~ rules. In rules 10 and 11 it is not clear whether the "President" also includes the presiding member under ~~section~~ rule 4 (2), and the ambiguity should be removed.

(6) *Rule* 15.—Attention is invited to the remarks of the Lieutenant-General Commanding the Forces, Madras.

(7) *Rule* 18.—This rule seems to be partly superfluous and partly in derogation of section 6 of the Act and to be therefore invalid.

(8) *Rule* 33.—Clause (*c*) of this rule lays down that no money shall be paid from the Cantonment Fund in the case of expenditure on Public Works, unless detailed estimates have been prepared and sanctioned. There seems, however, to be no rule

specifically declaring in all cases by whom plans and estimates are to be prepared. Further it is a question whether it is not going too far to require *detailed estimates* for every petty operation which falls under the head of Public Works. Some limit, within which the necessity for detailed estimates may be dispensed with, for instance, Rs. 200, should be fixed, or power may be given to the General Officer Commanding to prescribe a limit from time to time.

9/ (9) *Rule* 41.—Attention is invited to the alteration suggested in this rule by the Lieutenant-General, Madras Command. There should also be a clear understanding that Imperial funds must meet such overdrafts, as Provincial cannot do so.

10/ (10) *Rule* 70.—(i) It is recommended that on the analogy of section 3 (ii) of the Madras Towns Nuisances Act III of 1889 (M), the words "having the care or custody of any child under seven years of age, omits to prevent such child from committing a nuisance or" should be added at the end of sub-clause (*c*); and that the words "tree or" should be added at the end of sub-clause (*k*) (i) of clause (1) of this rule.

(ii) The words "or other person under his authority" should be inserted after "servant" in clause (3) of this rule; and clause (7), it is suggested, may be modified on the lines of section 6 of the Madras Towns Nuisances Act III of 1889, which runs as follows:—

> "Whoever opens, keeps or uses or permits to be used any common gaming house, or conducts or assists in conducting the business of any common gaming house, or advances or furnishes any money for gaming therein. * * *"

(iii) It seems also desirable to amend clause (12) of this rule so as to make it a nuisance not only when an animal is let loose so as to cause injury, danger, annoyance, &c., but also when it is permitted to stray. This is a cause of serious annoyance in some towns. Rule 144 will not apply to such cases unless the animal was left on the street, and impounding under rule 226 is frequently ineffective in checking the nuisance. The rule might therefore be altered as follows:—

> "(12) Negligently allows any horse, cow, pig, ass or other animal to be loose or to stray in such a manner as to be likely to cause injury, danger, alarm or annoyance in a public place."

(11) *Rule* 72.—The word "Sudder" occurring in clause (*e*) of this rule should be spelt "Sadr" or "Sadar". The expression "Sadar bazar", however, conveys no meaning in Southern India.

(12) *Rule* 78.—The Government cannot support the addition to this rule suggested by the Lieutenant-General Commanding the Forces, Madras.

(13) *Rule* 89.—The provisions of this rule authorizing the imposition of a daily fine for continuing breaches of rules seem to require reconsideration with reference to the arguments adduced by the Government of India (Home Department—Judicial) in its letter to this Government, No. 1580, dated 30th October 1895, in regard to similar provisions in the Bill to amend the Madras District Municipalities Act IV of 1884. It is a question whether sub-section 4 of section 27 of the Act itself may not be open to the same objection.

(14) *Rule* 93.—The Government considers that huts should be exempted from the operation of clause (2) of this rule as it will press hard on the poor who cannot furnish plans and specifications.

(15) *Rules* 109 *and* 125.—There appears to be no objection to the amendment of these rules in the manner suggested by the District Magistrate of Vizagapatam.

(16) *Rule* 137.—(i) This rule appears to His Excellency in Council to be unnecessarily stringent, and it should be omitted. There appears to be no reason why a man who wants to sell his beasts to the butcher should be required to get the written permission of the Cantonment authority before he can drive them into the cantonment for the butcher to see and bargain for them. In some places there may be a regular cattle market within the cantonment and the enforcement of this rule will be a great hardship.

(ii) If this rule is retained, clause (4) should be amplified by the addition proposed by the Lieutenant-General, Madras Command.

(17) *Rule* 174.—It is recommended that the words "or Burma" should be added after "India" in clause (*b*) of this rule with reference to the suggestion regarding rule 3 *supra*.

(18) *Rule* 220.—The Government sees no objection to the provisions of this rule as the exercise of the power given by it is sufficiently safe-guarded by the right of appeal provided in Chapter XIX.

(19) *Rule* 221.—It should, His Excellency in Council considers, be provided that any person who has been excluded from a cantonment under this rule, should have a right of appeal to the Local Government or at least to the General Officer of the Command. To allow an appeal only to the Officer Commanding the District is not sufficient. In the opinion of this Government, it is of vital importance that the power conferred by rule 221, which does not apply only to disorderly or criminal persons, being of an extremely arbitrary character, should be ~~safely worded~~ in the fullest manner possible. Safe-guarded

(20) *Rule* 236.—The period of absence which should necessitate the appointment of an agent should be definitely stated. Under the rule, as it now stands, any owner of a building or land will have to appoint an agent even in the case of a temporary absence of, say, one or two days.

(21) The Government sees no objection to the provisions of Chapter XIX.

(22) *Chapter XXI* prescribes the procedure to be followed in regard to applications for building sites on Government land in cantonments. With regard to the remarks of the Lieutenant-General Commanding, it is understood that this chapter applies only to applications and leases made and executed in the future. His Excellency in Council thinks this is rightly so. If it is desired to question the titles of persons already in occupation of land or houses within cantonment limits, this should be done through the machinery of the regular courts and not by the application of a *post factum* rule made under the Act. Many of the rules in this chapter will, it is feared, be found impracticable to work in the case of applications for land required for the erection of petty buildings in bazaars—*see* remarks *supra* on rule 93. Some simplification of the procedure would seem to be needed to meet such cases.

(23) *Rule* 268.—A provision should be inserted requiring that applications made under this rule for building sites on Government land should also specify the survey number, if there is one.

(24) *Rule* 295.—It is recommended that the words "a servant" should be substituted for "Secretary" and that the expression "or a member of the police force employed in the cantonment" should be inserted after the words "committee" in the explanation to this rule.

(25) *Rule* 297.—The Government supports the suggestion made by the Lieutenant-General, Madras Command, that this rule should be omitted.

I have the honour to be,
Sir,
Your most obedient Servant,

Secretary to Government.

Exd. W. D'Moss.

Cantonment fund Rules -

V. E

Army orders

Proof

Please send proof by 4 o'clock today, comparing with the corrections carefully - this is a very urgent matter.

FKB

28/7

This might be expanded with advantage [See also my remark on Rule 269 (e) D.x

But the applicant also executes — see form in Sch A. p. 71 —]

I have done so
A.A.H
E.J.

(23) *Chapter XXI* prescribes the proc
for building sites on Government land in
chapter ~~are, in the opinion of this Governm~~
required for the erection of buildings in ba

(24) *Rule* 268.—A provision should be
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number if there is one.

24 (25) *Rule* 295.—It is recommended th
tuted for "Secretary" and that the exp
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explanation to this rule.

25 (26) *Rule* 297.—The Government supp
General, Madras Command, that this rule

Petty

will, it is feared, be found impracticable

~~(24) Rule 269(e)~~
omit
E.J.

E.J.
10/7/97

Despd. 30/7/97

(ii) The words "or other person u "servant" in clause (3) of this rule, and lines of section 6 of the Madras Towns follows:—

"Whoever opens, keeps or uses or per conducts or assists in conducting the business furnishes any money for gaming therein."

(iii) It seems also desirable to ame a nuisance not only when an animal i annoyance, &c., but also when ~~cattle, hors latter are a great nuisance in~~ some towns, ~~injury, &c., can be legally proved~~. Rul the animal was left on the street and im checking the nuisance. The rule ~~should~~ t

"(12) Neglig~~bly~~ently allows any horse, c in such a manner as to be likely to cause injury

11 (12) *Rule* 72.—The word "Sudd The expression "Sadar baza~~a~~r" however,

2 (13) *Rule* 78.—The Government suggested by the Lieutenant-General Com

3 (14) *Rule* 89.—The provisions of ~~27 of the Cantonments Act XIII of 18~~ for continuing breaches of rules ~~should~~ ments adduced by the Government of In letter No. 1580, dated 30th October 1895, to amend the Madras District Municipalities ~~be struck out.~~

(15) *Rule* 93.—The Government can the operation of clause (2) of this rule as furnish plans and specifications.

(16) *Rules* 109 *and* 125—There of these rules in the manner suggested b

(17) *Rule* 137 (i).—This rule unne There appears to be no reason why a man w should be required to get the written permis he can drive them into the cantonment for t In some places there may be a regular ca enforcement of this rule will be a great ha

(ii) If this rule is retained, clause proposed by the Lieutenant-General, Madras

7 (18) *Rule* 174.—It is recommended that after "India" in clause (*b*) of this rule w ~~clause (3)~~ *supra*.

8 (19) *Rule* 220.—The Government sees as the exercise of the power given by it is appeal provided in Chapter XIX.

9 (20) *Rule* 221.—It should be provided from a cantonment under this rule, should Government or at least to the General Officer only to the ~~General~~ Officer Commanding the ~~ment~~, sufficient.

(21) *Rule* 236.—The period of absence w of an agent should be definitely stated. Unde of a building or land will have to appoint temporary absence of, say, one or two days.

(22) The Government sees no objection to

ently/

Vide pages 1+2 of G. O. No. 14.15. Legis. d/ 26th Feby 96.
Flag Z

To this Court

~~Rule~~

It is a question whether sub-sec. 4 of sec 27 of the Act itself may ~~is~~ not be open to the same objection

In the opinion of this Court it is ~~H.E. considers~~ of vital importance that the power conferred by sec. 221, which does not apply only to disorderly or criminal persons, being of an extremely arbitrary character should be safeguarded in the fullest manner possible. ~~H.E. considers~~

3. The only points in the rules to wh. the Govt. wd. invite attention are the following:—

with reference contained in

(1)(~~2~~) *Rule* 2.—~~The~~ Government doe
orders referred to in this rule, should be ex

(2)(~~3~~) *Rule* 3 (i).—It is recommended
substituted for ~~the~~ "~~N~~atives of India" o
clause (6) of this rule. The term "~~N~~ative
the Indian immigrant or his descendants fr
the bazaar population in the cantonments
some cantonments the non-Indian races pr
~~within the scope of this definition~~

(ii) It seems also desirable to amen
in clause (9) of this rule so as to make it c
&c., over which the public have a right
His Excellency the Governor in Council
following definition of this term, given in
palities Act Amendment Act III of 1897

"Street" includes any road, street
throughfare or not, over which the publi
drains on either side and with the land,
verandah or other erection which lies o
boundaries of the adjacent property, wh
property reserved by Government for oth
over any public bridge or causeway."

(3)(~~4~~) *Rule* 4.—It has been suggested
or" should be inserted before "any Magis
rule. The Government supports this sug
districts ~~in this Presidency~~, the District M
who could most conveniently attend the me
tion might be taken to this proposal on t
Magistrate is constituted the appellate auth
Committee (*vide* Schedule III); but
important, it might be ruled, if necessary,
Committee, the District Magistrate should
the operation of clause (2) of

hand

(4)(~~5~~) *Rule* 6.—This rule appears to b
Act ~~XIII of 1889~~.

(5)(~~6~~) *Rules* ~~11~~, 12 *and* 13.—~~To preven~~
~~of word "President" occurring~~ in these
member" should be substituted for ~~that w~~

(6)(~~7~~) *Rule* 15.—Attention is invited
the Lieutenant-General Commanding the

(7)(~~8~~) *Rule* 18.—This rule seems to b
of section 6 of the ~~Cantonments~~ Act (~~XIII~~

"President" as it seems plain that the member presiding under S. 4 (2) is to have the powers conferred by those rules

(8)(~~9~~) *Rule* 33.—Clause (*c*) of this rule la
the Cantonment Fund in the case of expe
estimates have been prepared and sanctio
specifically ~~requiring~~ in all cases ~~the prop~~
~~appears to be~~ going too far to require *detai*
falls under the head of Public Works. Son
estimates may be dispensed with, for insta
be given to the General Officer Commandi

(9)(~~10~~) *Rule* 41.—Attention is invited to
Lieutenant-General, Madras Command. T
that Imperial funds must meet such overd

(10)(~~11~~) *Rule* 70.—It is recommended tha
any child under seven years of age, omits
nuisance" should be added at the end of s
should be added at the end of sub-clause (

(1)

or

it a question whether etc. not

NB.
The type of the proofs is in Madras & to save delay I have not called for a fresh proof, as the G. of I. have telegraphed for our reply.
S. R. 23/7/7

(1) H.A.
(2) H.S.

