do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Local & Muncl. (1898) Department.

MISCELLANEOUS.

G.O., No. 1213 & 1214 M.

DATED 8-7-98.

Rep

Please put the in

DESPATCHED

Revenue Secy

INDEXED.

[Despatch Abstract.]

Buildings within the Military Zone of Fort St. George.

Stating that the Govt. of India will be addressed regarding ~~the construction of~~ certain objectionable ——.

Informing the Govt. of India that its objections to the —— cannot stand as the Evening Bazaar road on which they are situated is vested in the Municipal Commissioners under Sec. 233 of Act I of 1884, and that as the buildings in question appear to be the property of private individuals the Govt. of India should call upon the owners concerned to remove them, if it considers their removal necessary

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings * as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G.O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M, dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

N. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned.

H. W. B[LISS].

With regard to this, it has to be observed that as the main argument adduced by the Military anthorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

N. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North Basin, Esplanade Road	0	5	25
Burial-ground, Penitentiary Road	0	6	13⅓
Canal Road	0	3	8⅓
Elephant Gate Bridge Road	0	1	45
Hospital Bridge Road	0	3	213⅓
Yerkanchary Road	0	2	190
Kódambákkam, Esplanade Road	2	1	98
River-site, Comaleeswarapet	0	4	136⅔
Salt Cottars, Esplanade Road	1	1	13
	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings * as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

In G.O., No. 650, Revenue, dated 25th September 1895.

H. W. B[LISS].

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

R. O.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military anthorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13¼
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143¼
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83¼
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North Basin, Esplanade Road	0	5	25
Burial-ground, Penitentiary Road	0	6	13⅓
Canal Road	0	3	8⅓
Elephant Gate Bridge Road	0	1	45
Hospital Bridge Road	0	3	213⅓
Yerkanchary Road	0	2	190
Kódambákkam, Esplanade Road	2	1	98
River-site, Comaleeswarapet	0	4	136⅔
Salt Cottars, Esplanade Road	1	1	13
	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M, dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2816 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G.O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government; it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings * as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G.O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M, dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 3,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

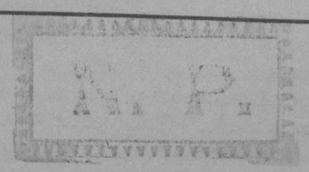
Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. / *Regd.* } 1898. *Enclosures* / *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.



Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

N. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

						M.	F.	YDS.
China Bazaar, Esplanade Road	..	..	..	..	..	1	0	213⅓
Eberamjee Sahib Street	..	..	..	..	..	1	0	133⅓
Govindappa Naick and Seven Wells Street			..	..	..	1	0	56⅔
Wall Tax Road, West	..	..	..	..	..	0	5	116⅔
Thriving Bazaar, Esplanade Road		..	..	..	..	0	4	90
Basin Bridge	do.	..	..	..	..	0	4	83⅓
Cockrane Basin	do.	..	..	..	..	0	2	83⅓
Colleivalkum	do.	..	..	..	..	0	3	73⅓
Monegar Choultry	do.	..	..	..	..	0	3	23⅓
Muniaswamy Covil	do.	..	..	..	..	0	2	203⅓
Washermanpet	..	..	..	..	..	0	2	60
Railway Terminus, East and North		..	..	..	..	0	5	25
Basin, Esplanade Road	..	..	..	..	..	0	6	13⅓
Burial-ground, Penitentiary Road		..	..	..	..	0	3	8⅓
Canal Road	..	..	..	..	..	0	1	45
Elephant Gate Bridge Road	..	..	..	..	..	0	3	213⅓
Hospital Bridge Road	..	..	..	..	..	0	2	190
Yerkanchary Road	..	..	..	..	..	2	1	98
Kódambákkam, Esplanade Road		..	..	..	..	0	4	136⅔
River-site, Comaleeswarapet		..	..	..	..	1	1	13
Salt Cottars, Esplanade Road	..	..	..	..	..	0	2	36⅔
						13	5	155⅓

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings * as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

R. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

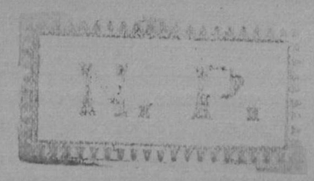
Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.



Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	131/3
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203 1/3
Expense Magazine Road	0	4	143 1/3
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83 1/3
Mount Road, North end	0	6	118 1/3
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202 2/3

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. / *Regd.* } 1898. *Enclosures* / *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

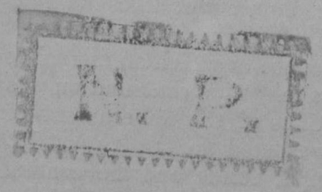
LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.



Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

H.B.

In G.O., No. 650, Revenue, dated 25th September 1895.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

N. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

VI

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings * as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1451 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On consideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

In G.O., No. 650, Revenue, dated 25th September 1895.

H. W. B[LISS].

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.

Letter from the Director.General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.

(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13¼
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13¼
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203¼
Expense Magazine Road	0	4	143¼
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83¼
Mount Road, North end	0	6	118¼
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202¾

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Walt Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	133⅓
Burial-ground, Penitentiary Road	0	3	83⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V,

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13½
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203½
Expense Magazine Road	0	4	143½
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83½
Mount Road, North end	0	6	118½
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

N. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	133/3
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203/3
Expense Magazine Road	0	4	143/3
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83/3
Mount Road, North end	0	6	118/3
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202/3

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	133⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213½
Eberamjee Sahib Street	1	0	133½
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83½
Cockrane Basin do.	0	2	83½
Colleivalkum do.	0	3	73½
Monegar Choultry do.	0	3	23½
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13½
Burial-ground, Penitentiary Road	0	3	8½
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213½
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155½

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13¼
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203¼
Expense Magazine Road	0	4	143¼
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83¼
Mount Road, North end	0	6	118¼
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202¾

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North Basin, Esplanade Road	0	5	25
Burial-ground, Penitentiary Road	0	6	133⅓
Canal Road	0	3	8⅓
Elephant Gate Bridge Road	0	1	45
Hospital Bridge Road	0	3	213⅓
Yerkanchary Road	0	2	190
Kódambákkam, Esplanade Road	2	1	98
River-site, Comaleeswarapet	0	4	136⅔
Salt Cottars, Esplanade Road	1	1	13
	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cookrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North Basin, Esplanade Road	0	5	25
Burial-ground, Penitentiary Road	0	6	13⅓
Canal Road	0	3	8⅓
Elephant Gate Bridge Road	0	1	45
Hospital Bridge Road	0	3	213⅓
Yerkanchary Road	0	2	190
Kódambákkam, Esplanade Road	2	1	98
River-site, Comaleeswarapet	0	4	136⅔
Salt Cottars, Esplanade Road	1	1	13
	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water-trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	133⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213½
Eberamjee Sahib Street	1	0	133½
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203½
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13½
Burial-ground, Penitentiary Road	0	3	8½
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213½
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155½

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Walt Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. }
} 1898.
Regd. }

Enclosures

Spare copies

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain obje[illegible]ble —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. STOKES,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. TREMENHEERE,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

ENCLOSURE.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅓

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13¼
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V*i*

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213½
Eberamjee Sahib Street	1	0	133½
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83½
Cockrane Basin do.	0	2	83½
Colleivalkum do.	0	3	73½
Monegar Choultry do.	0	3	23½
Muniaswamy Covil do.	0	2	203½
Washermanpet	0	2	60
Railway Terminus, East and North Basin, Esplanade Road	0	5	25
Burial-ground, Penitentiary Road	0	6	13½
Canal Road	0	3	8½
Elephant Gate Bridge Road	0	1	45
Hospital Bridge Road	0	3	213½
Yerkanchary Road	0	2	190
Kódambákkam, Esplanade Road	2	1	98
River-site, Comaleeswarapet	0	4	136⅔
Salt Cottars, Esplanade Road	1	1	13
	0	2	36⅔
	13	5	155½

VI

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13½
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203½
Expense Magazine Road	0	4	143½
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83½
Mount Road, North end	0	6	118½
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202½

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. Stokes,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

N. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.—3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	Yds.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

Te be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Daied—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

Certainly.
H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*
Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	[illegible]2

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V.

