

Public (1897) Department.

ORDINARY MS.

G.O., No. 1072

DATED 30.7.97

INDEXED.

[Despatch Abstract.]

Receiving orders on letter from the Dy. Adjutant General, forwarding letter from the G. O. S. setting forth the terms on which a loan of Rs 6000 had been sanctioned to the Nilgiri Volunteer Rifles.

18197

to 604
3/8/97

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	D
1710-11	925712/97						

[Pub.]
29.
2,000-5-8-97.

Public (1897) Department.

CURRENT No. 2090

From

The D. A. 4.

Enclosures.

Order

No. B

46. 10. 8692.

Dated

Received

Registered

Enclosures

Spare copies

3
4
9 } 6. 97

2

SUBJECT.

Requesting that instructions may be issued to the Govt. Solicitor to prepare the necessary deeds towards carrying out the mortgage of the in connection with the grant of a loan of Rs 6000 to the Village Ripe Vols.

BACK PAPERS.

G.O.	No.	Department.	Date.
20	419	Pub	13-4-97
	219-20		6-3-97
	737		13-4-97
	228-9		10-7-96
	990		11-4-96
	288		18-3-97
	531		12-5-96
	1264		1-12-96

Law Office File (Tamil)

383
646
308
2-3-96

G.O.	No.	Department.	Date.
	245		18-2-97
	8075		15-2-97

Dim 222
12-3-97

Public Department

Proceedings of the Madras Govt.

Read the following paper

From the Government Solicitor, Madras.
N^o 178, dated 23rd March 1897.

I beg to acknowledge receipt of G.O. N^o 288, Public, dated 18th instant.

2. From the letter from the Government of India, Military Department, N^o 388 Ft. dated 5th ultimo, to the Lieutenant General Commanding the Forces, Madras, I gather that the Government of India has sanctioned the grant of a loan of Rs. 6,000 to the Officer Commanding, Nilgiri Rifle Volunteers, for the purpose of completing an armoury stores for the Corps, that the loan is to bear interest at 4 per cent per annum and will be repayable by six annual instalments of Rs. 1,000 each, plus interest on the balance outstanding, such repayments, to be made from the annual Capitation grants of the Corps as they become due and that the Government of India will retain a lien on the buildings to the extent of the sum outstanding until the whole amount has been recovered and that, to this end, the buildings should be insured and mortgaged to Government.

In his letter of 23rd ultimo to the
Assistant Adjutant General, Southern
District, the Commandant Nilgiri,
Volunteer Rifles, states that he agrees
to the terms of the loan and requests
that I, if without expense to the corps
except for stamp, be requested to
draw up the necessary deeds. The
Commandant, himself a solicitor, does not
explain why I am to do, without expense,
a solicitor's work for the Nilgiri Volunteer
Rifles. Mr. Bowdell must be perfectly
well aware that the costs of a mortgage
are always paid by the mortgagor and
not by the mortgagee.

4. But, a far more important point
is that it is not explained by the
Commandant Nilgiri Volunteers, the
right he has to mortgage the buildings
i.e., nominally belonging to the corps,
to Government or to any one else, nor
has he forwarded any title deeds of
the land on which the buildings stand
so as to show in whom that land is
vested nor any description of the
land or buildings. Further, it is not
explained who is to be liable for the
sum advanced and the interest thereon
or for the insurance on the buildings,
whether the Commandant or who and,
if the Commandant, whether he is prepared
to be personally liable for the debt
and interest or only as Commandant
and, if the latter, how he proposes
to bind his successor in office, or,
should

should the corps, for any reason
cease to exist who is to be responsible
to Government for ^{the} money. Further
the Commandant stipulates that
deeds are to be prepared without
expense to the corps except for stamp,
but he has overlooked the fact that
there will be registration fees as
well in respect of the mortgage.
5. With the information before me
I am quite unable to prepare the
required mortgage and I would
submit that if I am to do so at all
it, should be at the expense of the
Nilgiri Volunteer Rifles or, otherwise,
that Mr. Bowdell should prepare the
deed and that I approve of it on behalf
of Government. It is hardly desirable
that, in preparing the mortgage, I
should act both for Government and
the corps.

Order. No. 383, dated 5th April 1897.

The Government Solicitor's letter
will be communicated to the Deputy
Adjutant General with reference to
his endorsement No. B/m.W. 3609 dated
4th March 1897, for the information
of the Lieutenant General Commanding
the Forces.

(True extract)

(Sd) A R Knapp

For Chief Secretary

To The Dy. Adjt. Genl: Madras Comd.
" Government Solicitor.

B
M. W. 610

Ootacamund,
14th April 1897.

G. O. to Southern Dt.

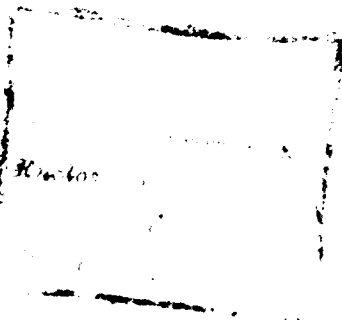
For information and favor of
communication to the Commandant
Nilgiri Volunteer Rifle Corps.