Very urgent
Strike off at once
Ronce 26/7

No.   M.,   July 1897.

LOCAL AND MUNICIPAL DEPARTMENT.

No. 1663 M. dd 26-7-97

Letter—from G. S. Forbes, Esqr. I.C.S.
~~The~~ SECRETARY to the GOVERNMENT of
FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA,
Military Department.

Subject to remarks below
H.A. 24/7/97

in G.O. 99 M. – D. 27.7.97

Sir, I am directed to

~~In~~ reply to your letter of the 10th December 1896, No. 2311-C., inviting an expression of opinion on the draft Cantonment rules proposed to be issued under section 26 of the Cantonments (India) Act XIII of 1889, ~~I am directed to state that His Excellency the Governor in Council generally approves their provisions.~~

2. The suggestions made by the authorities who were consulted ~~on the subject of these rules~~ are contained in the papers enclosed, which will in due course receive the consideration of the Government of India ~~but the following points~~ seem to deserve special notice. Before inviting attention to certain points in the rules, which more

3. H.E. in C. wd. offer for the consideration of the Govt. of India a few general observations regarding their application. H.E. in C.

~~3. The Government~~ considers that so far as this Presidency is concerned the application of these rules should be restricted to places which are *bonâ fide* cantonments, that is, to places which are mainly inhabited by troops and their followers and which would fall into decadence if the troops were removed. It would ~~be not only undesirable in the extreme, but an~~, in the opinion of this Govt., be a very serious obstruction to good administration to apply them in their integrity to places in which a small number of troops are quartered within the limits of a municipality, which has an existence and an organization quite independent of the presence of the troops and is not likely to be materially affected ~~by their withdrawal~~ if they should happen to be withdrawn. Most of the military stations in this Presidency fall under the latter class and, in such cases, ~~the attempt to set up~~ any arrangement which would amount to the establishment of an *imperium in imperio* and ~~to employ~~ which would lead to the employment of one body of persons to conduct the civic administration within the cantonment limits and of another body to conduct it within the more considerable and more important surrounding municipal limits ~~can do no good at all~~ will be of no real advantage; H.E. in C. believes that on the contrary it will be productive of harm, for it will weaken the municipal administration which it is most desirable to strengthen. His Excellency the Governor in Council is of opinion that in such places in regard to all questions of sanitation, the maintenance of roads, the provision of water supply, the enforcement of vaccination & other matters which are covered by the ordinary municipal law, the existing system should be maintained, whereby the administration lies with the municipal council, ~~properly~~ strengthened ~~if necessary~~, by the nomination to it of the Commanding Officer of the cantonment or of one or more officers named by him. ~~In~~ view ~~therefore~~ of these circumstances and of the fact that there are no large cantonments in this Presidency to which the whole of the rules can suitably be applied, the Government ~~considers that in order to enable it to carry them out, the rules should contain a provision that the whole or any part of them may be applied to any cantonment.~~

Under clause 2 of sec: 27 of the Act it wd. appear that the application of the rules is in the direction of the G. G. in C.; & accordingly in

which have been explained

to such extent as the may be deemed desirable by the Military authorities, whose wishes in this matter this Govt. wd. readily accede to,

trusts that before the rules wh. may be made under the Act are notified as operative ~~in this Presidency~~ it may be consulted fully as to the extent to wh. they sh. be given effect in all the cantonts. under its jurisdiction

In order to … it wd. appear necessary that the rules themselves shall contain a provision enabling them to be applied in whole or in part in any cantonment as may be decided to be advisable. I am to add that the position may be clear that this Govt. ~~sees~~ has no objection at all to the introduction in all cantonments of those rules which deal with matters not ~~now~~ provided for by the existing municipal law.

the query
para. 2 of your letter under reply, this

not consider it necessary that any of the
mpted from cancellation.

that the term "Asiatic natives" may be
rring in the definition of "bazaar," in
f India" is used in Burma to distinguish
n the Burman, Shan or Chinaman and as
n Burma is composed of all these and in ~~better~~
ominate, it is desirable ~~to bring these, also~~ that the defn shd clearly include persons belonging to all these communities

21

the definition of the term "street" given
ar that open spaces by the sides of roads,
way or of access are also covered by it.
uld therefore suggest the adoption of the
ection 3 of the Madras District Munici- 5/ (M.)

square, court, alley or passage, whether a
has a right of way, together with the
hether covered or not by any pavement,
either side of the roadway up to the
her that property be private property or
purposes; and also includes the roadway 0/

that the words "the District Magistrate
ate of the first class" in clause (1) of this
stion ~~and would point out that~~ in some 18/ 9/ cap
gistrate himself would be the Magistrate
tings of the Cantonment Committee / objec- 0/0
e ground that in some cases the District
ority against the orders of the Cantonment
uch cases are few and not particularly
hat when they come before the Cantonment
ot take part in their disposal.

e superfluous with reference to section 6 of the ~~Cantonments~~ the term

~~the possibility of doubt as to the meaning~~
rules, ~~some such words as~~ "Presiding p/
~~d wherever it occurs~~. 18/ ~~of the~~ In rules 10 & 11 it is not clear whether the "President" also includes the presiding member ~~stated~~ under ~~section~~ rule 4(2), & the ambiguity shd be removed.

to the ~~amendment of this rule suggested by~~ remarks of
Forces, Madras.

partly superfluous and partly in derogation
~~) of 1880~~, and is therefore invalid. 18/ to be

ys down that no money shall be paid from
nditure on Public Works, unless detailed
ned. There seems, however, to be no rule
~~aration of~~ plans and estimates. Further it declaring by whom are to be prepared.
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to prevent such child from committing a
ub-clause (c), and that the words "tree or"
(c) (d) of clause (1) of this rule. (i)/

it is suggested may

~~er~~ his authority" should be inserted after
~~d at~~ clause (7) ~~should~~ be modified on the
isances Act III of 1889, which runs as

rs to be used any common gaming house, or
any common gaming house, or advances or

clause (12) of this rule so as to make it
~~et loose~~ so as to cause injury, danger,
~~pigs or asses are allowed~~ to stray. ~~These~~
~~pecially at night though no annoyance,~~
44 will not apply to such cases unless
nding under rule 226 is ~~not~~ effective in
refore be altered as follows:—
, pig, ass or other animal to be loose or to stray
danger, alarm or annoyance in a public place."
" should be spelt "Sadr" or "Sadar".
onveys no meaning in Southern India.
nnot support the addition to this rule
anding the Forces, Madras.
is rule, ~~as well as sub-section (4) of section~~
authorizing the imposition of a daily fine
~~omitted as they are opposed~~ to the argu-
dia (Home Department—Judicial) in its
n regard to similar provisions in the Bill
Act IV of 1884, ~~which had therefore to~~

nsiders that huts should be exempted from
it will press hard on the poor who cannot

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uld have a right of appeal to the Local
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he District is not ~~in the opinion of Govern-~~
which should necessitate the appointment
nder the rule, as it now stands, any owner
int an agent even in the case of a ~~mere~~
s.
to the provisions of Chapter XIX.

Flag K

it is permitted

This is a serious cause of annoyance in

frequently in

at night

occurring in clause (e) of this rule

of

We cannot criticize the Act itself

(Mr. [illegible]) should

H.S.

seem to require reconsideration with reference

I have added a sentence altering

appears to H. Excl. to be

of it

dis/

regarding rule 3

H. Excl. considers,

Perhaps this might be put more strongly. It is a most important matter

H.S.

I have added a sentence

B.

With regard to the remarks of the Lt Gen. Commanding, the ~~H.G.~~ Govt understand that the chap. applies only to applications & leases made & executed in the future.

20. If in times to come it is desired to question the occupation of land or houses within canton. limits, this sh^d be done through the machinery of the regular courts & not by the application of a post facto rule made under the Act.

to be followed in regard to applications
onments. Many of the rules in this
~~impossible~~ to work in the case of land

~~See remarks supra on rule 93~~
applications for

erted requiring that applications made
nt land should also specify the survey

See remarks supra on rule 93. Some simplification of the procedure w^d. seem to be needed to meet such cases.

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ion "or a member of the police force
ed after the words "committee" in the

the suggestion made by the Lieutenant-
ld be omitted.

have the honour to be,
Sir,
Your most obedient Servant,

Secretary to Government.

SB
28/7/17

16

No. M.,

GOVERNMENT

LOCAL AND MUNICI

ORDER—No. 1662 M., dated 26 July 1897.

The following letter will be despatched

(True Ex

13
20/11/97

C.No: 469, 472, 553, 558, 910, 1059, 1572, [illegible]

Cantonment fund Rules

Order
1 - Jayakar

Letter
1 - Jayakar
2
3 Atkins
4 Mattey

1667 26

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From the Collector and District Magistrate, North Arcot, dated Vellore, 3rd February 1897, Dis. No. 176.

From the Acting District Magistrate, Malabar, dated Camp, Angadipuram, 3rd February 1897, No. 166-Magl.

From the District Magistrate, South Canara, dated Camp, Coondapoor, 4th February 1897, Dis. No. 78/97-Magl.

From J. H. A. TREMENHEERE, Esq., Acting District Magistrate, Nilgiris, to the Secretary to Government, Local and Municipal Department, dated Camp, Karteri, 5th February 1897, No. 174.

As required by G.O., Mis. No. 99 M., dated 27th January last, I have the honour to submit a memorandum containing my remarks on the draft revised Cantonment rules.

2. I invite attention to the remark under section 261. The rules throw more work on the civil magistracy, more it may be than the present staff can carry out.

MEMORANDUM.

Section 3.—Definitions—

(9) *Street.*—This should cover open spaces by the sides of roads, etc., over which the public have a right of way *or of access.*

Section 70 (1-*e*).—As in times of famine, emaciation is emhibited, this word might be inserted between 'deformity' and 'disease'.

(*g*) Gaming should be prohibited not only in streets and public places, but wherever it tends to create disorder even on private lands. I have known a prosecution fail when the gaming was on private land entirely open to public gaze and access.

(*k*) Advertisements may be affixed to trees, to the great untidiness of the cantonment; this should require sanction.

(*k*-ii) These words are too wide; it should not be a nuisance merely to *mark* a private tree.

(3) The deposit of rubbish, should be punishable when made not only by a servant, but by any other person under authority; *e.g.*, wife or child.

(7) "A common gaming house" is not wide enough; see (*g*) above.

(12) Letting an animal loose so as to cause annoyance is not enough; stray cattle, horses, pigs and asses are a great nuisance in some towns especially at night, though no annoyance can be legally proved. The clause should run "negligently allows any animal to be loose in such a manner as to be likely to cause annoyance in a public place." Section 144 does not apply, as there the animal must have been *left on the street ;* and impounding under section 226 is not enough.

Section 71.—This section is too lax, in that it prevents the slaughter of dogs round whose necks a rag has been tied in token of ownership. The collar or mark should designate the owner, and all dogs should be licensed.

Section 72.—The words "sudder bazaar" convey no meaning in the South of India.

Section 93.—An important point here arises. On the analogy of the corresponding section in the District Municipalities Act, it would seem illegal to refuse consent to erect a building unless it would interfere with the conveniences mentioned in clauses (*a*) to (*e*), viz., free passage, space for circulation of air, for scavenging and fire prevention, ventilation with drains, privies, etc., level and stability, and line of frontage. If it is meant that permission may be refused on other reasonable grounds, this should be stated. For instance, it might be opposed to proper policy to allow a hut to be erected on private land just in front of the barracks, or in such a position as would spoil the effect of public gardens: at any rate, objectionable circumstances might exist, not covered by the clauses.

Section 93, *clause* 5.—It should not be enough merely to *begin* building within the year, for this would cover a mere pretence.

Section 100.—I see no power to cause a prickly-pear hedge to be removed, when another hedge or fence is ordered to be constructed. Such power is needed.

Section 180.—This obliges the cantonment authority to allow a public prostitute to reside in some specified part of a cantonment. It is suggested that power might be given to exclude a troublesome or notoriously infected prostitute.

Section 190.—Bubonic plague might be included in the definition of infectious or contagious disorders.

Section 261.—If Committees of Arbitration often sit in Wellington, a Justice of the Peace will have to be posted to Coonoor; for the District Magistrate will not have time, the Head Assistant Magistrate is often in the Wynaad, and the Deputy Magistrate cannot leave the Treasury.

Section 268.—An application for a building site should specify the survey number if there is one.

From the Acting District Magistrate of Chingleput, dated Camp, Sríperumbúdúr, 25th February 1897, Dis. No. 124 of 1897.

From BANNATYNE MACLEOD, Esq., B.A., Barrister-at-Law, Acting Collector and District Magistrate of Trichinopoly, to the Secretary to Government, Local and Municipal Department, dated 5th March 1897.