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

NOTES CONNECTED WITH G.O., Nos. 1213, 1214 M., DATED 8th JULY 1898.

[Subject.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. Raghava Charlu—10-3-98.

H. Tremenheere—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. Raghava Charlu—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. Tremenheere—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison d'etre* of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land

in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No 1251 P.W., dated 4th May 1875.

chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

G.O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M., dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being

the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether any and, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to

H. W. B[LISS].

In G.O., No. 650, Revenue, dated 25th September 1895.

H.B.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

M. P.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., &c., Nos. 1213, 1214 M., 8th July 1898.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	13⅓
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203⅓
Expense Magazine Road	0	4	143⅓
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83⅓
Mount Road, North end	0	6	118⅓
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202⅔

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	56⅔
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	213⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

V

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government, Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis. No. 605 M., dated 19th ultimo, I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES,
Secretary to Government.

To the Deputy Adjutant-General.

Letter—from G. STOKES, Esq., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.
To—the Secretary to the Government of India, Military Department.
Dated—Ootacamund, the 8th July 1898.
No.—1214 M.

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be

directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

No. 1213 M., 8TH JULY 1898.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Secretary to the Government of India, Military Department.
To—the Secretary to the Government of Madras, Revenue Department.
Dated—Simla, the 5th November 1897.
No.— 3204-M.W.

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence * noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

* Letter from Director-General, Military Works, No. 894-C., dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C., dated 3rd September 1897, enclosures.
(Return requested.)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, Military, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the Municipality is based on the declaration of the Government of Madras made in G.O., Mis. No. 1320 M., dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M.W., dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G.O., Mis. No. 1320 M., dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in accordance with the procedure laid down in Military Department Resolution No. 557-M.W., dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

II

Endorsement Mis. No. 5996, Revenue, dated 20th November 1897.

Transferred to the Local and Municipal Department.

G. Stokes,
Secretary to Government.

III

Official Memorandum No. 335, dated 18th March 1898.

The Deputy Adjutant-General, Madras Command, is requested to furnish at a very early date a list of the roads referred to in paragraph 2 of the Quartermaster-General's letter No. 2099, dated 31st March 1875, printed in G.O., No. 1859, Military, dated 17th April 1875, for the maintenance of which an annual contribution of Rs. 6,000 was being paid, until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

H. Tremenheere,
Secretary to Government.

To the Deputy Adjutant-General, Madras Command.

IV

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 13th April 1898.
No.—B./W.-5943.

With reference to your Memorandum No. 335 (Local and Municipal Department) of the 18th March 1898, I regret that I am unable to state what roads were referred to in paragraph 2 of the late Quartermaster-General's letter No. 2099 of the 31st March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quartermaster-General's letter No. 2099 of the 31st March 1875. Those entered under the head "to be included" are probably the roads referred to in paragraph 2 of that letter.

Enclosure.

To be included.

	M.	F.	YDS.
Benfields, Esplanade Road	0	6	131/3
Hospital Gate, Esplanade Road	0	4	20
North Beach do.	0	2	50
Thumboo Chetty of Lighthouse, Esplanade Road	0	1	203 1/3
Expense Magazine Road	0	4	143 1/3
Body Guard, Esplanade Road	0	2	160
Band practice ground, Esplanade Road	0	6	196
Island Road	1	1	83 1/3
Mount Road, North end	0	6	118 1/3
Wallajah Bridge, Esplanade Road	0	3	40
Cooum Bar Road	0	1	55
	6	0	202 2/3

No. 1213 M., 8TH JULY 1898.

To be excluded.

	M.	F.	YDS.
China Bazaar, Esplanade Road	1	0	213⅓
Eberamjee Sahib Street	1	0	133⅓
Govindappa Naick and Seven Wells Street	1	0	53⅓
Wall Tax Road, West	0	5	116⅔
Thriving Bazaar, Esplanade Road	0	4	90
Basin Bridge do.	0	4	83⅓
Cockrane Basin do.	0	2	83⅓
Colleivalkum do.	0	3	73⅓
Monegar Choultry do.	0	3	23⅓
Muniaswamy Covil do.	0	2	203⅓
Washermanpet	0	2	60
Railway Terminus, East and North	0	5	25
Basin, Esplanade Road	0	6	13⅓
Burial-ground, Penitentiary Road	0	3	8⅓
Canal Road	0	1	45
Elephant Gate Bridge Road	0	3	136⅓
Hospital Bridge Road	0	2	190
Yerkanchary Road	2	1	98
Kódambákkam, Esplanade Road	0	4	136⅔
River-site, Comaleeswarapet	1	1	13
Salt Cottars, Esplanade Road	0	2	36⅔
	13	5	155⅓

III

Letter—from the Deputy Adjutant-General, Madras Command.
To—the Secretary to Government. Local and Municipal Department.
Dated—Ootacamund, the 27th April 1898.
No.—B. I-6817.

With reference to paragraph 2 of Proceedings of Madras Government, Mis., No. 605 M., dated 19th ultimo I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military zone of Fort St. George may be expected.

Order—No. 1213 M., dated 8th July 1898.

The Government of India will be addressed.

(True Extract.)

G. STOKES
Ag. Secretary to Government.

To the Deputy Adjutant-General.

Forwarded to the

(By Order.)

Registrar.

MISCELLANEOUS.

G.O., No. 1213 M., 8th July 1893.

Buildings within the Military zone of Fort St. George.

Stating that the Government of India will be addressed regarding certain objectionable —

No. 1214 M.

From

G. STOKES, Esq., I.C.S.,

Acting Secretary to the Government of Madras,

Local and Municipal Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

MILITARY DEPARTMENT.

Dated Ootacamund the 8th July 1898.

SIR,

In reply to your letter No. 3204 M. W., dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the military zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the military zone without the prior sanction of the Government of India in the Military Department and that they may also be directed to remove the buildings which have already been erected without such sanction, I am directed to forward for the information of His Excellency the Governor-General in Council, a copy of the Proceedings of this Government No. 2516 M., dated 15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation made at the beginning of paragraph 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs. 6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs. 14,047 was paid by the Military Works department, it appears that when this contribution was reduced to Rs. 6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Government vested under section 233 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Government correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not, however, based as is supposed in your letter, on the declaration of the Government of Madras made in G.O., No. 1320 M., dated 8th of August 1896, but rests on the provision in Act I of 1884. The Government Order in question was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law.

3. With reference to paragraph 3 of your letter, I am to observe that when the Military authorities withdrew the annual grant from Imperial funds, which they contributed to preclude the Municipality from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Government No. 2516 M., dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892,

under which the streets are vested in the Municipal Commissioners. It thus follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand.

4. Lastly I am to add that with the exception of the water trough, which is now under construction, all the buildings objected to appear to have been in existence before 1892, when the zone was constituted, and that they are the property of private individuals. The Municipality has merely sanctioned their renewal or construction, and even granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the Municipality. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either go to Civil Courts or acquire the buildings under the Land Acquisition Act.

5. The correspondence received with your letter is herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

G. STOKES,

Ag. Secretary to Government.

Letter No. 1214 M., dated 8th July 1898.

INFORMING the Government of India that its objections to the — canal, and, as the Evening Bazaar road on which they are situated is vested in the Municipal Commissioners under section 234 of Act I of 1884, and that, as the buildings in question appear to be the property of private individuals, the Government of India should call upon the owners concerned to remove them, if it considers their removal necessary.