Return requested with necessary
report.

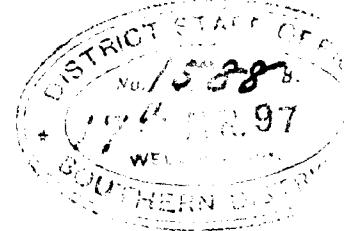
(By order)

17-4-97
1839.

J. P. Miller Lt. Col.
Asst. Secy. Mr. Gl.
For Dy. Asst. Gl.
He



II



Lo.

The Commandant
N. V. Rifles

Forwarded for information and
compliance.

Please return.

B. D.

C. P. R. Major

Asst. Asst. Genl. Secy.

Ootacamund
19th 101/97
The Deputy Adjutant General
Madras Command
Through Asst. Adjutant General Southern District

Re: Submitted.

1. We thought that the Government might fairly
be asked to have the necessary documents prepared
by the Government Solicitor, as the ~~Government~~
a private concern, but a branch of the Public Service.
2. There is also clearly no reason why, because a
Solicitor gives his services to Government as a
Volunteer Soldier, that he should also give them
a volunteer conveyance of lawyers, as suggested by
the Government Solicitor.
3. It is of course perfectly clear that the loan is

be made to the Corps + that it is ~~to be repaid out~~
of the Annual Contingent Grant.

The suggestion of the Government ~~that the~~
Commandant ~~should~~ find a personal undertaking to pay
the amount, + that there should be some arrangement
by which he should bind his successor, + also should
provide for the contingency of the Corps ceasing to
exist, is probably made from his not understanding
the position.

The Regulations clearly provide for such loans to
Volunteer Corps, + the question of the stability +
financial position of the Corps, and its means
of repaying the amount of the loan, + the mode,
was thoroughly gone into by the Government of India
before they sanctioned it.

4. The Conditions of the loan must be observed by
any Commandant of the Corps, until they are
fulfilled, + the Government will itself secure
the repayment of each yearly instalment, as it
becomes due, with the interest, by deduction from
the Annual Contingent Grant.

5. With regard to the point raised as to who would
be responsible for repayment of any balance of the
loan due, in the event of the Corps for any reason
ceasing to exist, I would ~~point out~~ point out that the
Contingent Grant of Volunteer Corps are always drawn
in arrears. The Grant to this Corps now amounts
to Rs 13,000 per annum, + therefore, should
the Corps cease to exist, the Government would have
this sum, in addition to the instalments already paid,
+ the security of the building.

6. A Commandant is not responsible, except by virtue
of the position he holds in the Corps, + as appointed
to conduct its affairs in the interests of Government itself.

7. I would now respectfully request that early orders
may be passed as to the preparation of the mortgage

and especially whether the Government wish that
the Corps should have it prepared + submitted to
the Government Solicitor.

The Corps is put to great inconvenience by the
delay, ~~which~~, as it was expected we should
have been able to draw the loan some considerable
time ago. We are now drawing on the
Officers' private Corps Funds for Government papers.

8. The only title is possession of the Corps in the
Government Order. The site of the land was
granted by Government (Madras Order of Govt
No 636 Misc dated 13th February 1896), + on this
the building known as the Armoury + Drill
Hall was erected.

The mortgage is being given in compliance with
the orders of the Government of India, as security
for repayment of the loan sanctioned by them,
+ it is already open to the Government Solicitor
to impose fresh conditions ~~if~~ ^{see at}.

9. As regards the registration ~~fee~~, the Corps will
if course bear the cost, which will be incurred.

10. The property in question is now being demarcated
by the Public Works Dept. + a sketch plan
of the grounds will be furnished as soon as
this is done.

21-5-97
2339

A. C. D. Major
Off. Commandant. Hyderabad.

2052
22 MAY 97
SOUTHERN DIST

9550 96
Duty Officer
Recd 23 MAY 1897 25
Branch

Forwarded
J. Kishfathul Optani
for Quarter
Commanding for order

130
Enclos
To

N^o 8692
To

CHIEF SECRETARY
-4 JUN. 1897
GOVERNMENT OF MADRAS

Botacammul
3rd June 1897

The Chief Secretary to the Government of Madras

His Excellency the Lieutenant General
Commanding the Forces trusts that Government will
favorably consider this case and instruct the
Government Solicitor to prepare the necessary deeds
towards carrying out the mortgage of the building
in question without any expense to the Corps except
for stamps.

2

The Corps is not in possession of
any title deeds of the land on which the building
stands, but Government is aware that the
Exercise yard in the ^{old} European prison at Botacammul
was transferred to the Corps free of charge for the
purpose of erecting an Armoury and Drill Hall
therein. Vide correspondence ending with O.G. (Public
Department) N^o 419 of the 13th April 1897.