With reference to G.O., Mis. No. 99 M., dated 27th January 1897, referring for remarks the revised Cantonment rules referred to in the letter from the Government of India, Military Department, No. 2311 C., dated 10th December 1896, I have the honour to annex below my remarks and suggestions :—

Section 4—(1) "The District Magistrate or" may be inserted before the word "any" in line 14.

Section 221—(1) In Trichinopoly it would cause great dissatisfaction to let the Military authorities arbitrarily turn out South Indian Railway officers, Government Civil officers and well-behaved Native gentlemen from their houses.

From W. O. HORNE, Esq., Acting Magistrate, Vizagapatam, to the Secretary to Government, Local and Municipal Department, dated 10th April 1897, No. 442.

Referring to G.O , Mis. No. 99 M., dated 27th January 1897, I have the honour to submit my remarks on the revised Cantonment rules received therewith.

2. *Section* 10.—From the wording of section 10, it is to be inferred that no business can be transacted at a meeting of the Cantonment Committee unless the President is present. There seems no necessity for this, and it is inconsistent with section 4 (2).

Section 109 (*c*).—The definition should be altered, I think, so as to make any place where articles of any kind for human consumption are sold. For the words " . . . . meat down to milk " might be substituted " any articles of food or drink for human consumption ", *i.e.*, the words in section 117 (*a*).

Section 125.—This would have to be altered to correspond with section 109 (*c*).

Section 137 (1).—The term " cattle " is not very definite. Presumably it excludes buffaloes which there is no reason to omit.

Section 186.—Instead of requiring a list of the names and addresses of the owners of clothes it would be better for obvious reasons to require a list of the names and addresses of all persons within the cantonment for whom the washerman washes.

Section 236.—It might be well to fix some period of absence which should necessitate the appointment of an Agent.

From H. A. STUART, Esq., Acting District Magistrate of Bellary, to the Secretary to Government, Local and Municipal Department, dated 12th April 1897, M.D. No. 321.

I have the honour to reply to G.O., Mis. No. 99 M., dated 27th January 1897.

2. I must, in the first place, express my regret for the delay that has taken place, but I have experienced considerable difficulty in ascertaining what is the exact position of the military station of Bellary with reference to Cantonment laws and rules.

3. So far as I can gather, the old Cantonment of Bellary having been established under the old Madras Acts continues to be a Cantonment under Act XIII of 1889, and the rules in force at the time of the passing of that Act continue in force by virtue of section 2 thereof. These rules are those contained in Chapters V and VI of the rules framed under Madras Act I of 1866, but the operation of the Chapter, relating to public prostitution has been suspended, and the rules contained in Chapter VI concerning the registration of births and deaths are in practice superseded by the corresponding provisions of the district municipalities Act.

4. Bellary is, then, a cantonment in name only. It is included within the limits of the Bellary municipality and it is governed by the municipal law.

5. If the proposed rules under Act XIII of 1889 are passed as they stand, all previous rules will be cancelled by virtue of clause (*a*) of the second rule. As already explained the rules under Madras Act I of 1866 are already inoperative and their formal cancellation is therefore unobjectionable.

6. Whether it is desirable to apply the general body of the rules to the Cantonment of Bellary is a matter regarding which I have considerable doubt; but if they are applied I am decidedly of opinion that the operation of the Local Municipal Act should be excluded, for otherwise collision between the two governing authorities seems to me inevitable. Moreover the draft rules contain a complete body of urban law and the Municipal Act is unnecessary, I gather that local military opinion is in favour of the Cantonment rules, while owners of houses within the cantonment limits would prefer to remain under the rule of the municipal council of which most of them are members. I do not think that any strong grounds for a change have been shown, and on the principle *quieta non movere* I am disposed to leave matters as they are.

7. As regards Rule 220, I beg to point out that it would be inoperative unless a Cantonment Magistrate is appointed. As I read the Act, section 5 makes the appointment of Cantonment Magistrate imperative, but the Government has decided that, on financial grounds, one cannot be appointed for Bellary. If a Cantonment Magistrate is appointed, I see no objection to Rule 220 for the exercise of the power given thereby is sufficiently safe-guarded by the right of appeal.

From the Deputy Adjutant-General, Madras Command, to the Secretary to the Government, Local and Municipal Department, dated Ootacamund, 13th April 1897, No. B—B-5988.

With reference to Proceedings of the Madras Government, Mis. No. 99 M., dated 27th January 1897, I am directed by the Lieutenant-General Commanding to submit the following remarks which His Excellency considers called for on the draft Cantonment rules forwarded therewith :—

Paragraph 3, *definition* (6).—" Bazaar " means any land set apart for occupation by natives of India. In Burma the term " Native of India " is used to distinguish the Indian Immigrant or his descendants from the Burman, Shan, or Chinaman, but the bazaar population in Burma is composed of all these, and in some cantonments (Bhamo for example) the non-Indian races predominate; confusion and litigation may result if the definition is allowed to stand as it is, and therefore for " Natives of India " read " Asiatics ".

Paragraph 7 (1).—The term " Cantonment authority " might be clearly defined in paragraph 3.

Paragraph 15 (*c*).—This does not specify the particular individual who is to furnish the estimate and plans. It is suggested that the Sub-Divisional officer, Military Works Department or Public Works Department, be directed to do so, and he be paid for his trouble. This would also be necessary for works costing less than Rs. 500.

Paragraph 33 (*c*), *read with paragraph* 15 (*c*).—There is a difficulty as to the effect of these rules. The former permits the Officer Commanding the district to require (by an order in writing) that estimates for works exceeding Rs. 500 in cost be submitted for approval, and empowers him to name the authority by whom they shall be approved. The latter rule requires that *all* works, whatever their cost, be estimated for and sanctioned (sanctioning authority not named) before being paid for. That is to say, rule 15 is permissive and refers only to large works, while rule 33 as it stands is compulsory and applies both to large and to petty works. Thus, the Officer Commanding the district not being bound to make the order referred to in the former, if he does not make it, the latter rule will operate as a bar to all work, and even if he does, the order will not cover the case of works of Rs. 500 or under.

The intention may be to leave the sanctioning power in ordinary cases in the hands of the Cantonment authority, but to reserve to the Officer Commanding the district the power to control expenditure on works exceeding a certain sum. To make the point clear, however, it is suggested that paragraph 33 (*c*) be reconstructed as follows :—

> " In the case of expenditure on public works exceeding Rs. 500, of which detailed estimates have been required by the Officer Commanding the district under rule 15 (*c*), unless the estimates have been approved by the Superintending authority (if any) named by the Officer Commanding the district."

It appears very desirable that a certain sum should be budgeted annually for unforeseen emergencies, there is no necessity to expend the money but circumstances often arise requiring instant action especially as regards epidemics and unless funds are immediately available, the opportunity of grappling with the difficulty is missed before sanction for expenditure is received.

Paragraph 41.—" Overdrafts on the Cantonment funds " means overdrafts on the treasury or banking account of the fund—an overdraft on the fund itself being a confusion of ideas the rule should read :—

> " The treasury account of the Cantonment fund may be overdrawn only if sanctioned, . . . &c."

Chapter VI, paragraph 70.—This defines a nuisance, and constitutes it a breach of rules, the penal clause relating to single nuisances being apparently paragraph 294.

But for working purposes, continuing nuisances should also find their place in this chapter. Take the offences described in paragraph 70, items (7), (10), (13) and (16) for example. In such cases one punishment is often useless. What is wanted is a punishment followed by an order prohibiting continuance of the particular nuisance, and some supervision to ensure that if the order is not obeyed the offender is again brought up. In the event of proved disobedience, the Magistrate should be empowered to impose a penalty measured by the number of days the disobedience has lasted. A rule authorizing this, with the necessary modification of paragraph 89, or an addition to paragraph 294, providing for a continuing penalty in such cases, is all that is required.

Paragraph 70 (*c*).—The words " or having the care or custody of any child under 7 years of age omits to prevent such child from committing a nuisance " should, it is considered, find a place in this paragraph.

Paragraph 72 (*e*).—" Sudder Bazaar ". For the sake of uniformity in the system of spelling should not this be " Sadr " or " Sadar " ?

Paragraph 78.—The following are suggested as additional clauses :—

(2) " The use of these receptacles and of the latrines provided under rule 77 shall be enforced by the officers named in rule 72, within the limits assigned to each officer. Should it appear that offensive matter or rubbish is being deposited in any unauthorized place in or near those limits, or that persons reasonably suspected to be inhabitants of houses within them resort to such place to ease themselves, the Sanitary officer of the cantonment, the officer responsible for the sanitary condition of the particular place, or the Cantonment Magistrate, shall, if the individual offender cannot be ascertained and the circumstances of the case render it desirable, recommend to the cantonment authority that the occupiers of the houses within the limits in question be called upon to show cause why they should not jointly and severally be held liable to the penalty prescribed by these rules for such nuisances when committed by individual offenders."

(3) " And it shall be competent to the cantonment authority to issue such notice, and, in the event of failure to show cause against it, to impose such penalty." This rule should be specially useful where (as is often the case in the neighbourhood of a native village) it is found that the road sides and hedges have been used as latrines and rubbish depôts, but the actual offender cannot be detected. In such cases the presumption is that the villagers who do not themselves commit those nuisances do not object to them, and will not, except under compulsion, help to abate them.

Paragraph 137 (4).—To this add :—" Nor to meat slaughtered outside cantonment limits under conditions agreed upon between the cantonment and the municipal or other competent authority."

Paragraph 169.—Fifty feet is considered too close and 100 yards is suggested as the minimum distance.

Paragraph 174 (*b*).—After " slaughtered in India " add " or Burma "—for reason see note to paragraph 3.

Paragraphs 220 (3), 221, 223.—These should be made applicable to females as well as males.

Chapter XIX (*Paragraphs* 251 *to* 256) *and Schedule II and Rules* 112 (1), 128 *and* 230.—Any appeal from an executive order, even of the Cantonment Magistrate should not, it is considered, lie to the District Magistrate. The former is only subordinate to the latter in his judicial capacity. Executive matters in a cantonment are military matters and, under the draft rules under review, the District Magistrate is no longer a member of the Administrative Committee. The objections to his sitting in appeal upon the orders of the cantonment authority are still stronger, inasmuch as the latter is in no sense subordinate to him.

It is quite conceivable that questions may arise in a cantonment, of which the civil aspect is the more important, but with most of these rule 14 (3) gives the District Magistrate power to deal matters which do not come before the cantonment committee and with which the District Magistrate has any concern, would fall to be dealt with by the Cantonment Magistrate judicially, as and such would (if appealable at all) properly be appealable to the District Magistrate as questions of law and fact. But anything tending to obscure the clear boundary between matters administrative and matters judicial, *i.e.*, between Military and Civil authority in a cantonment, should His Excellency thinks, be guarded against.

Paragraph 297 *read with paragraph* 295.—For cognizance of any *offence* under these rules, the complaint of the cantonment authority or of some one acting under him, is necessary (paragraph 295).

But paragraph (297) *a magistrate* if satisfied a prosecution undertaken by the cantonment authority is unreasonable, may direct the latter to compensate the accused (up to a limit of Rs. 50). This award is to be enforced as if it were a fine, *i.e.*, by distress and sale of the cantonment authority's property, if need be.

Several questions arise from this —

(*a*) Is the institution of an unreasonable prosecution " an offence " (for definition of " offence ", *vide* Imperial General Clauses Act, 1887, section 3, clause 9), if so, no Court can entertain a complaint of it from any aggrieved party, the cantonment authority must appear both as prosecutor and as accused.

(*b*) If not an offence, but a quâsi civil wrong similar to that described in Criminal Procedure Code, section 560, is the compensation payable by, and the fine leviable upon, the cantonment fund or the cantonment authority personally ?

(*c*) " A Magistrate," as defined in Imperial General Clauses Act of 1868, includes all persons empowered under the Criminal Procedure Code. Should not the working of this rule (if retained in any form whatever) be reserved to Magistrates of a rank high enough to pass such orders without thereby lowering the cantonment authority within his own command ?

(*d*) And should not the Cantonment Magistrate be exempted from the duty of censuring as a Judge (and in an especially unpleasant form) an authority to whom as an executive officer he is subordinate ?

A single case of this kind would make it very difficult for either officer to work with the other as if nothing had ever happened.

(*e*) What provision is there for appeal from a decision which, it may be taken as certain, will seldom be submitted to with a good grace ?

It is therefore suggested that paragraph 297 be cancelled, reserving however to the District Magistrate power to refer to the Officer Commanding the district, for final disposal or further reference to the General Officer of the Command (at the discretion of the Officer Commanding the district), any instance of unreasonable prosecution under these rules before the Cantonment Magistrate which may have to come to the District Magistrate's notice on revision or otherwise. Provided that no such reference be made except on judicial proceedings in which final orders have been passed by the Cantonment Magistrate.