1213-14 m

Local & Munl. (1898) Department.

CURRENT No. 1523 m

From The Dy Adjutant General Madras Command.

Order

No. B
9. 6817

Dated 27. 4. 98.

Received 2. 5. 98

Registered

Enclosures

Spare copies.

SUBJECT.

Enquiring when the orders of the Madras Govt: on the question reg: the erection by the Madras Municipality of certain buildings within the Militg Zone of Ft St. Geo: may be expected

BACK PAPERS.

G.O.	No.	Department.	Date.
No	605	M	29-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Defences.
Inland.

It is requested that the above heading, with number and date of this communication, may be quoted in any subsequent correspondence on this subject.

SEC. GOVT MADRAS
17 NOV 97
REV. DEPT.

No. 3204-M. W.

4041 M

GOVERNMENT OF INDIA.

MILITARY DEPARTMENT.

Simla, the 5th November 1897.

Despatched 11th November 1897

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
Revenue Department.

Sir,

I am directed to forward, for the information of His Excellency the Governor in Council, the correspondence* noted on the margin relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle, and certain huts on roadways within the military zone of Fort St. George, Madras.

*Letter from Director-General, Military Works, No. 894-C, dated 18th August 1897, and enclosures.
Letter from the Director-General, Military Works, No. 964-C, dated 3rd September 1897, and enclosures.
(Return requested)

2. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. I am to observe that the roads in question are apparently a part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made. This contribution was discontinued under the decision contained in the Proceedings of the Government of Madras communicated with their letter No. 4873, dated the 6th August 1894, that the roads should be maintained entirely from municipal funds, and the contention of the municipality is based on the declaration of the Government of Madras made in G. O. No. 1320-M, Miscellaneous, dated the 8th August 1896, that the military roads are now vested in the Municipal Commissioners.

3. The withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic, and that it was no longer necessary to maintain them as military roads, since a military zone round Fort St. George had been defined within which no building was to be permitted. The Government of India therefore consider the view taken by the Municipality to be incorrect so far as the roads lying within the reserved area are concerned. I am further to add that the Government of India having clearly defined in Military Department letter No. 1972-M-W, dated the 2nd August 1895, the control to be exercised by them over land in the vicinity of Fort St. George, are confident that Madras G. O. No. 1320-M, Miscellaneous, dated the 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the military zone without obtaining proper sanction, in

accordance with the procedure laid down in Military Department Resolution No. 557-M-W, dated the 20th February 1894.

4. I am to ask that, under the orders of His Excellency, the Municipality may be informed that no buildings are to be erected within the military zone without the prior sanction of the Government of India in the Military Department, and may also be directed to remove the buildings in question.

I am,

Sir,

Your most obedient servant,

Secretary to the Government of India.

Copy forwarded to—

The Director-General of Military Works, for information, with reference to his letters referred to therein, the enclosures of which will be returned hereafter.

The Lieutenant-General Commanding the Forces, Madras, for information.

The Home Department for information.

with A.S.C.

G. C. Press, Simla.—No. 3223 M. D.—9-11-97—87.

Revenue (1897) Department.

4041 M

CURRENT No. ~~4030~~

Act 33 Geo 3 Cap 52 Sec 158
Mun Act 1841 Sec 155 Fort St George Manual 377 ad 22

4041 M

Encl: ~~Order~~ mis No: 5996.

Transfered to the Local & Municipal Department.

Fort Saint George
20th November 1897

Secy to Govt.

G.A.
19 Nov. 97

From The Government of India Military Dept.

No. 3204 M.W.

Dated 5 Nov. 1897

Received 22-11-97

Registered 22-11-97

Enclosures 13 (2 plans)

Returned vide Cir 27334 28

Spare copies. 4

SUBJECT.

Forwarding for the information of Madras Govt correspondence relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle & certain huts on roadways within the military zone of Fort St G & requesting to inform the Municipality that no buildings are to be erected within the military zone without the prior sanction of this Govt & that the buildings in question should be removed

Regd 15-11-97

BACK PAPERS.

G.O.	No.	Department.	
Go	2516	Judl	11-7-94
"	1320	"	8-5-95
"	2028	"	3-7-95
"	650	R&A	25-9-95
"	1265	Judl	15-9-94
"	1104	"	18-8-94
"	932	"	20-7-94
"	1791	Judl	4-9-94
"	1454	Judl	7-9-94

FURTHER PAPERS.

G.O.	No.	Department.	Date.
"	5293	Judl	6-10-97
"	1196	Fin	2-6-75

Local & Muni. (1898) Department.

CURRENT No. 4041/M

From The Revenue Department

Order

No. 5996

Dated 20-11-97

Received 22-11-97

Registered 22-11-97

Enclosures 13 (2 plans)

Spare copies.

SUBJECT.

Transferring letter from the Govt. of India Military Deptt forwarding for information correspondence relative to the erection by the Madras Municipality of a fountain with drinking troughs for cattle and certain hints on roadways within the Military Zone of Fort St. George and requesting to inform the Municipality that no buildings are to be erected within the Military Zone without the prior sanction of the Govt of India in the Military Deptt. and that the buildings in question should be remo

BACK PAPERS.

G.O.	No.	Department.	te.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

II

CRO 4041 M 98

3P

5

Om. 335
18/3/98

The Deputy Adjutant General Madras Command is requested to furnish at a very early date a list of the roads referred to in para. 2 of the Quartermaster General's letter No 2099 dated 31st March 1875 printed in G.O. No. 1859 Military, dated 17th April 1875, for the maintenance of which an annual Contribution of Rs 6000 was being paid until the year 1894, to the Madras Municipality by the Military Works Department and also to forward a plan showing the position of those roads if one is available.

V.R
10/3/98

15/3/98

Copy to dsp:
KR
15/3/98

To
The Deputy Adjutant General
Madras Command.
dsp 18/8/98

Local & Munl. (189) Department.

CURRENT No. 1317/n.

Order

From The Deputy Adjutant General Madras Command

No. B/W – 5943

Dated 13-4-98

Received 16-4-98

Registered

Enclosures 1.

Spare copies.

SUBJECT.

Forwg: a copy of the list of certain roads attached to the draft of the late Quarter Master Genl's letter No. 2099 of the 31st March 1875.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

GOVERNMENT OF 14 APR. 1898 POSTAL

Ootacamund, 13th. April 1898.

No.B/W-5943.

From

The Dy. Adjutant General, Madras Command,

To

The Chief Secretary to ~~to~~ the Govt. of Madras

Sir,

With reference to your Memo No. 335 (Local and Municipal Department)of the 18th. March 1898, I regret that I am unable to state what roads were refer--red to in para 2 of the late Quarter Master General's letter No. 2099 of the 31st. March 1875, embodied in Proceedings of Madras Government No. 1859 of the 17th. April 1875, as I find that no copy has been kept of the traced plan referred to in the letter quoted above , and in which the roads were shown.

2. I forward however a copy of a list of certain roads which I find attached to the draft of the late Quarter Master General's letter No. 2099 of the 31st. March 1875. Those entered under the head "to be in--cluded" are probably the roads referredto in para 2 of that letter.

I have the honor to be ,

Sir,

Your obedient servant,

Reay. Captain,

D.A.A.G., for D.A.G.

DRW

Enclosure

Benfields Esplanade Road			6	13 1/3
Hospitals Gate Esplanade Road			4	20
North Beach — do —			2	50
Thumboochetty of Lighthouse Espl. Road			1	203 1/3
Expense Magazine Road			4	143 1/3
Body Guard Esplanade Road			2	160
Band practice ground — do —			6	196
Island Road		1	1	83 1/3
Mount Road, North End			6	118 1/3
Wallajah Bridge Esplanade Road			3	40
Cochin Bar Road.			1	55
		6	0	202 2/3

To be excluded.