3

The Commandant Volgaire
Volunteers Rifles will be instructed to carry out
without delay, the instructions of the Government of
India as regards the insurance of the building

4

His Excellency trusts that
early instructions will be issued to the Government
Solicitor

Director in para 1 of this memo. It is desirable that both insurance and mortgage should be quickly carried out to enable the Corps to draw the loan sanctioned by the Government of India.

S. Ray Captain
Dy. Asst. Adjutant General
For Dy. Adjutant General

Pub.
29.
0-5-3-27.

Public (1897) Department.

CURRENT No. 2382

From The Rev. Dept.

Order

No. 53

Dated 28
Received 30
Registered 30 } 6-27
Enclosures —
Spare copies —

SUBJECT.

Stating in reply to G. N. No. 1292/97 that the land should remain to govt when it ceases to be used for the pedipore box which it was granted.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

NILGIRI VOLUNTEER RIFLES

St. 24th 1897
2. 1897

Public Dept:

C.No.2090 + 2382.

FOR ORDERS

D

In its letter No.388 of the 5th Feb. last the Govt. of India sanctioned the grant of a loan of Rs.6,000 to the ^{Officer Commanding the} Nilgiri Volunteer Rifles for the purpose of completing the armoury, store-room etc. of that Corps on certain conditions enumerated therein. With reference to the second of these that the buildings should be insured and mortgaged to the State, the Commandant requested that the Govt. Solicitor should, if ^{it would involve no} ~~expended~~ expense to the Corps except for stamps, be directed to draw up the necessary deeds &c

J

From the notes at A in G.O.No. 287 Pub., d/ 18th March 1897, it will be seen that it ^{was considered} ~~is~~ doubtful whether the Govt. Solicitor could be required to do the work without payment. It was however decided to direct him to do so leaving him to raise objection if he saw fit.

2. As was expected, the Govt. Solicitor-vide his letter No.178, d/ 23rd March 1897-denurred. He pointed out that the costs of a mortgage are always paid by the mortgagor, ~~and~~ not by the mortgagee, and remarked that the Commandant had not explained what right he had to mortgage the buildings etc., nominally belonging to the Corps, to Govt. or to any one

just after B

else, ~~not~~ ^{and} had ~~not~~ ^{not} forwarded any title deeds of the land on which the buildings stand. The Commandant, the Govt. Solicitor further reported, had not explained who was liable for the sum advanced and interest thereon, or for the insurance of the buildings, whether the Commandant, or who and, if the Commandant, whether he was prepared to be personally liable for the debt and interest or only as Commandant and, if the latter, how he proposed to bind his successor in office; or, should the Corps for any reason cease to exist, who was to be responsible to Govt. for the money. The Govt. Solicitor also pointed out that ~~the~~ registration fees would have to be met by the Corps. In summing up he therefore proposed that if he was to draw up the deed, it should be at the expense of the Corps, otherwise that the Commandant himself, as he was a lawyer, should prepare the deed and that he could approve of it on behalf of Govt. The Govt. Solicitor's letter was communicated to the Dy. Adjutant General in G.O.No. 385 Pub., d/ 5th April 1897.

3. The Dy. Adjutant General now forwards ~~the~~ ^{memo} G.O.No. 2090 a ~~letter~~ from the Commandant replying to the various points raised by the Govt. Solicitor, and remarks that the L.G.C.F. trusts that Govt. will favourably consider the case and instruct the Govt. Solicitor to prepare the necessary deeds at an

early

early date to enable the Corps to draw the loan sanctioned by India. He states that the Commandant has already been told to carry out without delay the instructions of the Govt. of India regarding the insurance of the building.

In para 2 of the current it is stated that the Corps is not in possession of any title deeds of the land on which the building stands but that, as Govt. is aware, the exercise yard in the Old European Prison at Ootacamund was transferred to the Corps free of charge for the purpose of erecting an armoury and drill hall thereon, G.O.No. 419 Pub., d/ 13th April 1897. *This order is the only "title" in the possession of the Corps*

3. Mr. Cowdell maintains that Govt. might fairly be asked to have the necessary documents prepared by the Govt. Solicitor as the Corps is not a private concern but a branch of the Public Service. As to the duties of the Govt. Solicitor, please see portion marked Q in the printed summary put up, ^{para 3 (7)} Mr. Cowdell states that there is no reason why, because a Solicitor gives his services to Govt. as a Volunteer soldier, he should also give them as a Volunteer lawyer, as suggested by the Govt. Solicitor. The loan, he says, ^{made to the Corps} is to be repaid out of the annual Capitation Grant. The regulations (-vide clause 322 A.R.I. Vol. IX -) provide for such loans, and the question of the stability and financial position of the Corps and its means of paying the amount of the loan, and the etc., was thoroughly gone into by the Govt. of India before it sanctioned ^{the loan} it. He tends that

"Law Officers of Govt. - Their duties & remuneration"
As stated in the Vol Corps bill a "deputy Govt."

