

Government of Madras

HOME DEPARTMENT (EDUCATION).

G.O. No. 1324, 23rd October 1917

Building grants

Directing the Government Solicitor, in modification of the previous orders on the subject, to charge only such fees as are admissible under the usual conveyancing scale for the examination of titles and settlement of mortgages in connexion with — and agreeing to bear one-half of the legal expenses connected with —.

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P. ORIGINAL

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READ—the following papers :—

I

G.O. No. 1128, Educational, dated 21st December 1912.

ABSTRACT.—Permitting the Government Solicitor to charge fees not exceeding 1 per cent of the building grants for the examination of titles and settlement of mortgages in connexion with the building grants sanctioned for educational institutions.

II

Letter—from the Hon'ble Mr. J. H. STONE, M.A., F.R.H.S., C.I.E., Director of Public Instruction.

To—the Secretary to Government, Home (Education) Department.

Dated—Madras, the 28th June 1917.

No.—R.C. 1834 of 1913.

In G.O. No. 385, Educational, dated 5th April 1916, a grant of Rs. 34,073 was sanctioned towards the cost of extending the Tirukkattuppalli High school buildings. The work has been completed and the grant paid. The draft mortgage deed submitted by the manager of the school, Sir P. S. Sivaswami Ayyar, was, in the usual course, sent to the Government Solicitor together with the conveyance deed for scrutiny and he approved it with some modifications. Sir Sivaswami Ayyar was thereupon requested to remit to the Government Solicitor a sum of Rs. 340-12-0 on account of his fee for examining the deeds. In this connexion Sir Sivaswami Ayyar has addressed to me a letter dated 27th May 1917 and the Government Solicitor has sent me his views thereon. I have the honour to submit copies of these two letters for the orders of Government.

ENCLOSURES.

(i)

Letter—from Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E., Ootacamund.

To—the Director of Public Instruction.

Dated—the 27th May 1917.

I have to acknowledge the receipt of your R.O.C. No. 1834 of 1913, dated the 5th May 1917, with reference to the mortgage to be executed by me in respect of the grant paid by the Government for the extension of the school buildings at Tirukkattuppalli. As regards the claim of Rs. 340-12-0 as the fee due to the Government Solicitor for examining the deeds at the rate of 1 per cent of the sanctioned grant, (I wish to point out in the first place that as a matter of principle the examination of the title-deeds by the Government Solicitor having been made in the interest of the Government and not on my account or at my request, it is not fair in principle that I should be called upon to pay the charge. In the next place, the land having been acquired by the Government under the Land Acquisition Act and conveyed to me there was no necessity in the face of the conveyance executed to me by the Government to call for an examination of the deeds. Thirdly, the ad valorem fee (Rs. 340-12-0) of 1 per cent of the sanctioned grant for the examination of the deeds in a case like this, in which practically very little work has been done by the Government Solicitor is exorbitant.

Under these circumstances I have the honour to request that you will be good enough to place my letter before the Government for their orders.

I will have the mortgage engrossed on stamped paper of the value of Rs. 172-8-0 and sent it to you for signature at an early date.

(ii)

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.

To—the Director of Public Instruction.

Dated—Madras, the 21st June 1917.

No.—775.

I have the honour to acknowledge receipt of your letter No. 1834 of 1913, dated the 14th June 1917, with copy of letter, dated the 27th May 1917, from Sir P. S. Sivaswami Ayyar.

2. By virtue of G.O. No. 1128, dated 21st December 1912, I am entitled to charge fees for the examination of titles and the settlement of mortgages in connexion with building grants sanctioned for educational institutions not to exceed 1 per cent of the grant.

3. Whether the grant is a large or small one I only get 1 per cent on it,—sometimes the work which I have to do is out of all proportion to the grant, e.g., on a grant of Rs. 450 my fee is Rs. 4-8-0 when according to Solicitor's conveyancing scale for the work actually done in perusing and considering title-deeds pointing out defects in title and getting same rectified and settling the mortgage my fees would run into hundred of rupees and I apprehend that this was taken into account when my fees were settled by Government at 1 per cent.

4. Sir Sivaswami Ayyar points out that the examination of the title-deeds having been made in the interests of the Government and not on his account or at his request it is not fair in principle that he should be called upon to pay the charge—Sir Sivaswami Ayyar is a lawyer and knows well that the mortgagor always has to pay the mortgagee's costs. In the present case the Government is the lender mortgagee and Sir Sivaswami is the borrower mortgagor, therefore he should pay the costs. As to his second point I can only say with your letter No. 1834 of 1913, dated the 22nd March 1917, you forwarded draft mortgage and enquired whether it might be accepted and you stated that the site was acquired by Government under the Land Acquisition Act and sent the conveyance deed relating thereto. To enable me to say if the mortgage might be accepted I had to see the title was in order. With reference to his third point I have dealt with this in paragraph 3 of this letter.

5. I really see no reason why I should forego my fee in this case.

III

From—H. BRIGHTWELL, Esq., Government Solicitor.

To—the Superintendent, Home (Education) Department.

Dated—Madras, the 31st July 1917.

No.—916.

With reference to your telephone message, dated the 30th July 1917, the scale referred to in my predecessor's letter to the Director of Public Instruction No. 791, dated the 27th June 1912, is the usual conveyancing scale the items in respect of which are chargeable as follows:—

For perusals Rs. 3-8-0 per document or 4 annas per folio where they are long.