China Bazaar Esplanade Road		1		213 1/3
Ekeramjee Sahib Street —		1		133 1/3
Coumdapadaick & Lenew Wells Street.		1		56 2/3
Wall Tax Road West			5	116 2/3
Shinning Bazaar Esplanade Road			4	90
Basin Bridge. — do —			4	83 1/3
Cochrane Basin — do —			2	83 1/3
Calleinalkum — do —			3	73 1/3
Monegarchontry — do —			3	23 1/3
Mukkiaswamy Cobeil — do —			2	203 1/3
Washermanpettah —			2	60
Railway Terminus Back Road			5	95
Basin Esplanade Road			6	13 1/3
Burial ground Penitentiary Road			3	8 1/3
Canal Road			1	45
Elephant Gate Bridge Road			3	213 1/3
Hospital Bridge Road			2	190
Pykanchary Road		2	1	98
Codumbakam Esplanade Road			4	136 2/3
Rivertite Comalee Saarapettah		1	1	13 1/3
Salt Stores Esplanade Road			2	86 2/3
		13	5	155

1317 Rupees

(True Copy) Reay Captain
D. A. D. G. Ins.

DRR

Defences Inland

Ootacamund, 27 April 1898.

No. 18 2-6817

From

The DEPUTY ADJUTANT GENERAL MADRAS COMMAND.

SECRETARY TO GOVERNMENT
28 APR 1898
LOCAL & MUNICIPAL DEPARTMENT

LOCAL & MUNICIPAL DEPT
CURRENT No. 1523

To

The Secretary to Govt
Madras
Local and Municipal Dept:

ENCLOSURES.

SIR,

With reference to para 2 of Proceedings of Madras Government No: 605 M. Mis: dated 19 ultimo I am directed to enquire when the orders of the Madras Government on the question regarding the erection by the Madras Municipality of certain buildings within the Military Zone of Fort Saint George, may be expected.

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

[illegible] Colonel
A D M G for D A G

R. 500
12-6-98

Revised Draft

Local and Municipal Dept:

C.Nos.4041 M. of 1897 and
1317 M. & 1523 M. of 1898.

7P

Subject

Construction of objectionable buildings within the Military Zone.

ORDER No. 1213 M Mis d 8-7-98

The Govt. of India will be addressed.

To

The Dy. Adjutant General

Letter No. 1214 M Mis d 8-7-98

To

The Secy. to the Govt. of India,
Military Dept.

Sir,

In reply to your letter No.3204 M.W., d/5th Novr. 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the Military Zone of Fort St: George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be constructed within the Military Zone without the prior sanction of the Govt. of India in the Military Dept: and that they may also be directed to remove

remove the buildings which have already been erected without such sanction, I am directed to forward for the information of H.E. the Governor General in Council, a copy of the Proceedings of this Govt. No.2516 M., d/15th November 1897, which had been issued on a reference made by the President of the Municipal Commission, Madras, on the same subject, before the receipt of your letter.

2. With regard to the observation at the beginning of made in para 2 of your letter, I am directed to say that it is not the case that the road, called the Evening Bazaar or Thieving Bazaar road on which the objectionable buildings stand, was one of those roads towards the maintenance of which an annual contribution of Rs.6,000 was made from Military Works funds. For, although this road was one of the 32 roads originally reserved as purely military roads to maintain which an annual grant of Rs.14,047 was paid by the Mily. Works Dept:, it appears that when this contribution was reduced to Rs.6,000 in 1875, the Evening Bazaar road was excluded from the number of reserved roads and was from that date maintained by the Municipality at its own cost. When the Madras Municipalities Act (I of 1884) came into force, this road not being the property or kept under the control of Govt. vested under section

3/ 8p

section 333 of the Act in the Municipal Commissioners. I am further directed to add that the latter are in the opinion of this Govt. correct in their contention that the public roads maintained by them are their property and that they are at liberty to do what they like with them. This contention is not however, based, as supposed in your letter, on the declaration of the Govt. of Madras made in G.O.No.153 M., dated 8" of August 1896 which was not intended to convey any authority to the Municipality to erect buildings within the Military Zone without obtaining proper sanction and merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the Commissioners by law but rests on the provision in Act I of 1884.

5. With reference to para 5 of your letter, I am to observe that when the Military Authorities withdrew the annual grant from Imperial funds, which they contributed to the municipality to preclude from setting up a claim to the roads, they must be considered to have relinquished their rights to these roads. Further as observed in the Proceedings of this Govt. No.2516 M., dated 15" November 1897, H.E. the Governor in Council considers that an executive order of Govt. constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners.

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O., NOS. 1213, 1214 M., DATED 8TH JULY 1898.

[SUBJECT.—*Buildings within the Military Zone.*]

From the Government of India, No. 3204, *dated 5th November* 1897.

The objectionable buildings in question are situated on the Evening Bazaar road, which is apparently identical with the "Thieving Bazaar road", shown as item 9 in the list of Esplanade and other Government roads transferred to the Justices in Sessions in July 1855—*vide* the list in G.O., No. 1565, Public Works, dated 11th August 1857. Under this order, 32 roads were transferred. But by G.O., No. 1859, Military, dated 17th April 1875, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From paragraph 2 of the Quartermaster-General's letter in G.O., No. 1859, Military, dated 17th April 1875, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Government of India with Public Works department letter No. 1252, dated 4th May 1875. It is submitted that the Government of India may be asked to return this map, or the Lieutenant-General may be asked to forward a copy of it if available, and furnish the required information. Please see the draft official memorandum put up for approval.

V. RAGHAVA CHARLU—10-3-98.

H. TREMENHEERE—15-3-98.

[Memorandum No. 335 M., dated 18th March 1898.]

From the Deputy Adjutant-General, dated 16*th April* 1898, *No.* 5943.

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O., No. 2516 M., dated 15th November 1897, were passed. The Government of India desires that the Municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant-General, Madras Command, enquires whether he is correct in assuming that G.O., No. 2516 M., dated 15th November 1897, was issued before the receipt of Government of India, Military department, letter No. 3204 M. W., of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V. RAGHAVA CHARLU—11-1-98.

Set forth the whole history please, making clear the legal point and whether the views of this Government were before India.

H. TREMENHEERE—15-1-98.

In July 1897, the President of the Municipal Commission, Madras, reported to Government that he had been requested by the Executive Engineer, Madras Division, Military Works, to remove certain buildings* as being within the Military Zone round Fort St. George, that these buildings were situated on public roads which, under G.O., No. 1320 M., dated 8th August 1896, were vested in the Municipal Commissioners, and that although the Military department could fix their Zone wherever they liked, it was *ultra vires* to say that the municipality could not do what it liked with its own roads. The Deputy Adjutant-General, Madras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Government of India in the Military department, that the whole *raison*

G.O., No. 2516 M., dated 15th November 1897.

* Water pandal.
Iron bazaars.
Chemist's shop.
Mat bazaars.
Cattle drinking troughs with fountain and lamp-post.

d'etre of a Military zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the objectionable buildings were erected on roads under the control of the Municipality of Madras was without weight, and that His Excellency the Lieutenant-General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the Ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the Municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the zone was constituted, and that if therefore the Military authorities decided that these buildings should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

G.O., No. 2516 M., dated 15th November 1897.

Vide section 233 of Act I of 1884.

Vide G.O., No. 5204, Military, dated 22nd August 1892, in G.O., No. 1454 M., dated 7th September 1892.

2. The construction, without its previous sanction, of the objectionable buildings in question having, in the meantime, been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buidings should be erected within the Military zone without the prior sanction of the Government of India in the Military department, and that it may also be directed to remove the buildings in question.