Chapters XX, XXI and XXII.—The provisions of Chapter XX appear to apply only to owners of houses holding leases under paragraph 271 ; if so, it is desirable that owners of houses at present existing who are unable to produce a lease showing how they acquired their property which is especially the case in the cantonment of Belgaum, should be required to execute a lease in accordance with the paragraph quoted above, as much of the difficulty in regard to houses in cantonments arises from the owners having no leases.

There is nothing in the rules under review to compel landlords to execute leases and as some of the present owners have acquired their property by purchase in open market (in many cases when sold by order of civil courts) and have bought them absolutely with no conditions as to tenancy, amount of rent, &c., it cannot be supposed they will now sign a lease with Government, unless compelled to do so by making refusal an offence against criminal law.

2. Adverting to paragraph 4 of Government of India, Military Department, letter No. 2311-C, dated 10th December 1896, I am to state that it has already been decided that the rules for the administration of cantonment funds published in G.G.O., No. 297, dated 22nd May 1896, do not apply to the cantonment of Secunderabad. The rules under reference cannot also be acted upon in this cantonment unless specially made applicable to it, as Secunderabad has already been declared by the Government of India to be out of "British India." In this connection, therefore, definite orders as to whether the cantonment rules, when passed, will apply to the above cantonment or not, are solicited.

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Jaya R

JULY 1897.

OF MADRAS.

PAL DEPARTMENT.

to the Government of India :—

tract.)

Secretary to Government.

29/7

Cantonment fund Rules

LOCAL AND MUNICIPAL DEPARTMENT.

Again G.O., ~~dated~~ No. 99 M. dated 27-1- 1897 ~~No.~~

Current No. 546 9 M., 472, ~~of 189 , dated~~ 553, 558, 910, 1059, 1572, 1616 & 1630 M./97 L. Dt. 14/97 ~~from the~~

~~Current No. 2077 L. of 1897, dated 27th May 1897 from the Govt. of India~~

FOR ORDERS.

"Note for the Secretary - In such cases as this always file the rules.

As only one copy of the rules is available, it has not been possible to paste cuttings from them, on the margin of the note -

Quite so.

H. S.

Dy. Secy. No. 1462/1463 26.7.97

A

(1)

Subject to the remarks below, I have no objection to these Rules, so long as they are only applied to places which are bonâ fide Cantts, that is, to places which are mainly inhabited by troops & their followers & which would fall into decadence if the troops were removed. Such places are, no doubt, Secunderabad, Kamptee & other places which could be ~~mentioned~~ — St. Thomas' Mount probably, for instance. But I think it wd. be a very great mistake and an obstruction to good admn. to apply them in their integrity to cases in which a small number

In 1892, the Government of India forwarded for the opinion of Local Governments and Administrations a draft Code of Regulations and enactments framed under Section 26 of the Cantonments (India) Act XIII of 1889. The remarks and suggestions made by this Government are contained in G.O. No. 509, late Military Department, dated 24th January 1893. On a consideration of the opinions which were expressed by Local Governments and Administrations, and of the criticisms evoked by the preliminary publication of the Code, the Government of India was of opinion that the code, as drafted, was not altogether applicable to the requirements of Indian Cantonments and required further revision; and it accordingly resolved to appoint a Committee, consisting of experienced Civil and Military officers, to consider and revise the draft rules. The Code having ~~was~~ been revised in the light of the remarks and suggestions received, the Government of India ~~forwarded~~ ~~with its letter No. 2311C,~~ ~~dated 16th December 1896,~~ ~~forwarded~~ forwarded to this Government for review the revised code and enquired with reference to draft rule 2 regarding the cancellation of prior rules, regulations and notifications, whether it was necessary that any of the orders referred to in that rule should be exempted from cancellation. Attention was also invited to draft Rule 220, which relates to the exclusion and removal of disorderly persons etc. from a Cantonment and to the provisions of the rules contained in Chapter XIX, which deals with appeals from Executive orders passed under these rules and he opinion of the Governor in Council as specially invited on the proposed rules in egard to these matters, which the overnment of India thought required areful and special consideration. e revised Code was thereupon eferred, in G.O. No. 99M dated 27th ary 1897, to the Lieutenant-l commanding

Vide Letter from the Govt of India No. 2311C, d/16-12-96
in G.O. 99M 27-1-97

and to the District Ma nt, Bellary, Chingleput, Ma Nilgiris, North Arcot, South Canara Trichinopoly, and Vizagapatam f opinion and the currents read abo are the replies received. The Distr Magistrates of Chingleput, Malabar, North Arcot and South Canara have no remarks to offer. The remarks and suggestions made by the other officers above referred to are summarized below:—

Mili.

Chapter I

Rule 2. — This rule lay down the extent to which the proposed regulations will repeal those now existing. So far as this Presidency is concerned all rules and regulations made under India Acts XXII of 1864 and III of 188 and under Madras Acts IV of 1865 and I of 1866, and the notificati

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of troops are quartered within the limit of a Muny which has an existence and an organization quite independent of the presence of the troops & not likely to be materially affected if the troops should be removed. Such places are Trichinopoly, Vizianagram & most other military stations in this ~~P~~ Presidency. In such cases, I consider that the attempt to set up an imperium in imperio, and to employ one body of persons to conduct the civic admn. within the Cantt. limits and another body to conduct it within the more considerable & more important surrounding Munl. limits, can do no good at all. On the contrary, it will do harm, for it will weaken the Munl. admn. which it is most desirable to strengthen. I consider therefore that in ~~regard~~ such places, in regard to all Sanitary questions which are covered by the ordinary Munl. law, the repair of roads, the provision of water supply &c, vaccination, hospitals & so on

(Inasmuch as throughout the whole list of the objects to which Munl. funds may legally be devoted), the existing system should be maintained, whereby the admn. ~~[illegible]~~ lies with the Munl. Cl., properly strengthened as may be necessary by the nomination to it of the C.O. of the Cantt. or of one or more officers named by him. So far as the rules relate to matters which are outside ordinary Munl. administration, ~~the~~ I have no objection to their being applied to these smaller Cantts. Such rules are those which give the Cantt. authorities power to expel undesirable persons, to regulate the grants of lands for houses &c. They are extremely arbitrary, but not necessarily, on that ground, to be objected to. It seems right that the military authorities should have power to remove undesirable persons from contact with the troops, and if any person chooses to build in a Cantt., and afterwards suffers for it, he has no one to blame but himself. No one is compelled to build under the rules laid down.

I think these views shd. be pressed on the G. of I., not as applying in the least to other parts of India, as to which I express no opinion, but as the proper guide to the admn. of this Presy., in which so large

officers, to
rules. Y
vise overnment of India in the
sitary Department No. 460 dated
May 1895 and No. 597 dated 22nd
lay 1896, will be repealed by the
roposed regulations. Act XXII of
864 (India) has been repealed
y Act III of 1880. This and Madras Acts
V of 1865 and Act I of 1866, have been
— repealed ~~portions of all these~~ ?
— by India Act XIII of 1889; but
he rules, regulations etc., in force
at the time of the passing of
his Act continued to remain in
force, by virtue of Section 2 thereof.

The Government of India has provided in the draft Code that the
proposed regulations should
repeal all those now in force,
and desires to know whether any
of the latter should be exempted
from cancellation. The District
Magistrate of Bellary who is the
only one of the officers consulted

H

Cantt. exists, to which the whole of the rules can suitably be applied; and that to enable us to carry them out the rules should contain a provision that the whole or any part of them may be applied to any Cantt. There is no such provision at present, so far as I can see, and it therefore follows that if one rule is applied all must be, which is just what I consider should not follow.

There has been a good deal of correspondence from time to time in the J. D. about Cantts. It should be examined to see what light it throws on the opinion of the G. of I. on the proper relations between Munities & such petty Cantts as we have here.

The matters herein dealt with are by no means matters of routine. The file should therefore go to H.E. — The Sec. might specially direct his attention to the comparatively few questions of principle which are raised & so save him from the necessity of spending some hours over the file.

HB
12/6/97

I endorse every word of the Hon. Sir H. Bliss's Note.
A.G.H 7.7.97

that has touched upon this point,
states that so far as regards
the Cantonment of Bellary, the
formal cancellation of the rules
issued under Act I of 1866 is unobjectionable, seeing that the provisions of those rules which had
application to Bellary (viz, Chapters V & VI) had already become
inoperative ~~partially~~ by some of them ~~operation~~ having been suspended and
~~partially~~ by the others having been
practically superseded by the
corresponding provisions of the Municipal law. These remarks apply
with equal force to the other Cant
ments which are situated within
the limits of Municipalities and
from the fact that the Lieuten
General commanding the forces
Madras, says nothing on this po
it may be presumed that there

6

no objection in the case of the other
Cantonments also. ~~which are not within~~
~~Municipal limits~~. It is therefore
submitted that the Government
of India may be informed
hat there is no objection to rule 2, as
t now stands.

The Cancellation of the notifications of the Govt of India No 460 of 3rd May 1895 and 597 of 22nd May 1896 seems also to be unobjectionable, as the provisions therein laid down, have been embodied in Chapters XI and IV respectively of the present Code-

(2)

7/6/

A.S.H

Rule 3-(i) In Clause (6)
f this rule, "bazar" is defined as
ny land set apart for occupation
y natives of India, except the
lines of native troops". The
Lieutenant General points out that
in Burma the term "Native of
India" is used to distinguish
the Indian immigrant or his descendants from the Burman, Shan
r Chinaman, and that as the
azar population in Burma
composed of all these and in
ome Cantonments (Bhamo for
ample) the non-Indian races pre-
minate, confusion and litigation
ay result if the definition is

D

7

Yes (or Asiatic natives)

8/7

Rule 4 - Flag J -

~~Asiatic natives~~

A.S.H

E

allowed to stand as it is. He th
fore suggests that "Asiatics" m
be substituted for "Natives of In

In the definition of
'bazar' given in the draft Can
ment Code of 1892, the word
"Natives" was used without q
lification and the grounds on w
this was altered into "Native
of India" in the present draf
are not apparent. The term
tics' suggested by the Lieu
nant General ~~[illegible]~~ appea
on the other hand,
to be too comprehensive.

(ii) The District Mag
trate of the Nilgiris sugge
that the definition of "Str
given in this rule should
open spaces by the sides of r
etc., over which the public
a right of way or of access
definition as now drafted

8

Street" includes any way, road,"
lane, square, court, alley, pass-"
age or open space, whether a tho-"
ough-fare or not and whether"
built upon or not, over which"
the public have a right of way etc."

The expression "open space" occurring
this definition would probably
over the spaces by the sides of
ese roads also, but as it is better
at this intention is made clear
is submitted that the desira-
ity of adopting the definition
street given in Section 3 of
the Madras District Municipali-
Act, as Amended by Act III of 1897,
be commended to the Govern-
t of India.

Chapter II

Rule 4: Clause (1) of
rule lays down that "any
istrate of the first class
also a justice of the peace

Clause (9) of Rule 3

Yes
S.R.

(4)

Section 3, Cl. XXVII of the Amended Act –

Or this may be suggested
S.R.

Yes – we took a deal of trouble about this defn

A.S.H.

9

F

(5)

Yes: in some districts it is prob. the Dist. Magte himself wd. be the Magte who cd. most conveniently attend. E.g. St Thomas Mount – there the D.M. is a member of the Comm.ee So in Trich.y & Bellary. There are three cases – see Sch III – in wh. the D. Magte is constituted the appellate authority: but they are not particularly important; & if necessary it might be ruled that if such cases come before the Cant. Comm.ee, the D. Magte if sitting as a member shall not take part

Rule 7 – Flag D.

S.R.

A.S.H.

appointed by the District Magistr
to represent him on the Committ
shall ordinarily be one of the memb
of a Cantonment Committee. Th
District Magistrate of Trichinop
suggests that the words "the Dis-
trict Magistrate or" should be
inserted before "any Magistrate
of the first class" in the clause
above quoted.

According to the original draft (of 1892) of this Code, the District Magistrate was a member of the Cantonment Committee and he was empowered to appoint a Magistrate of the first class to act in his stead when he was absent from the station. The revised draft does not however make the District Magistrate a member but only a Magistrate of the first class appointed by him. This alderation appears to have been advisedly made with reference to the provisions of Chapter XIX, under which some orders passed by the Cantonment Magistrate and the Cantonment Authority are made appealable to the District Magistrate. It would therefore be undesirable that the District Magistrate, who has to dispose of appeals against orders of the Cantonment Committee should be also a member of the Committee.

Vide Rule 251-

See above

Rule 7 - The Lieutenant-General points out that the expression "Cantonment authority" occurring in clause (1) should be clearly defined in rule 3.