at the conditions of the loan must be observed by every Commandant of the Corps until they are fulfilled, and that the Govt. ~~will~~ will itself secure the repayment of each yearly instalment as it becomes due, with the interest, by deduction from the Annual Capitation Grant. As to the point raised by the Govt. Solicitor as to who would be responsible for repayment of any balance in the event of the Corps ceasing to exist, Mr. Cowdell points out that the Capitation Grants of Volunteer Corps are always drawn in arrears, that the grant to the Nilgiri Volunteer Rifles now averages Rs. 15,000 per annum and that therefore, should the Corps cease to exist, Govt. would have this sum in addition to the instalments already paid and the security of the building. The Commandant, he states, is not responsible except by virtue of the position he holds in the Corps, and as appointed to conduct its affairs in the interests of Govt. itself. He represents that the Corps is put to great inconvenience by the delay ^{in the preparation of the mortgage} as it was expected that the loan could have been drawn some considerable time ago, and ^{that the Corps is now drawing on the officers' private Corps Fund for Govt. payments.} Mr. Cowdell concludes with the remark that as the mortgage is being given in compliance with India's orders as security for repayment of the loan sanctioned by it, it is scarcely open to the Govt. Solicitor to impose fresh

fresh conditions.

It will be seen from para 1 of the current that the L.G.C.F. asks that the necessary deeds for the mortgage may be prepared by the Govt. Solicitor without any expense to the Corps except for stamps - but in para 9 of his endorsement the Commandant declares that the Corps is prepared to meet the cost of any registration fees that may be incurred ^{in Potlacomund}.

The Commandant reports that the property in question is now being demarcated by the P.W.D.

Orders are solicited ^{as follows}
 Now the pros & cons before it, whether the L.G.C.F.'s request may be complied with.

Before giving answer for the information of the D.C. it seems necessary to know what is the nature of the grant. Is it a grant outright and without conditions; or is the grant limited by any implied condition that when the land ceases to be used for the particular purpose for which it is given, - the grant is to be returned to the Govt. ?] Perhaps the Hon. Sec. can consider this question.

No one seems to have yet inquired what the cost of preparing the mortgage deed would be. The Nilgiri Hillmen can hardly be expected to do so. It is certainly not work for Govt. and making the Govt. Officer do it will be forming a bad precedent.

With ref to H.E. the former's letter of 14.6.97 it is submitted that the words "for use as an armory" in India's letter of 13.4.97 imply the condition that the land should revert to Govt. when it ceases to be used for the purpose for which it was granted vide C2382 T.

Point of the case might be accepted, but the point should be clearly stated in the G.O. issued. It should also be laid down in the G.O. that the Nilgiri Hillmen will bear the cost of drawing up the deed to, and it should be added that as far as the land and walls are concerned.

X

CW 17.47. Hk 17/97

18 2/2/97

to land... having only been awarded temporarily. All
therefore that can be mortgaged would be such
private additions, as the Volunteers may make
out of their own pockets. The Corps as a whole
would presumably have to agree to such a
mortgage.

215
8-7-97

It seems to me more than doubtful whether
India understands the position, viz. that
the land (and the old buildings on it) are the
property of Govt. & will not pass to Govt.
property because adapted to volunteer use,
but will revert to Govt. if ceased to be used as
an armoury, together with any
further buildings which the volunteers ~~would~~ have
built thereon. I don't see therefore that
any mortgage to Govt. is required. In fact,
such a mortgage is actually impossible. The
volunteers don't own the land & therefore
can't mortgage it; ~~and~~ nor can land
be mortgaged by any person to the crown!
I would suggest that India should be
delighted in the real position.

India will not do it

HN
6/7/97

Resubmitted to H.E. the Governor

CV: HK
6/7/97 6/7/97

Transfer of any addition made by the Volunteers ~~will~~ in the
nature of fixtures ~~will~~ in common course with the
land and the walls ~~will~~ revert to Govt. on the premises
ceasing to be used as an armoury. The Hon.
Sir H. P. ... The case seems to me right,
and I think the Govt. of India should be addressed
on the proposition. The only remedy we should

retain for any money lent would be the power to
recover it from the assets of the volunteers.

NOTE FOR THE C.S.

Please see
H.E.'s note d/14 the
instant on the note for orders below.
No conditions
were specified

H.M. info. 245 Pubd
18.2.96 the L.E.C. & asked
for "a free grant of the site
of the Exercise yard and its
walls. At C it is simply
stated that "the transfer
of the site is sanctioned"

India's letter
however immediately
after P. info. 419 Pubd
13.4.97 sanctions "the
transfer, free of charge to
the N.V.R. for use as
an armoury drill
hall etc."

H.E. the Governor's
surmise would there-
fore appear to be
correct viz. that
the grant is subject to the
proviso that the site
reverts to Govt. if it
ceases

OFFICE NOTE No. 1272

Dated 15th June 1897.

From

THE CHIEF SECRETARY,

To

THE SECRETARY Revenue DEPARTMENT.

203/2 Smith's Secs.
16/6/97

Office
in go 419 Pubd/13.4.97(P)

Office
Portion thus []

The undersigned has the honour to forward copy of Govt of India letter N^o 73 G. D. D. of 25.3.97 and an extract from a note by H.E. the Governor of the 14th instant, and to request the favour of being informed at an early date whether the words in the letter quoted above, vizt, "for use as an armoury etc" implies the condition stated imposed by H.E. the Governor.