3. The Municipality contends that the public roads, which it maintains, are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made, that this contribution was discontinued in the proceedings of the Madras Government, communicated with letter No. 4873, Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O., No. 1320 M., dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be exercised by it over land in the vicinity of Fort St. George having been clearly defined in Military department letter No. 1972-M. W., dated 2nd August 1895, it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction in accordance with the orders of the Government of India. G.O., No. 2516 M., dated 15th November 1897, which was passed on the subject of the objectionable buildings in question was not, however, before the Government of India when the above letter was written.

G.O., No. 650, Revenue, dated 25th September 1895.

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads whose maintenance was transferred to the Justices in Sessions in 1855 on payment of a contribution of Rupees 9,000 and odd. This contribution was, however, subsequently increased to Rs. 14,047, as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

5. In paragraph 45 of its Proceedings, No. 405, Public Works, dated 1st February 1866, the Government ruled that the charges for the maintenance of many of the roads skirting the Fort and the esplanade should be provided by the Municipal Commissioners for the City of Madras from tolls levied on carriages and other vehicles under sections 21 to 42 of Act IX of 1865 and proposed to withdraw the annual grant which had till then been made from Imperial funds for that purpose. On this, the Municipal Commissioners pointed out that the majority of these roads traversed the esplanades of the Fort and Black Town, that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, that the expense of maintaining purely Municipal roads and the cost of establishments employed were very heavy, and that the net receipts derivable from tolls would barely cover the expenditure for which they had to provide. On reconsideration of the subject and seeing that it was desirable that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fortress by the Municipality and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, the Government directed that an annual grant of Rs. 14,047 for the esplanade roads, 32 in number, and of Rs. 2,500 for the road along the east face of the fortress should be paid to the Municipality, the other roads being kept in repair from Municipal funds.

Vide paragraph 1 of G.O., No. 1347 P.W., dated 28th April 1866.

Vide G.O., No. 1347 P.W., dated 28th April 1866.

6. In 1874 the Government of India requested this Government in the Public Works Department to furnish a map showing distinctly all the roads known as the esplanade roads at Madras and maintained from the Imperial grant for Military works and to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of these roads should be maintained on purely Military grounds and, if so, the reason why this should be done in each case. His Excellency the Commander-in-Chief, who was consulted in the matter, expressed the opinion that, on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads, 12 in number, which traversed the esplanade of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should be maintained as heretofore by a Public Works grant. The extent of the roads referred to by the Commander-in-Chief was about seven miles. The Government of Madras thereupon requested the Government of India to contribute annually in the Military budget a sum of Rs. 5,000 for the maintenance of the Military roads, and that a sum of Rs. 1,000 should be granted annually for the maintenance of the road on the east face of the Fort. It was also observed that the charges on account of the remainder of the esplanade roads were properly chargeable to Municipal funds. An annual grant of Rs. 6,000 was accordingly paid from the Military Works funds to the Municipality for the maintenance of these roads. In 1894, the Director-General of Military Works in India pointed out to the Government of India that there was no need to safeguard Military interests by calling these roads which were in use by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military Works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the

G.O., No. 713 P.W., dated 13th March 1875.

G.O., No. 1859 Military, dated 17th April 1875.

G.O., No. 1252 P.W., dated 4th May 1875.

Paragraph 2 of G.O., No. 1251 P.W., dated 4th May 1875.

G.O., No. 1196, Financial, dated 2nd June 1875.

Page 2 of G.O., No. 4872, Military, dated 6th August 1894.

Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved, there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget.

Vide pages 3 and 4 of G.O., No. 4872, Military, dated 6th August 1894.

The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads witnin the Military zones, no buildings being allowed on these roads, the Government should continue the contribution for them. The Government was, however, of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs. 6,000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O., No. 1251 W., dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O., No. 4872, Military, dated 6th August 1894.

G.O., No. 1320 M, dated 8th August 1896.

8. It will thus be seen that the Evening Bazaar road, otherwise called the Thieving Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs. 14,047 was being paid by the Military Works Department; but from the Deputy Adjutant-General's letter read above, it appears that when the contribution was reduced to Rs. 6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the "City (not being the property or kept under the control of the Government) existing "at the time of the coming into operation of this Act or which shall afterwards be "made . . . . not being private property, shall vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being the property or kept under the control of Government, it vests in the Municipal Commissioners. The order of Government in its Proceedings No. 1320 M., dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs. 6,000 from Military Works funds was made; but as this is not so, the contention of the Municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military zone round Fort St. George had been defined, within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884, as amended by Acts VII of 1884 and II of 1892, under

which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India over lands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No. 1972 M.W., dated 2nd August 1895, the Government of India says it is confident that G.O., No. 1320 M., dated 8th August 1896, was not intended to convey any authority to the Municipality to erect buildings within the Military zone without obtaining proper sanction. It is, however, observed that G.O., No. 1320 M. of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the Government Order referred to. If therefore the Government adheres to the view expressed in G.O., No. 2516 M., dated 15th November 1897, that an executive order constituting the zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not found by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by the Government of India to the buildings in question cannot stand. If, on the other hand, it is held that, although the road vests in the Municipal Commissioners, they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military zone, it will then be necessary to consider whether, and, any, if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildings appear to have been in existence before 1892, when the zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to do with them than what was necessary under section 265 *et seq.* of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

In G.O., No. 650, Revenue., dated 25th September 1895.

H. B[LISS].

Certainly.

H. B[LISS]—10-5-98.

V. RAGHAVA CHARLU—28-4-98.

H. TREMENHEERE—7-5-98.

Let His Excellency see this preposterous claim of India's.

H. B[LISS].

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they intersect the Military zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military zone, and would not be an absolute and unconditional transfer.

The above is my opinion, but I do not think the proposed reply to India can do any harm.

A. E. H[AVELOCK]—14-5-98.

[G.O., Nos. 1213, 1214 M., dated 8th July 1898.]

[G. 25] 250—7-4-97.

Note m/s 2526 M 15.11.97.

LOCAL AND MUNICIPAL DEPARTMENT.

C. No. S. 2562. 30681 339811/97.

SUBJECT.

Removal of certain buildings situated within the Zone of Fort St George.

FOR ORDERS.

Please see the notes and orders on the first two of the letters read above, and the reference made thereon to the President of the municipal Commission, Madras. The last letter is the Presidents' reply to this reference.

P.R. 6/10/97

(111)

The Govt of Madras may be addressed, it being pointed out that the buildings (with the exception of the fountain as above 2) were apparently in existence in some form before the zone was constituted & if it is essential for military purposes that they shd be removed compensation shd be paid.

S.R. 11/97

E

F

Appeal Charles

don't know when the Zone was constituted but it must have been long after these buildings came into existence. The letter shd be given.

It should be pointed out (1) that, as the ~~existing~~ ordnance lines lie between the buildings and the Fort, they can't interfere with the fire of the Fort; and (2) that an order of Govt constituting a military Zone round the Fort can't override the Act under which the Courts are vested in the Municipal Council and that ∴ if the buildings must be ~~removed~~ they must be acquired under the Land Requisition Act in the usual way.

RS [hss] 12/10/97

S. Appeal

Rec'd

Removal of certain buildings
Situated within the Military Zone
round Fort St George -

D

D at bottom of the file -

Note for the Secretary 2P

With reference to the portion
of the H.C's note of the 12th October
1897, marked A, it is submitted
that the Zone round Fort Saint
George was Constituted in 1892 -
Vide G.O. No. 5204 Military, dated 22nd
August 1892, in G.O. No. 14547, dated
7th September 1892, and C.O. 3869/1.
Most of the buildings in question will
have thus been in existence before
the Zone was Constituted. Please see
draft putup.