This expression occurs not only in rule 7, but also in several other places, for ince, in rules 6, 23, 24, 26 &c,

(6)

But Rule 6 defines "Cant. authority" and also section 6 of the Act itself (XIII of 1889)

I would say that, with ref: to S. 6 of the Act, Rule 6 was superfluous.

Rule ! 8 seems true, partly superfluous & partly in derogation of S. 6 of the Act & is invalid

A.H.

The regulations give certain powers and impose certain duties on, what is termed the 'Cantonment Authority', and unless it is clearly stated what this authority is there may be some practical difficulty in working the Code. It is however apparent that the Cantonment Committee is meant by 'Cantonment authority', and if this is so, it may, it is submitted, be definitely stated.

Rule 10 - The District Magistrate of Vizagapatam observes that from the wording of rule 10, it is to be inferred that no business can be transacted at a meeting of the Cantonment ~~of the~~ Committee unless the President is present and considers that there is no necessity for this provision, which is inconsistent with rule 4 (2).

Rule 4 (2) says that if the President is absent from a meeting, the next senior combatant officer present shall preside on the occasion. It seems therefore unnecessary to make the presence of the President absolutely essential for the transaction of any business at a meeting. It is however doubtful whether the "President" referred to in this rule is the President of the Cantonment Committee or is simply intended to mean the 'presiding member'. If the latter, which appears to be very probable, this rule is unobjectionable and is not inconsistent with rule 4 (2). The matter may however be pointed out to the Government of India for Consideration.

(7)

It is meant no doubt to be the presiding member: but ~~the~~ it ~~language might~~ should be made clear that this is so. So in rule 12 & 13. But, otherwise ~~[illegible]~~ in rule 14 where President means the President as defined in 4 (1) ~~[illegible]~~ ; for the power of suspending an order wd. be confined to the Officer commanding.

Rule 15 - Under clause (c) of this rule, the Officer commanding the district may require the Ca ment authority to furnish pla and estimates for all works to be constructed out of the Cantonm fund at a cost exceeding five hundred Rupees etc,

D

The Lieutenant Genera points out that this rule does no specify the particular individua who is to furnish the estimate and plans and suggests that the Sub Divisional Officer, Military Works Department, or the Public Works Department may be directed to do so and be paid for his trouble.

It does not appear, however, to be necessary to specify in these rules the person by whom, and the terms on which the plans and estimates for these works are to be prepared. The rule gives certain powers to the Commanding Officer of the istrict, one of them being that may require the Cantonment uthority to furnish plans ud estimates in respect of certain class of works and hen a requisition has been made nder this rule it is open to the Canton ment authority to make such arrangements as it thinks best for he preparation of plans and estimates. What the Lieutenant-General wants, can therefore be done by means of departmental executive orders.

Chapter IV.

Rule 33 (1) Rule 15 (c) empowers the Officer Commanding the District to require by an Order in writing that estimates for works exceeding Rs 500/- in cost be submitted for approval and to name the authority by whom they shall be approved.

(8)

The point may be left to the Govt. of India, whose attention will be called to the Lt. General's remarks

SH

AH

15

Rule 33 (c) requires that for all works, whatever their cost, detailed estimates should be prepared and sanctioned before they are paid for. The authority by whom the sanction required by the latter rule should be accorded, is not stated; but reading Rules 15 (c) & 33 together, the Lieutenant General thinks that the intention of the rules may be to leave the power of sanctioning in the case of ordinary works in the hands of the Cantonment authority, but to reserve to the Officer commanding the District the power to control expenditure on works exceeding a certain sum. He accordingly suggests that to make the point clear, ~~the~~ rule 33(c) may be recast as shown below:—

"In the case of the

~~[illegible]~~

Rules 15 (c) & Rule 33 are not contradictory. Rule 15 (c) gives the Off. Cg. the district certain powers to ask for plans & ests. Rule 33 forbids the payment of money from the C. fund in respect of expenditure on public works unless detailed ests have been prepared & sanctioned. The Lt Genl's suggestion seems to be that either of the officers referred to [illegible] [illegible] by whom plans [illegible] [illegible] expenditure on public works exceeding Rs 500 of which detailed estimates have been required by the Officer commanding the district under rule 15(c), unless the estimates have been approved by the Superintending Authority (if any) named by the Officer Commanding the district"

The Lieutenant General's surmise regarding the intention of the rules appears to be correct, but the alteration suggested by him is not in accordance with this and does not therefore appear to be desirable. Under the rules as it now stands it is necessary that estimates should be prepared and sanctioned (by the Cantonment Authority?) for all works, so that even in the case of works costing more than Rs 500, for which estimates have been called for and approved by the Officer commanding the district under rule 15(c) the sanction of the Cantonment Authority is necessary before they can be paid for. The alteration suggested by the Lieutenant General excludes from the operation of this rule all works costing less than Rs 500, which is apparently not what is intended.

(ii) The Lieutenant General also points out that it will be very desirable that a certain sum should be budgeted annually for unforeseen emergencies; he states that there may probably be no necessity to utilize the provision, but circumstances often arise requiring instant action especially as regards epidemics, and unless funds are immediately available, the opportunity for grappling with the difficulty

~~The Lt Genl's suggestion~~
~~[illegible]~~
~~[illegible] accepted.~~

Rule 15(c) & Rule 33 are not correlative. Rule 15(c) gives the Off. Cg. the district certain powers to call for plans & ests. Rule 33 ~~[illegible]~~ forbids the payment of money from the Ct. fund in respect of expenditure on Public Works unless detailed ests. have been prepared & sanctioned. The Lt. Genl's direction seems to be that there is no specific rule as to the officer or depart. by whom plans & ests. are to be furnished. But as I understand ~~[illegible]~~ important public works in a Canton. are in executive charge of the Military Works Depart., which in ordinary course will furnish plans.

Where a work is carried out on contract, it must be (?65) examd. & appd. by the Exec. Engr. M.W.D. and ~~the~~ the contract must be prepared (?67) in the form in use in the M.W.D. which I understand includes rates & qties, i.e. estimates.

But in referring to rule 33(c) we may simply point out that there appears ~~to be~~ no rule specifically requiring in all cases the preparation of ~~[illegible]~~ plans & ests. ~~[illegible]~~ ~~[illegible]~~. The sanctioning is of course done by the "Cant. authority" or other authority specifically designated in the rules. The Govt. of India will see the Lt. Gen's. remarks, & give them such consideration as they need.

E.R.

I should also say that it seems to be going too far to require detailed Estes for every petty operation which falls under the head of public works. There should be a limit — say Rs 200? or allow the G.O. Comd to prescribe a limit from time to time.

KS

[illegible] 8.4?

issed before sanction for
diture is received. The
~~[illegible]~~ posal is a good one and it
be suggested to the Govern-
of India that a heading
mic Charges' may be opened
Departments - Conservancy
~~[illegible]~~ in form 8
in Schedule I attached to these

ule 41. The Lieutenant-General
that the expression "Overdrafts on
tonment funds" occurring in
means "overdrafts on the trea-
r banking account of the fund",
draft on the fund itself being
sion of ideas, and suggests
rule should run as follows:—
The treasury account of the
ment fund may be overdrawn
if sanctioned etc.,"
~~[illegible]~~
~~[illegible] proposed [illegible] is only~~
~~[illegible] and~~ The proposed
tion is only verbal and may be re- ~~[illegible]~~.
ended for adoption.
ule VI

Rule 70 (1) This rule defines a
nce a[illegible] the acts

(10)

But the charge may arise
in connection with a flood:
"Emergent charges" wd be better. We
may leave the Govt. of India to decide
how they shd be budgetted

Note
Special Charges are
Shown under Conservancy
in the municipal account..
A.S.H.

(11)

We may call attention to the
suggestion

There must be a clear understanding that
Supt. must meet such overdrafts — Board cannot
do so
A.S.H.

19

(12)

But each distinct commission
of a nuisance is a different
offence & can be punished
if repeated after a conviction.
It might however be
recommended that power
shd be given to impose a more severe
punishment in cases of
repetition.

The Act, (s. 27(4)) does not provide a more
severe penalty than that prescribed in Rule
294 — It should be pointed out that the provisions
as to continuing breaches of rules in s. 27(4)
Rule 89 are dead against India's own argument
in regard to similar provisions in our Amend.
Bill all of which we had to strike out
A.S.H.

and omissions therein referred to to be
a breach of these rules, for which a
penalty is provided in rule 294. The
Lieutenant-General points out ~~that~~
~~the~~ rule 294 provides a penalty only in
single cases of nuisance and that
for practical purposes continuing
nuisances should also find a place
in these rules. He states that in the
case of offences described in clauses
(7), (10), (13) and (16) of this rule one puni-
ment is often useless and that what
is wanted is a punishment followed
by an order prohibiting the continuance
of the particular nuisance and pro-
viding for some supervision to ensure
that, if the order is not obeyed, the
offender is again brought to book.
In the event of proved disobedience
the Magistrate should be empowered
to impose a penalty measured
by the number of days during which
the disobedience has lasted, and
the Lieutenant General accordingly suggests, that a cl
authorising this and providing on

a continuing penalty in such cases may be inserted, either by modifying rule 89 or by an addition to rule 294. The suggestion may be commended to the Government of India.

(ii) Clause (c) says that whoever eases himself or wilfully and indecently exposes his person in any street or public place, within the Cantonment, commits a nuisance. The Lieutenant-General considers that the words "having the care or custody of any child under seven years of age omits to prevent such child from committing a nuisance or" should be inserted at the end of this clause.

This suggestion has apparently been made on the analogy of Section 3(11) of the Madras Towns Nuisances Act III of 1889 but ~~[illegible]~~ - a similar provision in the Madras Distt municipalities Act ~~sec 300 of~~ Act IV of 1884 (sec 225); ~~but as this section~~ has been repealed by Section 3 of Act III of 1897. ~~it becomes unnecessary to make any addition like that proposed by the Lieutenant General.~~

(iii) Under clause (e) it is a nuisance to expose or exhibit with the ting charity any deformity se or any offensive sore District Magistrate of

Clause
ding for
nuisa

D

(13)

I think this may be suggested: though repealed in the Distt. Mties Act a similar provision is retained in the Towns Nuis. Act.
S.V.L. A.SH.
printed in G.O. No. 244 d/77.290.

Quite so, because the
other Act

E

I w^d not insert 'emaciation'
S.V.L.
K
A.SH

the Nilgiris state that, as in times of famine emaciation is also exhibited, with the same object, the word "emaciation" might be inserted between "deformity" and "disease" in this clause.

The rule follows Section 3 (8) of the Madras Towns Nuisance Act III of 1889 and is apparently intended to prohibit persons having any deformity or suffering from any offensive sore or wound, who make it a trade to force people to give them money by obtruding their deformity or sore upon them. It is no doubt extremely desirable and perhaps necessary to prohibit this, from the loathsomeness of the appearance of these persons, but it is doubtful whether emaciation, which especially in times of famine is generally seen, should be treated with equal severity.

(iv) Clause (g). The District Magistrate of the Nilgiris thinks that gaming should be prohibited not only in streets and public places as provided in this rule but even on private land provided it tends to create disorder. He instances a case in which a prosecution failed when the gaming was on private land, but was nevertheless open to public gaze and access.

It is submitted that this suggestion goes farther than ~~the~~ ~~[illegible]~~ Sec 3 (10) of the Madras Towns Nuisances Act III of 1889 which makes gaming an offence only if it is carried on in a public street, road thoroughfare or place of public resort, ~~[illegible] laws of this country~~ and should not be adopted. Gaming in private houses or lands seems unobjectionable and the fact that it is open to public gaze does not alter ~~the case~~ matters.

(v) Clause (k) – Subclauses (i) and (ii) of this rule provide that affixing without proper authority, any notice, bill or other document on any building, monument, post, wall, or fence, and defacing, writing upon, or marking any building, monument, post, wall, fence or tree, are nuisances. The District Magistrate of the Nilgiris suggests that the sanction of proper authority should be made necessary also for affixing notices etc., on trees, as under the existing rule this can be done with impunity to the great untidiness of the Cantonment, and considers that the prohibition relating to

It is unnecessary to go so far. It wd. raise very complicated & difficult questions

S.V.R.

Besides, we have S. 6 of M. Act III of 1889 for keeping gaming houses & the I.P.C. to fall back on for many cases of nuisance.

HW

Yes. AAH

(14)

The inclusion of tree wd. primarily refer, I think, only to trees on public land. If a person who owns a tree allows a notice to be affixed to it it ~~wd. be~~ cd. not be said to be "without proper authority"

If "tree" is in K(ii) I don't see why it shd. not be in K(i).

In either case the prohibition wd. extend only to public trees for wh. the public officer in charge had not given authority and to private trees for which the owner or the occupant had not given permission

S.V.R.