Copy to Mr. B. H. H. 15/6/97
done
15/6/97

~~ceases to be used~~
as an armoury etc
Please see ltr.

259 ltr (J)
3.4.89
242 Res (H)
8/4/97

For flagged J and H
Perhaps it would
be safer to send for
copy Pubd/13.4.97
(P) with an office
note (and copy of H.E.'s
note) to the Revenue
Dept. and enquire
whether the words
"for use as an armoury"
implies the condition
stated by H.E. the Governor.

Mr. B. H. H. 15/6/97
done
15/6/97

C.S.
14/6/97

C.S.
6/7

C.S.
15.6.97

[3.]
[14]

200-6-2-27.

CURRENT NO. 53
REVENUE DEPARTMENT.

OFFICE NOTE No. 53.

Dated 28th June 1897.

Reception

From

THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT,

To

THE Chief Secretary to Government.

In reply to the office note
No. 1272 (Public Department) dated 15th
June 1897, the undersigned has the
honour to state that the words quoted
therein imply the condition that the ^{land}
should revert to Government when it
ceases to be used for the purpose for
which it was granted.

G. S. S.

Ag. Secretary to Govern

Public Dept

nos. 2090 & 2382

SUBJECT.

Mortgage of buildings to be
erected by the Nilgiri
Volunteer Rifles.

FOR ORDERS.

(2) H. E. THE GOVERNOR.

(1) THE HON'BLE ^{Secy} MR. BLISS, KC.I.E.

~~THE HON'BLE MR. GROVE, C.I.E.~~

Of course I may be utterly
wrong as to the law governing
the case, but I have always under-
stood that, if A builds on land belong-
ing to B, the building, being, in the absence
of express stipulation, to B, and not
legally paramount to A. The case
(in the P. of 1891) is that of an ab-
solute grant (absolute & absolute) of
land or not makes no difference, as far
as I know, which India has directed
shall in future not be made without
certain expressed stipulations. In this
instance, there is no absolute
grant. In order to constitute a
grant or gift there must be a
gift instrument (vide s. 123 of the
Transfer of Property Act IV of '82).
But here there is no gift instrument.
The volunteers are merely allowed
to occupy, on license as it were, for
a particular purpose. They have no
ownership in the land, but they are
called, for they cannot sell it or use
it for any other purpose than that for which it has
been, it may be said, lent to them. I
doubt that they have any property
in either land or building, but I think
of giving mortgages to the Govt. Perhaps
it would be safer to ask the Govt.
for its opinion, for I don't profess to
be a lawyer or may have overlooked
some essential point. H.B.

With reference to the Hon. Secy.

H.B. Bliss' note d. 6-7-97

it is respectfully submitted

that the Govt. of India, in its
letter no 3887. (Ind. Dept)

(C.D.) only proposes a
mortgage on the buildings
and not on the land
itself.

Under the term "buildings"
would fall (1) the existing
bells already the property
of Govt. & the bricks to
Govt. should the Corps
cease to exist - and
(2) the additional buildings
to be erected by the Corps.

1077/97

Some money has it appears,
already been spent on
these, & the Corps proposes
to spend Rs 6000 more.

If it is catani thick
then additional bridges
would ~~work~~ best in
S. W. corner. The Cape
closed lock-out, as
the bridge would be required.

Attention is, however,
respectfully invited to
the resolution of the
Govt of India no 4374
d. 23 Oct 1891, which
deals with grants of
land to local authorities.
It is then laid down
that when grants of land
are made to local
authorities the conditions
regarding the compensation
to be paid for the

H. E. THE GOVERNOR.

THE HON^{BLE} MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

FOR ORDERS:

Phetie M. Tolmie
Cape is a local authority
and should be treated as
such. and

erect should be expressly
stated. These regulations
show that, when Govt
takes the land it has
to pay compensation for
the buildings. Whether
resumption of the land, in
the present case, because the
Coys had ceased to use
it, would involve the
payment of compensation by
Govt are points that are
not free from doubt: but
the resolution seems to show
that the buildings erected
by a local authority are
its own property: in the
present case therefore
the buildings to be erected

will be the property of
the Volunteer Corps.

If the Corps were to
cease to exist the

building might, it would
seem, be dismantled

by the Corps & the materials

sold; ~~but the~~

this Govt. could only claim

back the land & the

surrounding wall.

Under these circumstances,

if the ruling of the Govt.

is to apply in this case,

a mortgage on the part

of the buildings on which

belong to the Corps will,

it is respectfully submitted,

be valuable to Govt. though

of little value to any

third party.

AV.

9/7/57

18
9.12.57

1049
O.M. no 1449 d. 12th July 1897

In reference to his letter no
178 d. 23/3/97 the opinion of the
Govt. Solicitor will be requested
on the following points in
connection with the proposed
mortgage to Govt. of the
amount to be erected by the
Malgudi Vol. Rifles.