V. Rajhavs
12/11/97 Clerk

B.S. Thomas
13/11/97

N.T.
Please see revised
Draft below for approval

S. Thomas
15/11 97

[L. & M. Dept. 500—2-9-97.]

LOCAL AND MUNICIPAL DEPARTMENT.

NOTE FOR THE Secretary

241: M of 1897.
266 M

SUBJECT.

RDERS.

The objectionable buildings in question are situated on the Enemy Bazar road, which is apparently identical with the "Thieving Bazar road", shown as item 9, in the list of Esplanade and other Govt roads transferred to the Justices in Sessions in July 1855. Vide the list in Go. No. 1565, Public works, dated 11th August 1857. Flag K. Under this order, 32 roads were transferred. But by Go. No. 1859, Military, dated 17th April 1875, Flag S, the number of roads to be reserved as purely Military roads was reduced to 12. What these twelve roads were, it is not possible to find out, as no list of them appears to have been furnished. From para. 2 of the Quartermaster General's letter in Go. No. 1859 Military of 17th April 1875, Flag S, however, it appears that these twelve roads were shown in blue, in the plan which accompanied it; but this plan was forwarded to the Govt of India with Public Works Depart letter No. 1252 dated 4th May 1875. Flag L. It is submitted that the Govt of India may be asked to return this map, or the Lieutenant General may be asked to forward a Copy of the twelve roads available, & furnish the required information. Please see the draft reply for approval.

10/8/98

The buildings referred to in the letter from the Government of India are the same as those in regard to which the orders in G.O. No. 2516. M, dated 15th November 1897, were passed. The Government of India desires that the municipal Commissioners of Madras may be informed that no buildings should be erected within the Military Zone without the previous sanction of the Government of India in the Military Department and that the buildings in question should be removed.

2. In the second letter read above, the Deputy Adjutant General Madras Command enquires whether he is correct in assuming that G.O. No. 2576. M, dated 15th November 18

Government No. 2516

was issued before the receipt of Government of India, Military Department letter No 3204. M. W of the 5th November 1897, and whether this would in any way affect the orders issued by this Government on the subject.

V.R
11/11/98

Office. Set forth the whole history of the case; making clear the legal point & whether the issue of this Govt was before India

H.T.
15-11-98

Current No 4041 M.

Buildings within the Military Zone. Fort St. George.

Local and Municipal Department.

Current Nos 4041 M of 97. & 1317 M 98

3P

AXXA

H.E. The Governor
H.T. 11598 H.M
A
fo 25 16 M
15-11-97

For Orders

In July 1897, the President of the Municipal Commission, Madras, report-
-ed to Government that he had been re-
-quested by the Executive Engineer, Mad-
-ras Division, Military Works, to remove
certain buildings as being within the
Military Zone round Fort St. George, that
these buildings were situated on public
B roads which, under G.O. No. 1320 M, d/8" August 1896, were vested in the munici-
-pal Commissioners, and that although the Military Department could fix their zone wherever they liked, it was ultra vires to say that the municipality could not do what it liked with its own roads. The Deputy-Adjutant General, Mad-
C -ras Command, to whom a reference was then made by Government in the matter, stated that the municipality had no right to erect buildings of any kind within the Military Zone of the Fort, without the previous sanction of the Go-
-vernment of India in the Military De-
-partment, that the whole raison d'etre of a military Zone being to keep clear a sufficient space for the due defence of a fortification, the fact that the ob-
-jectionable buildings were erected on roads under the control of the munici-
pality of Madras was without weight, and that His Excellency the Lieutenant-Ge
-neral

+ Water pandal.
Iron Bazaars.
Chemist's shop
Mat Bazaars.
Cattle drinking troughs with fountain and lamp-post.

ber 1897, which had been issued on a

General was of opinion that the buildings in question should be removed. On this the Government, while observing that, as the ordnance lines lay between the Fort and the buildings in question, the latter were not likely to interfere seriously with the defence of the Fort, stated that an executive order of Government constituting a Military Zone round the Fort could not override the provisions of the City of Madras Municipal Act, under which the streets were vested in the municipal Commissioners, that further, most of the buildings in question were apparently in existence before 1892, when the Zone was constituted, and that if therefore the military authorities decided that the buildings ~~above referred to~~ should be removed, it would be necessary to acquire them under the Land Acquisition Act in the usual way.

fo 2516 M 15-11-97 D

Vide Sec 233 of Act I of 1884.

Vide fo 5-204 mily 22.8.92 in fo 14524 M 7-9-92 E

2. The construction, without its previous sanction, of the objectionable buildings in question having in the meantime been brought to the notice of the Government of India by the Director-General of Military Works, the Government of India forwards with its letter read above the correspondence which has taken place on the subject between the Military authorities and the President of the Municipal Commission, and requests that the Municipality may be informed that no buildings should be erected within the Military Zone, without the prior sanction of the Government of India in the Military Department, and that it may also be directed to remove the buildings in question. F

Vide para 2 of the letter flagged F

3. The Municipality contends that the public roads which it maintains are its property and that it is at liberty to do what it likes with its own roads. With regard to this, the Government of India observes that the roads in question are apparently a part of those formerly called Military roads, towards the maintenance of which an annual contribution of Rs.6000 from Military works funds was made, that this contribution was discontinued in the Proceedings of the Madras Government, communicated with letter No.4873 Military, dated 6th August 1894, that the cost of maintaining the roads should be met from Municipal funds, and that the contention of the Municipality is based on the declaration of the Government of Madras in G.O.No.1320 M, dated 8th August 1896, to the effect that the Military roads are now vested in the Municipal Commissioners. It is also pointed out that the withdrawal of the annual grant from Imperial funds for the maintenance of the roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as Military roads, since a Military Zone round the Fort St. George had been defined within which no building was to be permitted. The Government of India ~ therefore considers the view taken by the Madras Municipality to be incorrect so far as the roads lying within the reserved area are concerned and states that the control to be

G

B

D

be exercised by it over land in the vicinity of Fort St. George having been clearly defined in Military Department letter No.1972 M.W. dated 2nd August 1895, it is confident that G.O.No.1320 M,dated 8th August 1896,was not intended to convey any authority to the Municipality to erect buildings within the Military Zone without obtaining proper sanction in accordance with the orders of the Government of India,G.O.No.2516 M,dated 15th November 1897,which was passed on the subject of the objectionable buildings in question was not,however, before the Government of India when the above letter was written.

Gp 650 Rev 25.9.95 H

B

D

4. The buildings in question are situated on the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the ~~Esplanade~~ roads whose maintenance was transferred to the Justices in sessions in 1855 on payment of a contribution of Rs.9,000 and odd. This contribution was however subsequently increased to Rs.14047 as the Municipal Commissioners who succeeded the Justices in Sessions represented that the amount already paid was inadequate.

A1 + K1

I

P

5

5. In para 45 of its Proceedings No.4 Public Works,dated 1st.February 1866, Government ruled that the charges for maintenance of many of the roads skirti the Fort and the Esplanade should be pr ded by the Municipal Commissioners for t City of Madras from tolls levied on carr and other vehicles under sections 21 to of Act IX of 1865 and proposed to withdr the annual grant which had till then been made from Imperial Funds for that purpose. this, the Municipal Commissioners pointed out that the majority of these roads trav -sed the Esplanades of the Fort and Black Town, that being for purposes of defence, kept free from buildings of any sort, no assessment was derived from those local that the expense of maintaining purely Municipal roads and the cost of Establ -ments employed were very heavy, and the net receipts derivable from tolls barely cover the expenditure for which they had to provide. On reconsideratio of the subject and seeing that it was desira -ble that no grounds should be given for setting up a claim to the possession of the roads traversing the esplanades of the fort -ress by the Municipality and that the expens of maintaining these roads (19 miles in length) was properly chargeable to the State the Government directed that an annual grant of Rs.14047 for the Esplanade roads (32 in number) and of Rs.3,500 for the road along the east face of the fortress should be paid to the municipality, the other roads being kept in repair from Municipal funds.