HW

AAH

I don't see any objection to the retention of "tree": it will be a breach of the rule to mark or deface a private tree only if the owner or occupant has not given permission

S.V.R.

See above – Let tree owners take care of their own things. HW

Yes AAH

(15)

Probably "permits his servant" is surplusage. "Facit per alium, facit per se": but the suggested alteration wd. certainly be safer

Say "permits his servant or other person under his authority"

HW

A.A.H.

(16)

S. 6 of M. Act III of 1889 is better

HW

AAH

23

What have the Cantt. Rules to do with these? Owners have their remedies at law. HW

Yes. AAH

marking, is too wide and that it should not be a nuisance merely to mark a private tree. These suggestions seem worthy of consideration.

(vi) Rule 70 (3). The District Magistrate of the Nilgiris suggests that the deposit of rubbish in any place not intended for the purpose should be made punishable not only when the act is done by a servant, but also by any other person under authority such as wife or child. The expression "permits his servant to deposit" may therefore be altered into "permits the deposit of".

(vii) Rule 70 (7). This rule declares the keeping of a common gaming house to be a nuisance. The District Magistrate of the Nilgiris considers with reference to his suggestion on rule 70 (1)(g) above, that a common gaming house is not wide enough. There appears to be no necessity to make the prohibition wider and consequently more stringent.

(viii) Rule 70 (12). The District Magistrate of the Nilgiris says that the rule should be amended so as to make it a nuisance not only when an animal is let loose so as to cause injury, danger, annoyance etc, but also when cattle, horses or asses & pigs are allowed to stray, as these latter are a great nuisance in some towns especially at night, though no annoyance, injury etc, can be legally proved. He points out that Rule 144, which provides that no vehicle or animal should be left on the street without proper control, does not apply to such cases, as the Act would be punishable under that rule only if the animal was left on the street and that impounding under rule 226 is not effective in checking the nuisance. He accordingly suggests that the rule should run as follows:-

"negligently allows any [animal] to be loose or to stray in such a manner as to be likely to cause [illegible] annoyance, in a public place"

This may be recommended for adoption.

Rule 71 This rule provides for the destruction, at appointed periods, of dogs, without collars or other marks distinguishing them as private property, found straying in

I would accept this. (we know from Ooty experience that very stringent rules are necessary in some places & prevent injury to gardens) H.W.

Agree. A.S.H.

[horse, cow, pig, ass or other animal]

I think the proposed clause is too wide. The rule as drawn includes only cases in wh. injury, danger &c have been actually caused to a person. "Likely to cause" is very wide & wd. cover every case in which a syce by the smallest negligence allowed a horse to get loose & run into a public place

I wd. keep the original rule wh. seems to cover all that is necessary. ~~[illegible]~~ ~~[illegible]~~ S.T.

The question of licensing dogs is too large a qn. to take up on a cantont. rule. I wd. let the rule stand.

Why? It is provided for in our Municipal Act & therefore comes under the Cant: Act (v. S. 17 (1) (a)) – But the suggestion may be left to India & need not be noticed specifically. H.W.

Very well. A.S.H.

haps I think understand

They may [illegible] but I doubt how a magistrate or police officer here can be expected to do so. H.W. A.S.H.

the street or beyond the enclosures of the houses of the owners of such dogs. The District Magistrate of the Nilgiris considers that this rule is too lax in that it prevents the slaughter of dogs round whose necks a rag has been tied in token of ownership and proposes that the collar or mark should designate the owner and that all dogs should be licensed. The suggestion to license dogs seems worthy of consideration, but it seems unnecessary to insist on the name of the owner of the dog being given in the collar or mark as it will be enough for the purpose of this rule to know whether a dog is a stray dog or is private property and the use of a collar or other mark will furnish this information.

Rule 72. The Lieutenant General points out that the word 'Sudder' occurring in clause (c) of this rule should be spelt "Sadr" or "Sadar". ~~but~~ The District Magistrate of the Nilgiris states that the words 'Sudder bazar' convey no meaning in the South of India.

Rule 78. The Lieutenant General states that in the neighbourhood of a native village it is often found that the road sides and hedges are used as latrines and rubbish depôts, but as the actual offender cannot be detected, it is not possible to check ~~such~~ the nuisances. In such cases, he considers, the presumption is that the villagers who do not themselves commit these nuisances do not object to them and will not except under compulsion help to abate them and, therefore suggests the addition of the two following clauses to this rule, so as to provide for cases of this kind.—

"2. The use of these receptacles and of the latrines provided under rule 77 shall be enforced by the officers named in rule 72, within the limits assigned to each officer. Should it appear that offensive matter or rubbish is being deposited in any unauthorized place in or near those limits or that persons reasonably suspected to be inhabitants of houses within them resort to such place to ease themselves, the Sanitary Officer of the Cantonment, the officer responsible for the Sanitary condition of the particular place, or the Cantonment Magistrate, shall, if the individual offender cannot be ascertained and the circumstances of the case render it desirable, recommend to the Cantonment authority that the occupiers of the houses within the limits in question be called upon to show cause why they should not jointly and severally be held liable to the penalty prescribed by these rules for such nuisances when committed by individual offenders:

It is going beyond ordinary legislation to lump the innocent with the guilty in a matter of this sort. The remedy is in a more vigilant police &c. We may say that the Govt. cannot support the suggestion

I heartily agree. I hate this kind of legislation.

A. S. H.

3. And it shall be competent to the Cantonment authority, to issue such notice, and in the event of failure to show cause against it, to impose such penalty."

The suggested addition does not appear to be desirable.

Chapter VII.

Rule 93

(1) Clause (1). This rule says that when a person intends to erect or re-erect any building he should give notice in writing to the Cantonment authority in the manner therein prescribed, upon receipt of

which, the Cantonment authority may either refuse to sanction such building or sanction it absolutely or subject to certain directions in regard to passage in the front of the building, ventilation, drainage &c. The District Magistrate of the Nilgiris points out that on the analogy of the District Municipalities Act, it would be illegal for the Cantonment authority to refuse consent to erect a building unless it would interfere with the conveniences mentioned in clauses (a) to (e) viz: free passage, space for circulation of air, for scavenging and for fire-prevention, ventilation, drains etc; but that there may be other reasonable grounds on which it may be necessary to refuse permission; for instance it might be pposed to policy to allow a hut be erected on private land just n front of the barracks, or in such a position as would spoil the effect f public gardens. He therefore nsiders that if it is meant that ermission may be refused on grounds ther than those specified by the le, it should be stated.

But the rule gives as in the Bengal M. Act absolute power to prohibit the erection of the building.

BW

A.A.H

(19)

Note The building regulations have been adapted from the Bengal Municipalities Act III of 1884 -

Rule 93 (2) goes too far. [illegible] should be excepted - vide our Mun. Act S. 180 (6) - The poor cannot furnish plans & specifications,

BW

Yes. A.A.H

Yes: a man may build on his own land if he pleases, provided he conforms to certain regulations. Under our Mun. Acts we can regulate but not forbid the building. If it is undesirable that there should be any building in a particular place the Mty must acquire the land.

S.K.

BW

Yes. A.A.H

The difficulty raised by the District Magistrate seems however to have no foundation, as the rule gives an absolute power to the Cantonment authority to refuse an application for permission to construct a building. Section 180 of the District Municipalities Act as amended by Act III of 1897, however, does not give the Municipal Council power to refuse to grant permission for the construction of a building; and even when the conditions therein laid down have not been satisfied and the Council finds reason to object, all it can do is to grant the permission specifying in the license the alterations in levels etc., which it considers necessary; and it is provided that the licensee shall then be bound to carry out such alterations.

(ii) Clause (5). This rule provides that every sanction for the erection or reerection of a building given by the Cantonment authority shall be available for one year from the date on which the notice became valid and complete and no longer and that unless the building is begun within such year it should not be done without fresh sanction. The District Magistrate of the Nilgiris remarks that it should not be enough merely to begin a building within the year, as this would cover a mere pretence. The rule, ~~as it stands~~ which is on the lines of sec. 239 of the Bengal municipal act III of 1884, is stringent enough and there does not appear to be any need to impose any further restrictions.

E

S.A.

A.S.H

Rule 100. Power is given by this rule to the Cantonment authority to require the owner or lessees of lands to construct and maintain sufficient boundary walls, hedges or other fences for them. The District Magistrate of the Nilgiris suggests that power should be given to the Cantonment Authority to cause the removal of a prickly-pear hedge. It seems desirable to provide for this.

But there is power to enforce the lopping or trimming of any hedge (r. 101)

and there is Rule 83 HW A.S.H

Chapter VIII.

Rules 109 (c) & 125. The suggestion made by the District Magistrate of Vizagapatam that for the words "meat, fish, fruit, vegetables or any other perishable articles of food for human

In r. 109 (a), after "Sarai" I w^d insert "or chattram": & so in (b) & thro'out.

Why? The defⁿ of "Sarai" includes "Chuttram" clearly enough — If you use the word "Chuttram" you will have to define it HW A.S.H

D

(20)

consumption" occurring in these rules may be substituted "any articles of food or drink for human consumption" so as to bring these rules into accord with the wording of rule 117 (a) may be adopted.

S.A.

A.S.H

G

(21)

Rule 137 (i) The District Magistrate of Vizagapatam states that the term "cattle" used in clause (i) of this rule is not very definite and that it presumably excludes "buffaloes", which there is no reason to exempt from the operation of this rule. The presumption does not, however, appear to be well founded. cf. the definition of "cattle" in the Cattle trespass Act I of 1871.

But is 137 required at all? I should say not — Why should a man who wants to sell to the butcher be obliged to get written permission before he can drive his beasts into the Cant^t. for the butcher to see & bargain for them? Why there may be a regular cattle market within the Cant^t.! The rule is absurd — HW

I agree. A tendency to over do regulation. A.S.H

Vide sec 3

S.A.

(ii) Clause (4) of this rule says that the provisions of rule 137 do not apply to cured or preserved meat. With a view to extend the exemption to the meat of animals slaughtered under certain circumstances outside Cantonment limits, the Lieutenant General proposes the following addition to this clause:—

"Or to meat slaughtered

outside Cantonment limits under conditions agreed upon between the Cantonment and the Municipal or other competent authority" This addition seems desirable.

(22)

18/ Yes - if the rule is retained HS

A.S.H.

Chapter IX

Rule 169. This rule says that no latrine, urinal cesspool or drain shall be constructed and that no offensive matter or rubbish shall be deposited within fifty feet of any source of public water-supply. The Lieutenant General considers that the distance of fifty feet prescribed herein is too small and that it should be fixed at 100 yards. This suggestion is worthy of consideration.

D

It wd. be impracticable. A well is a source of water supply. The distance might be 100 feet without sanction: but 100 yards seems excessive.

Better let it alone GA

There are many public wells in streets - Is the man who lives opposite not to have a latrine or urinal in his house? HS

Quite so. The draft rule is quite stringent enough.

D

A.S.H.

Chapter X

Rule 174. For the reasons given by him in support of his suggested amendment of Rule 3(6), he Lieutenant General states that the words "or Burma" should be added after "India" in clause (6) of this rule. The addition appears harmless.

(23)

GA HS A.S.H.

Rule 180. This rule empowers the Cantonment authority to prohibit by notice the residence of a public prostitute in any part of the Cantonment other than the part or parts specified in the notice. The District Magistrate of the Nilgiris points out that this rule obliges the Cantonment authority to allow a public prostitute to reside in some specified part of a Cantonment and therefore suggests that power might be given to exclude a troublesome or notoriously infected prostitute. It is however doubtful whether this cannot be done under rule 220(1)(a)(iii).

E

Rules are under issue by the Govt. of India dealing with the whole of the question of prostitution in cantonts.

GA HS

Yes. A.S.H.

Chapter XI

Rule 186. The District Magistrate of Vizagapatam states that instead of requiring a list of the names and addresses of the owners of clothes, as provided in this rule, it would be better for obvious reasons to require a list of the names and addresses of all persons within the Cantonment for whom the washerman washes. The suggestion may be commended to the Government of India.

G

This has not been noticed in the Draft

Perhaps the suggestion is an improvement

It's 6 of one & half a dozen of the other, so far as I can see. HS

Yes. A.S.H.

E

Rule 190. Mr. Tremenheere suggests that "bubonic plague" might be included in the definition of infectious or contagious disorders. ~~but no definition is given~~ but this appears to be unnecessary as the bubonic plague will come under "every ~~in the rules of "ever" "infectious or~~ infectious or contagious ~~[illegible]~~ disorder" other ~~contagious disorder~~ than a venereal disease" occurring in the definition of this expression. Vide rule 3(5).