The site of the proposed
building is the property of
Govt., and is ~~to be~~ placed at
the disposal of the Corps,
~~provisionally~~ subject to the
condition that it shall
remain to Govt. should the
Corps cease to exist or to
use the site for ^{any other} purpose
than that for which it
has been granted. The
land, therefore, & the walls
which at present stand on it,
are not the property of the
Corps. The question here

18
9.12.57

mean whether, in case the
 it should ever be sold, the
 buildings which it is proposed
 to ^{erect} ~~build~~ would fall upon
 the land, or whether they
 would remain the property of
 the corp., and be removable
 at pleasure. If the buildings
 were to become the property
 of the Corp. appears
 of Govt. as mortgagee or otherwise
 acquisition possible or necessary.
 The matter might, of course,
 be decided by special
 stipulation, but the Govt. will
 be glad to have the opinion
 of the Govt. Solicitor as to
 the eventual ownership of
 the building, in the absence
 of any such stipulation.

M.
 12/7/97

12
 12/7/97

J. M. Govt. Solicitor.

Pub.
 29.
 1,000-3-3-97

Public (1897) Department.

CURRENT No. 2676

Order

From

The Govt. Solicitor
 Madras.

No. 394

Dated

Received

Registered

Enclosures

Spare copies

17
 18
 19 } 8-97

SUBJECT.

Replying to memo-no.
 1449. Re the grant to
 the Mysore Vol Rifle
 Vols of the site of the
 proposed armoury &c.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT No. 2576

No. 384

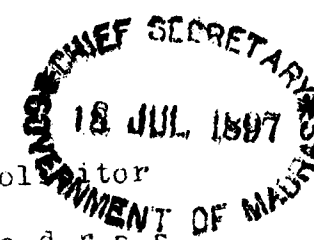
Madras 17th July, 1897

From,

Ernest Barclay

Government Solicitor

Madras.



To,

The Chief Secretary to Government,

Ootacamund.

Sir,

I beg to acknowledge receipt of your Memorandum No 1449 dated 12 instant

2. It is stated therein that the site of the proposed Armoury &c is the property of Government and is placed at the disposal of the Corps of Nilgiri Rifle Volunteers subject to the condition that it (the site) shall revert to Government should the Corps cease to exist or use the site for any other purpose than that for which it has been granted. In the first place it is not apparent by whom such condition is to be entered into on behalf of the Corps unless it be by every member of it and that would be practically impossible and would bind only such members of the Corps as entered into the condition. I would advise therefore that great care be taken that any such condition be entered into by some responsible person as the Corps itself has no corporate existence and cannot contract

3. In the event of the site reverting to Government I am of opinion that the buildings erected on it would not, in the absence of a special stipulation, fall to Government. Though the provisions of the Transfer of Property Act do not apply to grants or other transfers of land - by Government so that the person who entered into the contract with Government would not have the right given by that Act to tenants to remove at any time before the expiration of the tenancy any buildings erected on the land, it has been held by the High Court of Bengal that, except in Calcutta, the general rule is that buildings do not become the property of the owner of the soil on which they are erected merely because they are erected (In re Thakoor Chander, Paramanick, Beng.

Put up

Not available
Put up

Put up

L.R. Sup. Vol 595, Russicklol Mudduck v Lokenath, I.L.R. 5 Cal 688, ^{Jug-}
-out Mohinee v Dwarka Nath, I.L.R. 8 Cal 582) Again, in a Mofussil
case in Madras where a tenant from year to year built a house on
the property which had been avowedly granted as a house site and
shortly afterward a suit was brought to eject him, the High Court
gave the Lessor the option of paying for the house and resuming the
land or of receiving the value of the land from the Lessee (Mahalat
-chmi v Palani Chetti 6 Madras H.C. 245) So in the present case, where
the site is avowedly granted for the erection of armoury buildings,
the Court would no doubt hold that such buildings would not pass to
Government on the termination of the occupancy unless it were so
agreed between the parties.
4. I would further point out that in any case it would be very
advisable, if not absolutely necessary, to have some document by which
the condition that the property (if only the site) should revert
Government under the circumstances mentioned might be evidenced.

I have the honor to be

Sir

Your Obedient Servant

James Baclay

Government Solicitor.

b.
9.
5-2-97.

Public (1897) Department.

CURRENT No. 2688

E

Y

From

The S. G. G.

Madras

order

No. 03

11.10.11154

Dated

Received

Registered

Enclosures

Spare copies

19
4
20 } 2-27

SUBJECT.

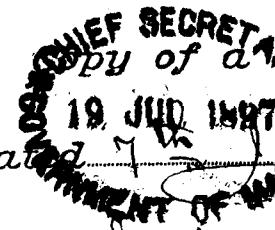
Requesting that in-
structions may be issued
to the Govt. Solicitor for
the early preparation of
the mortgage deed of
Wilgiri Vol. Rights.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS

G.O.	No.	Department.	Date.