Vide para 10 fp 1347 P.D 28.4.66 Q

Vide fp 1347 P.D 28.4.66 Q

fp 713 P.D 13.3.75 R

6. In 1874 the Government of India requested this Government in the Public Works Department

D

partment to furnish a map showing
stinctly all the roads known as the
planade roads at Madras and maintained
rom the Imperial grant for Military works
nd to obtain and furnish the opinion of
he Military authorities of Madras as to
hether it was really necessary that all
or any of these roads should be maintained
on purely Military grounds and if so, the
reason why this should be done in each
ase. His Excellency the Commander-in-
ief, who was consulted in the matter,
ressed the opinion that, on the ground
no plea should be afforded for
ng up a claim by the Municipality to
ssession of certain roads, these roads,
number which traversed the esplanade
St. George and the Island and also
road connecting the Expense
with the Main road, should be
d as heretofore by a Public Works
e extent of the roads referred to
by the Commander-in-Chief was about
7 miles. The Government of Madras thereupon
requested the Government of India to
contribute annually in the Military budget
a sum of Rs.5000 for the maintenance of the
Military roads, and that a sum of Rs.1000
should be granted annually for the mainte-
nance of the road on the east face of the Fort.
It was also observed that the charges on account of the remainder
of the esplanade roads were properly
chargeable to Municipal funds. An annual
grant of Rs.6000 was accordingly paid from
the Military works funds to the Municipality
for the maintenance of these roads.
In 1894, the Director General of Military
Works in India pointed out to the Govern-
ment of India that there was no need to
safeguard Military interests by calling

fo 1859 Mily 17.4.75 S

fo 1252 P.W 4.5.75 T

Para 2 of fo 1251 P.W 4.5.75 X

fo 1196 Mil 2.6.75 U

Page 2 No 4872 Mily 6.8.94 V

Vide paras 3 & 4 ibid. W

calling these roads which were in used by the whole of the Madras community "Military roads," that a zone had been laid down within which building was prohibited, and that either the Madras Municipality or the local Public Works Department should maintain the roads. He also stated that although the seat of the Madras Government was in Fort St. George, and the Secretariat and other Civil offices were there and attracted a large amount of wheel traffic, the roads inside the Fort were maintained from Military works funds without any contribution from the Municipality or the Public Works Department and suggested that, as the Military Works Department maintained all the roads inside Fort St. George, the Municipality or the local Public Works Department should maintain all the roads outside and that the contribution paid to the Madras Municipality should be withdrawn. His Excellency the Commander-in-Chief in Madras agreed in the opinion of the Director-General that the Military Works Department should be relieved of the payment of the annual contribution made to the Madras Municipality and stated that with regard to the Fort and its defences, so long as the zone within which no buildings could be erected was preserved there was no necessity to maintain as "Military roads" the roads running across it, and that no advantage was to be gained by debiting the cost to the Military budget. The Municipal Commissioners of Madras, to whom the proposal of the Director-General was referred for remarks, stated that as the Commissioners could not be said to have sole control over the roads within the Military Zones no buildings being allowed on these roads, the

D Government No. 2516 M dated 15th November 1897

the Government should continue the contribution for them. The Government was however of opinion that the reason assigned by the Municipal Commissioners did not constitute an adequate ground for objecting to the withdrawal of the annual contribution of Rs.6000 paid to the Madras Municipality by the Military Works Department for the roads in question and that these roads should be maintained entirely from Municipal funds.

7. In May 1896 the Municipal Commissioners requested a reconsideration of this order on the ground that these roads did not vest in the Municipality under section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, as under G.O.No.1351 W, dated 4th May 1875, they were reserved as purely military roads and remained under the control of Government at the time of the coming into operation of this Act. The Government thereupon observed that the Proceedings of Government quoted by the Commissioners merely stated that the roads were to be maintained by means of a grant from Government, but did not exclude them from Municipal limits, and that as it had been decided to withdraw that grant, the duty of maintaining them devolved upon the Municipal Commissioners as the roads were vested in them under Act I of 1884, and accordingly declined to reconsider the orders in G.O.No.4873 Military Department dated 6th August 1894.

8. It will thus be seen that the Evening Bazaar (road) otherwise called the Thieving Bazaar

Bazaar road was one of the 32 roads originally reserved as purely "Military roads" and for whose maintenance an annual grant of Rs.14,047 was being paid by the Military Works Department, but from the Deputy-Adjutant General's letter read above, it appears that when the contribution was reduced to Rs.6,000 in 1875, this road was excluded from the list of those which were then reserved and was thence forward maintained by the Municipality at its own cost. Section 233 of Act I of 1884, as amended by Acts VII of 1884 and II of 1892, says that "all public streets in the City (not "being the property or kept under the control of the Government) existing at the "time of the coming into operation of this "Act or which shall afterwards be made * * * "* * * not being private property, shall "vest in the Commissioners". The Thieving Bazaar road existed when this Act came into operation and not being the property or kept under the control of Government, it vests in the Municipal Commissioners. The B of Government in its Proceedings No.1320M, dated 8th August 1896 seem therefore to be correct. The arguments of the Government of India have been based on the supposition that this road formed part of those formerly called Military roads towards the maintenance of which an annual contribution of Rs.6,000 from Military Works funds was made, but as this is not so, the contention of the Municipality that the public roads it maintains are property and that it can do what it li with its own roads appears to be val

The

The Government of India argues that the withdrawal of the grant from Imperial funds for the maintenance of roads on the Esplanade of Fort St. George was made on the representation that their chief use was for Civil traffic and that it was no longer necessary to maintain them as Military roads since a Military Zone round Fort St. George had been defined within which no building was to be permitted, and considers the view taken by the Madras Municipality to be incorrect, so far as the roads lying within the reserved area are concerned. With regard to this, it has to be observed that as the main argument adduced by the Military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the Municipality, its withdrawal implies that the Military authorities were prepared to relinquish their right to the property in those roads. Further an executive order of Government constituting a Military Zone round the Fort cannot override the provisions of the City of Madras Municipal Act 1 of 1884, as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. The control to be exercised by the Government of India overlands in the vicinity of Fort St. George having been clearly defined in its letter in the Military Department No.1972 M.W. dated 2nd August 1895, the Government of India says it is confident that G.O.1320 M, dated 8th August 1896 was not intended to convey any authority to the Municipality to erect buildings within

in file 650 Rev II 25-9-95

within the Military Zone without obtaining proper sanction. It is, however, observed — that G.O.No.1320 M, of 1896 was not intended to convey any authority whatever to the Municipality, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in them by law. If therefore the Commissioners have any right over the roads, it is by the operation of Act I of 1884 (Madras) and not by virtue of the G.O. referred to. If therefore the Government adheres to the view expressed in G.O.No.2516 M, dated 15th November 1897, that an executive order constituting the Zone cannot affect the rights of the Municipality vested in it by law, it follows that the Municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the Zone and the objections raised by the Government of India to the buildings in question cannot stand. If on the other hand it is held that although the road vests in the Municipal Commissioners they should follow the procedure prescribed by the Government of India in regard to the construction of buildings within the Military Zone, it will then be necessary to consider whether any and if so, which of the buildings to which objection has been taken by the Government of India should be removed and whether they can be so removed by the Municipality. With the exception of the water trough which is now under construction, all the other buildin

D

the proceedings of this Government No. 2516 M dated 15th November 1897, which had been issued on a

buildings appear to have been in existence before 1892, when the Zone was constituted. All these buildings belong to private individuals and all that the Municipality did was to sanction their renewal or reconstruction. Granting that the previous sanction of the Government of India should have been obtained in these cases, the omission to do so was the fault of the individuals and not of the Municipality, which had apparently nothing more to do with them, than what was necessary under section 265 et seq of the Act. If therefore the Government of India considers that the buildings should be removed, it should call upon the owners concerned to do so, and in case they refuse, should either go to the Civil Courts or acquire the buildings under the Land Acquisition Act.