17/8

A.A.H

Chapter XII

Rules 220 to 222. The Lieutenant General suggests that these rules should be made applicable to males as well as to females. This appears to be unnecessary, as in these rules, the pronoun "he" stands for the noun "person", and under Section II of the Indian General Clauses Act I of 1868 words importing the masculine gender should be taken to include females.

D

The Government of India invites ~~the~~ special attention to rule 220 and desires to be furnished with the opinion of Government thereon. As observed by the District Magistrate of Bellary there is no objection to the provisions of this rule ~~220~~, as the exercise of the power given thereby is sufficiently safe-guarded by the right of appeal provided in Chapter XIX. It is submitted that the Government of India may be informed accordingly.

Vide page 2 of the Note supra -

C

(25)

18/8

A.A.H

The District Magistrate of Bellary, however, states that although Section 5 of the Cantonments

C

Act XIII of 1889 makes the appointment of a Cantonment Magistr imperative the Government has decided, that on financial groun one cannot be appointed for Bellary and points out that this rule would be inoperative unless a Cantonment Magistrate is appointed. He also doubts the de-sirability of applying the genera body of the rules to Bellary and considers that if it is decided to introduce them the Cantonment sh be excluded from the operation of the Local Municipal Act, but a no strong grounds have been show for a change like this and on th principle quieta non movere he is disposed to l[illegible]e matters as they are.

In [illegible] a 2 of its confidential re-port, the Committee appointed to re-vise the Cantonment Code states as follows:—

* * * * * and the Committe accordingly considered whether they could classify Cantonments and a divide the rules into those applica-ble to each class of Cantonmen as classified by them," and later

"The conclusion at which the committee finally arrived was that it would be impossible for them to arrange all Cantonments in various classes, with separate rules for each class. The rules embodied in draft Notification No. I will therefore apply in their entirely to all Cantonments, not expressly excepted from their operation in whole or in part under Section 27 subsection (2) of Act XIII of 1889."

It may be[illegible] decided, I think, that a cantt. Magte. shall be appd. in all cases even though his duties as a Magte. will be merely nominal
KS

The points raised by the District Magistrate of Bellary, viz: the desirability of appointing a magistrate for Bellary Cantonment, and of specifying the particular portions of the rules which apply to the Cantonment of Bellary, have no bearing on the rules now under review,— but they are matters which should be considered in issuing a Notification under section 27 (of the Cantonments Act) above referred to.

These points will be considered when the qn. of the application of the rules arises
S.P.
Yes.

Rule 221 empowers the Commanding Officer of a Cantonment to order the removal and exclusion of any person from the Cantonment hether with or without assigning ny reasons therefor. The District Magistrate of Trichinopoly states hat in Trichinopoly it would ause great dissatisfaction to f the Military Authorities arbiily turn out South Indian

F

The Lieutenant General cons

Railway Officers, Government Civ Officers and well-behaved native themen.

The difficulty pointed out by the Officer is not however understood. The Chapter of the Code where this rule occurs relates only to mendicants loiterers and disorderly persons and the portion commencing with rule 220, to the end of the chapter applies only to disorderly persons. Moreover the proviso (b) to the rule, says that no order under it shall be made in respect of any person "unless the Commanding Officer considers the presence of such person in the Cantonment dangerous to good order or military discipline". The power given is no doubt arbitrary, but the classes of persons referred to by Mr. Macleod! will hardly be affected by it so long as they do not come within the purview of the proviso above referred to.

In this connection, please also see D.O. from Captain Shelley, Agent of the South Indian Railway Company. The matter therein referred to appears to be a for the decision of the Local Offic

Of course
S.P.

(26)

Rule 221 expressly does not refer to 'any person' viewed by Rule 220 – I consider that any person turned out under Rule 221 should have a right of appeal to the Local Govt. or at least to the G.O. of the Command. To allow an appeal only to the G.O.C. of the district is not enough.
KS

This should be insisted on –

Yes. Most emphatically.
A.H.

I

ey's letter is on tter – the assumed ake up private

"The concl

very owner of any building or land in the Cantonment who is absent from the Cantonment to appoint some person residing in or near the Cantonment to act as his agent for the purposes of the Cantonments act, XIII of 1889, and of these rules. The District Magistrate of Vizagapatam suggests that it might be well to fix some period of absence which should necessitate the appointment of an agent. This suggestion is worthy "of consideration.

Chapter XIX. This Chapter provides for appeals against executive orders of the Cantonment authority. Schedule III attached to these rules specifies the cases in which the orders passed under them ~~are~~ are appealable, the authority to which the appeals lie and the time allowed for appeal. The District Magistrate is constituted the appellate authority in the case of orders passed by the Cantonment authority under Rules 112 (1) and 128 [illegible] by the Ca[illegible] Indian Ma[illegible]

G.

(27)

It should be defined ~~that~~ as something more than mere temporary absence.

D

The Lieutenant General cons
ders that any appeal from an e
ecutive order even of the Canton
ment Magistrate should not lie
to the District Magistrate. The form
is only subordinate to the latter
his judicial capacity. Executi
matters in a Cantonment are mi
tary matters and, as under the
draft rules under review, the
District Magistrate is no longer
member of the administrative co
mittee, the objections to his sittin
in appeal upon the orders of th
Cantonment authority are still
stronger in as much as the la
is in no sense subordinate to hi
"It is quite conceivable", he obse
"that questions may arise in a
Cantonment of which the civil
pect is the more important, bu
with most of these, the District
Magistrate is empowered to
under Rule 14 (3). Matters whi
do not come before the Cantonm
committee and with which
District Magistrate has any
cern, would fall to be dealt
by the Cantonment Magistrate"

-cially and as such, would (if ap-
pealable at all) properly be ap-
pealable to the District Magis-
trate as questions of law and
fact." But the Lieutenant Ge-
neral is of opinion that "anything
tending to obscure the clear bound
ary between matters adminis-
rative and matters judicial
(2) between military and civil
uthority in a Cantonment should
e guarded against."

Rule 112 (1) empowers the Cantonment
uthority to require by notice the clo-
ure of a Sarai, if the provisions of
ules 110 & 111, as to the manner of
eeping it are not complied with.
nd rule 128 invests the Cantonment
uthority with power to prohibit,
e use of a slaughter-house or the
aughter therein of any particular
scription of animals, if the said
thority considers such a course
o be necessary on sanitary grounds.
terms "Sarai" and "slaughter
ouse" are defined in rule 109; and
he exercise of the powers con-
rred on the Cantonment authority
the rules above referred to will
fect not only the military popula-
, but the civil population of the

It is not likely
that Com^s of
Arbitration will
be so very frequent

(28)

and see above on R. 221

Yes, but please examine carefully Sch: III & see if the civil population does not need further protection by the allowing of appeals to other than military officers.

(29)

Many of the Rules in Ch: XXI will be quite impossible to work in the case of land applied for for the erection of buildings in bazaars – See remarks above on Rule 93(2)
E

Cantonment and to some extent
also the population outside the Can-
tonment limits, it is ~~extremely~~
desirable that the District Magistra
should be given the power to in-
terfere in cases where the Canton-
ment authority might have erred i
its judgment. As regards rule 220, it
gives enormous powers to the Canton-
ment Magistrate and an appeal to
the District Magistrate is a very desira
ble and necessary safe-guard. The Go-
vernment of India has specially in-
vited the opinion of Government on
this Chapter and it may be informe
that His Excellency in Council se
no objection to the provisions there
contained.

Chapter XX

Rule 261. This rule lays down
who are to be members of a Comm
tee of Arbitration. The District Ma
trate of the Nilgiris points out tha
the present rules throw more wor
on the Civil magistracy, more,
may be, than the present staff c
carry out and states that, if Com
tees of Arbitration often sit in
Wellington, a Justice of the Peace
have to be posted to Coonoor, fo
the District Magistrate, the
Head Assistant Magistrate
or the Deputy Magistrate

not be able to take part in it. This, however, is a matter of administrative detail and has nothing to do with the rules now under consideration.

It is not likely that Commission of arbitration will be so very frequent
E

Rule 268. The District Magistrate of the Nilgiris suggests that applications for building sites on Government land in Cantonments made under this rule, should also specify the Survey number if there is one. The proposal seems unobjectionable.

18/4
A.S.H

(30)

Chapter XXIII

Rules 295 & 297. By rule 295
he complaint of the Cantonment autho-
ty or of some person authorized by
elf in this behalf is necessary for cog-
izance of any offence under
ese rules; and rule 297 lays down
at a Magistrate, if he is satisfied
at a prosecution undertaken by
e Cantonment authority is unrea-
nable, may direct the latter to
pensate the accused (up to a
nit of Rs 50) and that this award
to be enforced as if it were a
ne (i.e.) [by distress and sale of the
ntonment authority's property,
eed be.]

(31)

See addition in the margin of Rule 295
Concur in the addition. A.S.H

Note
The portion within brackets is the Lieutenant General's statement

D

The Lieutenant General doubts
ether the institution of an un-
sonable prosecution can con-
tute an offence as defined in

Land states

Section 3 clause (9) of the Imperial general clauses Act of 1887 ⁁ no court can entertain a complaint of it from any aggrieved party and states (that, if it is an offence) the Cantonment authority must appear both as prosecutor and as accused. If it is not an offence, but a quasi civil wrong, similar to that described in Criminal Procedure Code Section 560, he enquires whether the compensation should be paid ~~is payable~~ by, and the fine levied ~~leviable~~ upon, the Cantonment fund or the Cantonment authority personally. He also points out that a "Magistrate" as defined in ⁁the Imperial General Clauses Act of 1868 includes all persons empowered under the Criminal Procedure Code, that the working of this rule (if retained in any form whatever) should be reserved to Magistrates of a rank high enough to pass such orders without thereby lowering the Cantonment authority within his own command and that the Cantonment Magistrate should be exempted from the duty of censuring as a judge (and in an especially unpleasant form) an authority to whom as an executive officer he is subordinate. He adds that a single case of this kind would make it very difficult for either officer to work with the other as if nothing had ever happened and that provision should be made in the rules for an appeal from a decision which, it may be taken as certain, will seldom be submitted to with a good grace.

He therefore suggests that rule 297 be cancelled, reserving, however, to the District Magistrate power to refer to the Officer commanding the district for final disposal or further reference to the General Officer of the Command (at the discretion of the Officer commanding the District) any instance of unreasonable prosecution under these rules before the Cantonment Magistrate, which may have ~~to the notice~~ come to the District Magistrate's notice on revision or otherwise, provided that no such reference be made except on judicial proceedings in which final orders have been passed by the Cantonment Magistrate. This suggestion may be commended to the Govt. of India.

Chapters XX, XXI & XXII. The Lieutenant General observes that the provisions of Chapter XX appear to apply only to owners of houses holding leases under rule 271. If so, ~~he~~ viz it is desirable, he states, that owners of houses at present existing who are unable to produce a lease showing how they acquired their property, which is especially the case in the Cantonment of Belgaum, should be required to ~~execute~~ accept a lease

On the whole I think sec 297 shd be omitted. The Cant. Authority is in much the same position as the Govt. in a public prosecution

---

I believe that the restriction of Chap XXI to future leases is deliberate. There was at one time an attempt to bring every house in Cant^s. under military rule, so as to enable the Off^r. C^g. to turn out the tenant or occupant if he pleased to determine that it was required for a military officer — see condition VI of Form B Sch IV. But this raised a storm: & I believe the proposal was dropped

If persons now in occupation of cant. land or houses hold on an invalid title, it must be upset thro' the ordinary machinery of the Civil Courts, & not by the arbitrary application of a cant. rule

Of course

Just, it should be
Yes. A.S.H.

In G.O. 99 m, 27.1.97

It never was in British India. It is only adm^d. by British officers under British law

H. 8/2

in accordance with the rule quoted above. As much of the difficulty in regard to houses in Cantonment, arises from the owners having no leases. He also points out that there is nothing in the rules under review to compel landlords to execute leases and as some of the present owners have acquired their property by purchase in open market (in many cases when ~~[illegible]~~ sold by order of Civil Courts) and have bought them absolutely with no conditions as to tenancy, amount of rent etc., it cannot be supposed that they will now sign a lease to Government unless compelled to do so by making refusal an offence against Criminal law.

The proposal seems to be a good one.

2. Adverting to para 4 of Government of India, Military Department, letter No. 2311c dated 10th December 1896, the Lieutenant General states that as Secunderabad has already been declared by the Government of India to be out of British India and ~~that~~ as it has been decided that the rules for the administration of Cantonment funds published in ~~G.O.~~ Govt. of India Notification N. 597 dated 22^d May 1896, do not apply to that Cantonment, the rules under reference cannot also be acted upon therein unless specially

made applicable to it. He therefore requests definite orders as to whether the Cantonment rules when passed will apply to the above Cantonment. This point may be commended to the Govt. of India.

BR
29/5/97

10/6/97

The Govt. of India will itself look after this

Yes.