Copy of a letter No. 1428/97
 dated 7th July 1897
 from the Agent, Royal Insurance Company Ltd
 to the Adjutant, Madras Volunteer Rifles, Madras

I have sent you under separate cover
 registered your Fire Policy No. 5991821 for
 Rs: 6000 and Prem Receipt for Rs: 22-8-0.
 Please send undersigned 1st Annual Prem Rs:
 22-8-0 at an early date and oblige.

"True copy"

S. Reay: Captain
 Dy. Asst. Adjutant General
 Madras Command

[Signature]

Copy of a letter No. 262

dated Ootacamund the 14th July 1897
from the Commandant, Madras Volunteer Rifles
to the Dy. Secy. and General, Madras Command
through Southern District.

With reference to Government of India
Military Department Advance N 388 F dated
Fort William 5th February 1897, I have the honor
to forward herewith letter dated 7th instant from
the Agent Royal Insurance Company, which will
show that I have carried out the Government
requirement as to insurance of the building.

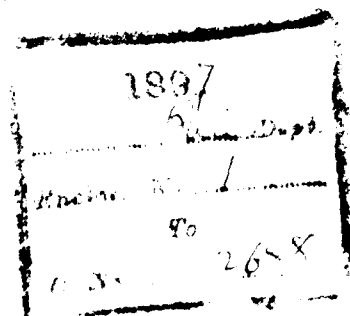
The Insurance Policy N. 5991821 dated 25th
June 1897 is now in this Office.

2 There now remains only the mortgage
deed, to be prepared by the Government Solicitor,
and it is hoped that this will be forthcoming at an
early date, as the Corps is being put to serious
inconvenience on account of the loan not having been
received.

II

District Staff Office

Southern D. Wellington, 15th July



No 2637 B

Forwarded

(Signed) G. J. Luard Esq. General
Commanding Southern D.

III CURRENT No. 2688

Colacumund

19th July 1897

N B
MW 11154
I

The Chief Secretary to the Government of Madras

Forwarded in continuation of this

Office Memo. No. 8692 of 3rd. 9th June.

With reference to para 2 of the

Commandant's letter, it is hoped that instructions
will be issued to the Government Solicitor for the
early preparation of the mortgage deed referred to.

J. Neville

Lt. Colonel

Asst. Quarter Master General

For Dy. Adjutant General

[Signature]

22.7.97.
1897

[G.]
26
500-25-11-96

H. E. THE GOVERNOR.

THE HON'BLE Mr. BLISS, C.I.E.

THE HON'BLE Mr. GROSE, C.I.E.

Public Dept.

2090, 2382 +

Cur. 2676

SUBJECT.

Loan to the Nilgiri
Volunteer Rifles

FOR ORDERS.

Anyway it is clear that
no one can mortgage the building -
The case remains as far as I can see
substantially as it was. The only thing to
do is to require this Commt.
to send me the original Commt. to contract
separately - after all, it is in India
to decide. All we can say is that
we don't know how to carry out its
order as to the mortgage.

24/7/97

In accordance with H.M.'s note
dated 10/7/97 the reference
at was made to the Gov.
Solicitor. Current no 2676
is his reply.

In the regard to the point raised
in his note etc. he says that
"The Comt. should not doubt hold
that such buildings would not
pass to go to the tenants
of the occupancy." This opinion
is based on decisions of the
High Court of Madras that land
do not become the property of
the owner of the soil in which
are erected merely because they
are erected, and on a rule
of the Madras High Court (6.
245) in which it is said that
the expectation of a tenant in
lease was given the opinion of

paying for the tenant's building
or of selling him the land.
Under these circumstances
it would appear necessary that
some special stipulation
should be entered into with
the Cape, & if the building
are to be in fact the
houses are funded by the
Govt. I think shows, it is
agreed, that the building
in the present case, and
probably be considered the
property of the Cape.

The Govt. Solicitor's opinion
to a point that he raised
in his letter of 23/3/97, namely
the question as to the person
who should contract on
behalf of the Cape. He
points out that the Cape is
not a corporate body. The
Commandant can, it is submitted,
contract on behalf of the
Cape: this is a difficult
binding his successors is an
imaginary one.

copy at

* I don't know that it is so. Of course any
decision by the contracting Commandant
must be made aware that there
was the responsibility of attaching to
the Cape, and if he accepted the loan and
he would become legally responsible.

31/7/97

24.7.97

[12]
26

(2) H. E. THE GOVERNOR.
(3) THE HON'BLE MR. BLISS, K.C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

Public DEPARTMENT.

C. No. 2090, 2382 + 2676.

SUBJECT.

Loan to the Nilgiri Volunteer
Rifles.

FOR ORDERS.