V.R. 25/4/98

A.I. 7.5.98

Certainly

H.D. [Close] 10/5/98

Lt H.B. See this before India's previous claim of [illegible] H.B. [Close]

I am not at all sure that the case is clearly on the side of the Municipality of Madras. Granted that the roads have been transferred to the Municipality, they retained the Military Zone of the Fort, and the transfer would still remain subject to the conditions which govern the rest of the Military Zone, and we must be sure absolute and unconditional transfer.
The above is my opinion, but I do not think the foregoing calls for Public case to be very keen.

A.E.H. [Cavelock] 14.5.98

A-G to No 1212 of 24th May 1898
7.98

Construction of objectionable buildings within the Military Zone. 18

Local and Municipal Department.

C: Nos 4041 m. of 97 & 1317 m. & 1523 m. of 1898.

Order

The Government of India will be addressed.

To

The Deputy Adjutant General.

Letter

To

The Secretary to the Govt. of India,

Military Department.

Sir,

In reply to your letter No. 3204 dated 5th November 1897, forwarding certain correspondence regarding the construction of some objectionable buildings within the Military Zone of Fort St. George and requesting that, in the circumstances stated therein, the Municipal Commissioners of Madras may be informed that no buildings are to be ~~erected~~ constructed within the Military Zone without the prior sanction of the Government of India in the Military Department and that they may also be directed to remove the buildings which have already been erect-ed without such sanction, I am directed to forward for the information of His Excellency the Governor General in Coun-cil a copy of the Proceedings of this Government No. 2516 M dated 15th November 1897, which had been issued on a

reference made by the President of the Municipal Commission, Madras, on the same subject, previously to the receipt of your letter. A.

2. The buildings in question are situated in the Evening Bazaar road, otherwise called the Thieving Bazaar road, which is one of the roads, the maintenance of which was transferred to the Justices in Sessions, in 1855, on payment of a contribution which was originally fixed at Rs 9,000 and odd and subsequently increased to Rs 14047. In 1866, the Government ruled that the charge for the maintenance of many of the roads skirting the Fort and the Esplanade should be provided by the Municipal Commissioners, and proposed to withdraw the annual grant which had till then been made from Imperial funds. But as the Municipal Commissioners then represented that the majority of these roads traversed the Esplanades of the Fort and Black Town and that being kept free from buildings of any sort for purposes of defence, no assessment was derived from those localities, the Government on reconsideration of the subject and seeing that it was desirable that no room should be given to the Municipality for setting up a claim to the possession of the roads traversing the Esplanades of the Fort and that the expense of maintaining these roads (19 miles and odd in length) was properly chargeable to the State, directed that an annual grant of Rs 14047 for the Esplanade roads (32 in number) and of Rs 2500 for the roads along the East face of the Fort should be paid to the municipality, the other roads being kept in repair from Municipal funds.

K.

I.

So. no 405. PW / 1-2-66. P.

So. no 1347. P.W. / 28-4-66. Q.

So. 713. P.W. / 13-3-75. R.

So. 1859. Mily: / 17-4-75. S.

So. 1252. P.W. / 4-5-75. T.

So. 1251. P.W. / 4-5-75. X.

3. In 1874 the Government of India requested this Government to obtain and furnish the opinion of the Military authorities of Madras as to whether it was really necessary that all or any of the roads at Madras and kept in repair from the Imperial grant for Military works should be maintained on purely Military grounds. His Excellency the Commander-in-Chief who was consulted in the matter expressed the opinion that on the ground that no plea should be afforded for setting up a claim by the Municipality to the possession of certain roads, these roads (twelve in number) which traversed the Esplanades of Fort St. George and the Island and also the short road connecting the Expense Magazine with the main road, should continue to be maintained by a Public Works grant. An annual grant of Rs 6,000 was accordingly paid from the Military Works funds to the Municipality from the year 1875 for the maintenance of these roads, the remaining roads, of which the Evening Bazaar road was one, being maintained at the cost of the municipal funds. Section 233 of Act I of 1884 as amended by Acts VII of 1884 and II of 1892 says that " all public streets in the City (not being the property or kept under the control of the Government) existing at the time of the coming into operation of the Act or which shall afterwards be made + + + not being private property, shall vest in the Commissioners". The Evening Bazaar road existed when this Act came into operation

and

and not being the property or kept under the control of Government, it vests in the Municipal Commissioners. The supposition of the Government of India that the roads in question form part of those formerly called military roads, towards the maintenance of which an annual contribution of Rs 6000 was made from Military Works funds does not therefore seem to be correct, and the contention of the municipality that the public roads it maintains are its property and that it can do what it likes with its own roads appears to be valid. It is however argued by the Government of India that the withdrawal of the grant from Imperial funds for the maintenance of roads on the Esplanade of Fort St. George was made on the representation that their chief use was for civil traffic and that it was no longer necessary to maintain them as military roads, since a military zone round the Fort had been defined, within which no building was to be permitted, and that the view taken by the municipality is incorrect so far as the roads lying within the reserved area are concerned. With regard to this, I am to observe that as the main argument adduced by the military authorities for continuing the contribution has been that no room should be afforded for setting up a claim to the roads by the municipality, its withdrawal implies that the military authorities were prepared to relinquish their right to the property in these roads. Further, as observed in the Proceedings of this Government No. 2516 M dated

D. dated 15th November 1897, His Excellency the Governor in Council considers that an executive order of Government constituting a military zone round the Fort cannot override the provisions of the City of Madras Municipal Act I of 1884 as amended by Acts VII of 1884 and II of 1892, under which the streets are vested in the Municipal Commissioners. It thus follows that the municipality is not bound by the orders of the Government of India requiring its previous sanction to the construction of buildings within the zone and the objections raised by that Government to the buildings in question cannot therefore stand. Moreover with the exception of the water trough, which is now under construction, all the buildings in question appear to have been in existence before 1892, when the zone was constituted. All of them belong to private individuals and all that the municipality did was to sanction their renewal or reconstruction. Even granting that the previous sanction of the Government of India should have been obtained in these cases the omission to do so was, in the opinion of His Excellency in Council, the fault of the owners and not of the municipality, which had apparently nothing more to do with them than what was necessary under section 265 et seq of the Act. If therefore the Government of India considers that these buildings should be removed, I am to state that it should call upon the owners concerned to do so and in case they refuse, should either

go

go to Civil courts or acquire the buildings under the Land Acquisition Act

4. As regards the scope of G.O.No.1320 M dated 8th August 1896, adverted to in para.3 of your letter, I am to observe that it was not intended to convey any authority whatever to the Municipality to erect buildings within the Military Zone without obtaining proper sanction, but it merely explained the legal position of the Municipality as regards the roads therein referred to and pointed out that they were vested in the commissioners by law. If therefore the Commissioners have any right over the roads it is by the operation of Act I of 1884 and not by virtue of the Government order referred to.

B.

5. The correspondence received with your letter is herewith returned.

I have &c

(Fam. orders)

V.R
8/6/98.

VE

Local Govt

1213, 1242

8-7-98

copying

Compared 9-7-98 189

Examined

Signed 1.217

AD AGAIN G.O., No. , DATED
189 .

T No.

UERIES TO C. No.

E OF GOVERNMENT .. .. .. A A A A A A A

GOVERNMENT.

ENT WITH DITTO.

NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGI .

Govt 5996 A

20.1.97 A

OM 325 A

CNo 1317 A

1523 A

1317 A

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

Brutnells

9P
Nos 1-88