7.7.97

FOR ORDERS.

To H.E. the Governor
S.A.
3/7/97

H.M.

I return the file to the H.M. with reference to the remarks in his note as to the partial application of the proposed rules to the small cantonments which exist in this Pres.

Under subsection (2) of section 27 of the Act (XIII of 89) power is given to apply the rules in whole or in part to any cantonment or ~~[illegible]~~ area any part of a cantonment.

The question of the application of the rules may therefore be a matter of consideration after they have been brought into operation. In some cases it may be desirable also to restrict the limits of the present cantonments

I should say that, instead of waiting until the rules have been brought into operation, the inevitable result of which must be confusion & bickering & clashing of authority, we should state in advance to India our reasons for considering that most of them (i.e. those dealing with matters covered by the ordinary Munl. law of the Presy) should not be brought into operation at all in such petty Cantts as we have here. We know well enough that at present we cannot at any moment strengthen the Military Element in Munl. Cls should do so without hesitation on L.G.C's intimating his wish that we should do so; and it will surely would be a great pity if well it's not left alone.

H.S.
1/7/97

I agree cordially. The Govt. of India should be so addressed

A.2nd
7.7.97

vide the last clause of para 2 of the Report submitted by the Committee to the Govt. of India (marked confidential)

A note from the Jud Dept. is also put up with reference to the H.M's direction that the files in that dept. to be exam.d as to the relations bet. Mities: & Cantonts.

Section 25 of the Act gives the power to extend any enactment to a Cantont. But the Comdr in para. 5 consider, ~~that~~ as I understand them, that in all matters for wh. a power of making a rule is given by sec. 26 to the G.G. in C., ~~the~~ provision cannot be made by the extension of an Act relating to the like subject.

Section 21 embraces a great number of matters for wh. the Mun. Acts provide & if the Comdr is right (the Govt of India do not refer to the point in their reference) in such matters municipal law will be ousted, & any regulation required will be effected by cantont. rule.

We can avoid difficulties to some extent by restricting Cantont. limits to the very narrowest ~~limits~~ bounds.

I should say the Comdr was wrong. If not, legislation wd. seem to be needed.
H.A.

I have again examined Sch III: &, if there is to be a Cantont. law, I do not think appeal to the civil authorities need be insisted on in cases other than those specified. When H.E. has again seen, the file will be sent to H.S.
S.A.Z 29/6/77

Very well
H.A. 4.7

Lt M Dept

Will Jud. Dept. please see the penultimate paragraph of Hon Mr Bliss' note of 12th inst & put up the pp. referred to

The file is urgent as Govt of India have called for the early submission of the report

S. V. K 14/6/97

To Jud Dept cw.

15/6/97
23/6/97
22/6/97.

Note for L.&M. Dept.

[G./25]
1,000—9-4-97.

Judicial DEPARTMENT.

C. No.

H. E. THE GOVERNOR.
THE HON'BLE MR. BLISS, C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

Cantonments within Municipalities.

(L.&M. office-note dated 14.6.97).

FOR ORDERS.

The papers in Judicial Dept. deal mainly with the question of the powers of Cantonment Magtes in Municipalities which have already a civil judicial staff, & less with the relations between Municipal councils & the executive functions of cantonment authorities.

The correspondence will be briefly abstracted :—

In para. 5. of Letter No. 217-J. 2.2.91 (Flag No.) Govt. told India that it thought that Cannanore, Bellary, Trichy, Vizianagram, ~~Mangalore~~, & Malappuram shd. be constituted cantonments under the Act "in order that each may be provided with a cantonment authority for the purposes of securing proper conservancy". All these places (except Malappuram) were [illegible] Municipalities at the time. The papers show that the words in inverted commas were put in in consequence of orders in Council. There is no record to show to whose opinions they were due.

The para 5. referred to goes on to say that Cantonment Magtes. were only wanted in Bellary, St. Thomas' Mount, Poonamallee & Wellington & that the others should be exempted from the provisions of the Act requiring a Cantonment Magte. to be appointed in them.

Separate cantonment taxation was introduced in the cantonments of St. Thomas' Mount (including Poonamallee & Pallavaram) in G.O. 436.J/10.6.91 and in Vizianagram in G.O. 533.J/2.7.91

In the papers in G.O. 413.J/3.3.92 (Flag L) it was decided that after all it was undesirable to separate the cantonments at Cannanore, Bellary, or Trichy ~~or Bangalore~~ from the Municipalities in which they were incorporated as the taxation under the Cantonment Act would never cover the expenditure. The Mil. Dept. itself suggested this. As to Vizianagram taxatn. had already been introduced there (v. supra) & in the case of Malappuram it was pointed out that no financial advantage would result from introducing taxation there.

Under Sir H. Stokes' orders, howe India was not informed of this, was only asked for a reply to the letter of Feb. 91 (Flag N.) in which was asked (v. supra) that all these five places should be constituted cantonments.

In letter No. 840.J/24.4.95 India was again reminded that it had never replied to the letter of Feb. 1891 (Flag N.), but in reminding them nothing was said about the request that the cantonments should be declared cantonments so that conservancy arrangements might be made, & the only point which was alluded to was the necessity of exempting them from the provisions of the Act requiring that they should have a cantonment magte.

Flag K.

In letter No. 453.J/5.3.96 India was informed, in answer to an enquiry it had made, that there was no necessity for cantonment magtes. in Cannanore, Bellary, Trichy, Calicut & Berhampore because the civil judiciary would do the magisterial work & the Municipalities wd. attend to conservancy etc. The Lieut. Genl. agreed to this opinion & said it wd. be sufficient if a military officer was appointed ex officio to the Municipal Councils at each place. This remark was communicated to Collectors concerned.

In its letter No. in G.O. No. 1445.J. / 5.9.96 India however insisted on having cantonment Magtes in all three stations to try breaches of Cantonment rules. Nothing was said about constituting the places cantonments or about separating them from the municipalities by which they are surrounded.

The D.A.G. Madras Command asked this Govt. whether the five cantonments were to continue to be included in the municipalities, & was answered in the affirmative in G.O. 295.J. / 1.3.97.

Cantonment Magtes were appointed to three stations in G.O. 626-J. / 30.4.97.

The correspondence thus throws very little light on the opinion of the Govt. of India as to the relations which should subsist between our little cantonments & the municipalities round them, but shows that this Govt's policy is that the two should not be separated for any of the purposes dealt with in the Municipal Acts.

HP 25.6.97.

And also, so far as I can make out, that the Govt. of 1891 held views as to the provision to be made for conservancy in ~~some~~ Cantts annexed to, or adjoining, Mufl towns, which are quite opposed to my views

1/7/97

Local & Munl. (189) Department.

Mls

CURRENT No. 469 M

Order

C. No. 469 & 2077 m

Lodged with reference to G.O. No. 1807 1897

For Secretary

Press

Please set this in type & send proof on Monday morning. This was very unfortunately ~~St~~ & special arrangements should be made to get the proof by Monday morning.

Print Only of the follg Cur. Nos 469, 472, 553, ~~[illegible]~~ 910, the rest of [illegible]

3/2/97

9/20/5/97 Cur No 3881/97

From

The District Magistrate North Arcot

his **No.** 176 Magl of 97

Dated 3rd February 1897

Received 8-2-1897

Registered 9-2-1897

Enclosures

Spare copies

SUBJECT.

Reporting that there is not any Cantonment in the district of North Arcot and that he has no remarks to offer re Cantonment rules.

KR 7/3/97

BACK PAPERS.

G.O.	No.	Department.	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[illegible]

NORTH ARCOT, COLLECTOR'S OFFICE,
Vellore. 3rd February 1897.
Dis No. 176 Local of 1897 dated 3-2-97.

LOCAL & MUNICIPAL DEPT. CURRENT No. 469 M

From
The G. H. Wynne Esqr
Collector & District Magistrate,
North Arcot.

To
The Chief Secretary to Government
Local and Municipal
Department

Ind N° 8

Sir,

In reply to Government order No 99 M Miscellaneous dated 27th January 1897, I have the honor to state that there is not now any cantonment in this District. Vide Government order No 398 Military dated 23rd January 1895, I have therefore no remarks to offer

I have the honor to be,
Sir,
Your most obedient servant,
E H Wallace
For *Collector & Dist. Magistrate.*

CB
7-2-97

Ind
4/2/97

From

THE COLLECTOR OF
NORTH ARCOT.

To

Dated
Despatched } 189 .
Received

No.

Enclosure.

SUBJECT.

Local & Munl. (1897) Department.

CURRENT No. 472M

Order.

From

The District Magistrate
Malabar

No. 166

Dated 3rd February 1897
Received 8-2-1897
Registered 9-2-1897
Enclosures
Spare copies —

SUBJECT.

Revised Cantonment Rules

Stating that the District Magistrate Malabar has no remarks to offer on the ——

16/2/97.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[illegible]

No 166/mag l.

Malabar District Magistrate Office

Camp. Angadipuram, 3rd February 1897.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 47LM

From.

G. W. Dance Esq.

Ag: District Magistrate.

To,

The Secretary to Government.

Local and Municipal Department

Madras.

Sir,

In reply to Government order no 99 M. mis dated the 27th January 1897 I have the honour to State that I have no remarks to offer.

I have the honour to be,

Sir,

Your Most obedient Servant

G W Dance

Ag: District Magistrate

Wtr

EAe

Local and Municipal
~~Judicial~~ (1897) Department.

CURRENT No. 553/M

From
The District Magistrate
South Canara

Order

Disposal — No. 78/97
Magl.

Dated 4th February 1897.
Received 11-2-1897
Registered 11-2-1897
Enclosures
Spare copies

LOCAL & MUNICIPAL DEPARTMENT * SECRETARY TO GOVERNMENT * 11 FEB. 1897

SUBJECT.

Revised Cantonment Rules.

Stating that the District Magistrate of South Canara has no remarks to offer—

22/2/97.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Disposal No: 78/97
Misl

[illegible] only

South Canara Dt. Magte's Office,
Camp Coondapur 4th February
1897.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 353 M

From,

W. H. Welsh Esqr.,
District Magistrate,
South Canara.

To,

The Secretary to Government,
Local and Municipal Department, Fort St. George.

Sir,

With reference to order No: 99 M. Mis. dated 27th Ultimo, forwarding a copy of revised cantonment rules, I have the honor to state that I have no remarks to offer.

I have the honor to be,
Sir,
Your most obedient Servant,

W. Welsh
District Magistrate.

Local & Munl. (1897) Department.

CURRENT No. 558 M

Order

From The District Magistrate
Nilgiris

No. 174

Dated 5-2-1897
Despo. 8-2-1897
Received 11-2-1897
Registered 11-2-1897
Enclosures 1
Spare copies

LOCAL & MUNICIPAL DEPARTMENT
11 FEB. 1897
SECRETARY TO GOVERNMENT

SUBJECT.

Cantonment Rules

Submitting a memorandum containing remarks on the draft revised Cantonment Rules:—

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Local & Munl. (1897) Department.

CURRENT No. 910 M

Order.

From The Ag District Magistrate
Chingleput.

SECRETARY TO GOVERNMENT
1 MAR. 1897
LOCAL & MUNICIPAL DEPARTMENT

Dis **No.** 124 of 1897

Dated 25th February 1897.
Dd 27/2/97
Received 1-3-1897
Registered 1-3-1897
Enclosures
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SUBJECT.

Stating that he has no remarks to offer on the revised cantonment rules

BACK PAPER

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 124 of 1897. Theadmyoul Chingleput District

MAGISTRATE'S OFFICE,
~~Station,~~ Camp Sriperumbudur
25 February 1897.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 960 M

FROM

D. D. Murdoch Esquire
Ag District MAGISTRATE OF
Chingleput.

To

THE SECRETARY TO GOVERNMENT,
Local & Municipal DEPARTMENT,
Madras.

SIR,

In reply to G. O. No. 99 M, Mis dated 27th January 1897, I have the honor to state that I have no remarks to offer on the revised cantonment rules received with the above.

I have the honor to be
Sir,
Your most obedient servant,
J. J. Cotton
for Ag Distt Magistrate

~~68~~
262

Local & Munl. (1897) Department.

CURRENT No. 615M

Order

From The ag district magis-
trate of Bellary

M Dis No. 321

Dated 12th April 1897

Received ~~13-~~ 14 APR. 1897

Registered 14-4-1897

Enclosures DESPATCHED 15 APR. 97

Spare copies.

SUBJECT.

Submitting the report called for with reference to the draft Cantonment Code.

BACK R

G.O.	No.	D ent.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

7-97

[ ] for signature. 7-97

patched in print. 30-7-97

AGAIN G.O., No. DATED
189 .

No.

ERS TO C. No.

GOVERNMENT

OF GOVERNMENT.

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