On proceeding to draft,
from orders, a letter to India
pointing out that a mortgage
on the buildings to be erected
by the Nilgiri Volunteer Rifles
is required, it has been found
that the letter of India regarding
the loan of Rs 6000, and
laying down the terms on which
it has been granted, was
not communicated to the
Port. of India, but has only
come up on the side issue as
to whether the services of the
Port. Solicitor may be used
for the purpose of drawing
up the mortgage deed.
This fact, which should have
been pointed out immediately
after Sir H. Dill's note of 6/7/97

* in and? The letter by
the G.O. & L. the L.G.C.
is at Flag D 10

* just before

was unfortunately overlooked.
The original note for order
obtained instructions as to
whether the Govt Solicitor might
know of the deed: then
beginning was made on various
points regarding the mortgage
in accordance with orders, & the
note gradually grew until the
fact that the Govt. had
not been asked to see to the
mortgage was lost sight of.
The mistake is regretted.
When an error is pointed out
to the Govt, under the
circumstances, I think
should be addressed directly.
That course seems hardly
regular; the more correct
procedure would be, it is
submitted, to enter the
views of this Govt. in a G.O.
to send it to the D.A.G.,
who will communicate with
India.

As things stand at
present India has told
the L.G.C. to see that
the mortgage is carried out.

I think so

As
24/7/97

and has not mentioned the
matter to this Govt. The L.G.C.
has communicated with
India direct, sending copies
of his letter to Govt.

AX.
23/7/97

10
23/7/97

Milgiri V.R. loan

NOTE FOR THE CHIEF SECRETARY.

Hris have ordered that
Indes should not be
addressed. It that a
G.O. should issue.

I am not quite clear what
form a G.O. should take
in a case like this where
Govt is suggesting to the
Patna L.G. C. F. that
he should take further
orders before proceeding.

With regards to the last
para of the draft submitted,
please see H.C. the Govt's
order of O. S. H. D. has
been said nothing on this
point evidently under the
belief that such an
order was required as
Indes was to be addressed.

Orders are solicited as
whether the para should
remain. The Military
authorities are asking for
orders. vide no 2688.

Atk
26/7/87

2090, 2382, 2676
v 2688.



Public Dept.

nos. 2090, 2382, 2676
v 2688.

~~H. E. THE GOVERNOR.~~
^{Mr. H. E.}
THE HON'BLE MR. BLISS, C.I.E.
~~THE HON'BLE MR. GROSE, C.I.E.~~

SUBJECT.

Loan to the Nilgiri
Volunteer Rifles.

FOR ORDERS.

I am sorry to trouble you with these papers again and were it not that the banking authorities are pressing for a reply I would have kept them until the next meeting of Council and then have obtained personal instructions. Attention is invited to the blue form note at O marked with a cross in blue pencil. You can not take on the bank whether the Corps should or should not pay the legal expenses for drawing up the mortgage deeds.

Of course it must. If I had enquired with H.E. I should have stated. When I was given, I often doubt.

27/7/97

26/7/97

[24.]
100-14-6-97.

Public DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., No.	dated	189	
Again G.O., No.	dated	189	
Current No. 2090	of 1897, dated 2/6		, from the D.A.G.
" " 2676	" 1897, " 17/7		" " the Secy. Secy.
" " 2688	" 1897, " 18/7		" " the D.A.G.

ORDER. W. 1012 of 30 July 97

(J) With his order no B H.W. 3609' hi

D.A.G. forwarded to Govt. a copy of a letter from the Secy of India Ind. Dep. to the R.G.C.F. Madras, at no 3887 d. 5 Feb 1897, setting forth the terms on which the Govt of India had sanctioned a loan of Rs 10000 to the Nilgiri Plantations Co. Ltd. from that letter it appears that the Secy of India desires that the land which is to be mortgaged to the State. The Secy in Council desires that as the land & the old well which are to be utilized are already the property of Govt. &

to be read in proceedings

all relevant to the State should
they cease to be used for the
purpose for which they have
been placed at the disposal
of the Corps, it seems doubtful
whether any investigation of the
buildings is possible.

The Gov. Solicitor has
further pointed out that it
is not apparent by whom
the mortgage can be created.

~~understand of the Gov. Solicitor.~~

^{Voluntarily}
The Corps is not a corporate
body, and even if every member
of it were bound the
objection would not extend
to these accessories.

The instructions of the S. of I.
in regard to the legal
formalities to be observed and
having been communicated to
them, it, this Gov. is
not directly concerned with
the matter. H. C. the S. C.
~~cannot be advised~~ however
thinks it best to record their
views, and to refer to them
for the information of the

The S. of I. with cooperation
with the instructions of the
S. of I. in the points raised
should be sought.

xx reported of H. C. the
L. S. C.

In regard to the report
of the Commandant, which
the Gov. S. C. should be
instructed to prepare free
of charge the necessary
deeds, H. C. the Gov. would
reply that he is unable to
inquire Section the proposed
which would arise on the
Gov. S. C. work and cannot
does not form part of his
legitimate duties. There
is no objection to the preparation
of the deeds, if required, by
the Gov. Solicitor, but the
cost of preparation should, as
the ^{Government} ~~specimen~~ of H. C. the Gov.
S. C. be borne by the Corps.

M. (from orders)
26/7/57 28/7/57

The Adjutant General's Office, Madras Command, Dec 1957

When given for copying _____
When copied _____
When examined _____
When signed _____

189

AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- Q = Copy heading only.