„ instructions for conveyances, leases, mortgages, etc., according to the character and importance of the document from Rs. 3-8-0 to Rs. 15.

	RS.	A.	P.
„ drawing documents per folio	1	8	0
„ fair copying per folio	0	12	0
„ engrossing „ „	0	12	0
„ letters each	2	8	0
„ „ special	5	0	0
and if more than 5 folios at the rate of Re. 1 per folio.			
„ perusals of letters each	1	4	0
„ attendances Rs. 3-8-0 to Rs. 50 according to the importance and length of time occupied.			
„ attendances out of office Rs. 10-8-0 to Rs. 15.			

2. With reference to the authority asked for I cannot do better than refer you to G.O. No. 2914, Judicial, dated 30th November 1915, and my predecessor's letter No. 941, dated the 17th August 1915, referred to therein particularly paragraph 6 and from that Government order you will see that the Government agree with the Government Solicitor that he is entitled to fees for preparing leases and other deeds of transfer of property by Government to third parties. This, of course, has nothing to do with the scale of fees which I am entitled to charge under G.O. No. 1128, Educational, dated 21st December 1912.

IV

Memorandum No. 545 B-3, Home (Education), dated 10th August 1917.

With reference to his letter to the Director of Public Instruction, Madras, No. 775, dated the 21st June 1917, the Government Solicitor is requested to state what fees he would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

R. RAMACHANDRA RAO,
Secretary to Government.

To the Government Solicitor.

V

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.

To—the Secretary to Government, Home (Education) Department.

Dated—Madras, the 14th August 1917.

No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school had I adopted the scale given in my letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage-deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

VI

Memorandum No. 545 B-6, Home (Education), dated 7th September 1917.

With reference to paragraph 2 of his letter No. 1009, dated the 14th August

1. Conveyance of the site by the Government to Sir P. S. Sivaswami Ayyar
2. Printed draft of the proposed mortgage and manuscript schedule of the sites proposed to be included in the mortgage.

1917, the Government Solicitor, Madras, is furnished with the documents specified in the margin relating to the Tirukkattuppalli high school and he is requested to furnish the Government with the information called for in

Memorandum No. 545 B-3, dated the 10th August 1917, at a very early date.

R. RAMACHANDRA RAO,
Secretary to Government.

To the Government Solicitor, Madras, with enclosures.

VII

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.

To—the Secretary to Government, Home (Education) Department.

Dated—Madras, the 12th September 1917.

No.—1180.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-6, dated the 7th September 1917, with enclosures which I return herewith.

2. I beg to forward herewith a note of the charges according to the conveyancing scale which furnishes the information called for in Memorandum No. 545 B-3, dated the 10th August 1917.

ENCLOSURE

[Re-examination of title in connexion with the building grant sanctioned for the Tirukkattupalli high school.

	RS.	A.	P.
23rd March, 1917.—Perusing letter from you, sending draft mortgage-deed executed by Sir P. S. Sivaswami Ayyar and also the conveyance-deed relating thereto and enquiring whether it might be accepted.	1	4	0
23rd March, 1917.—Perusing the draft mortgage and the conveyance deed, enclosures to above letter, folios 54.	13	8	0
27th March, 1917.—Writing you advising thereon and suggesting certain alterations as mentioned therein and returning the enclosures to your letter.	5	0	0
19th April, 1917.—Perusing letter from you with reference to paragraph 2 of above letter stating that the sum of Rupees 17,113-6-5 entered in the draft mortgage-deed appeared to be the actual total cost paid for the site while the amount entered in the conveyance-deed appeared to be the portion of the cost borne by the management and that under the circumstances to know whether it was necessary to make the alterations suggested by me and sending the two deeds.	1	4	0
21st April, 1917.—Perusing the two deeds sent and considering the question raised in the above letter writing you special letter advising and returning the enclosures sent me.	1	15	0
21st June, 1917.—Perusing letter from you forwarding copy of letter, dated 27th May 1917, received from Sir P. S. Sivaswami Ayyar and to have my remarks thereon and perusing enclosure.	3	8	0
21st June, 1917.—Writing you in reply pointing out the reasons how I am entitled to my fees as were settled by Government at 1 per cent and thereon.			
Total ...	39	8	0

Order—No. 1324, Home (Education), dated 23rd October 1917.

The question of the fees chargeable by the Government Solicitor for the examination of titles and the settlement of mortgages in connexion with building grants sanctioned for educational institutions has, with reference to the correspondence read above, again been brought before Government for consideration. They have come to the conclusion that the ad valorem scale fixed in G.O. No. 1128, Educational, dated the 21st December 1912, does not work equitably. They accordingly direct, in modification of paragraph 1 of that Government order, that the Government Solicitor should charge only such fees as are admissible under the usual conveyancing scale, which makes due allowance for the amount of work involved.

2. In future, one-half of the legal expenses connected with a grant for the purchase of lands or buildings will be borne by the Government.

3. The case of the Tirukkattupalli high school referred to in the Director's letter read above should be disposed of in accordance with these orders.

(True extract)

R. RAMACHANDRA RAO,
Secretary to Government.

To the Director of Public Instruction.
" Accountant-General (through Financial).
" Home (Judicial) Department.
" Financial Department.
" Government Solicitor.
Editors' Table (paragraphs 1 and 2 of order only).

NOTES CONNECTED WITH G.O. No. 1324, HOME (EDUCATION),
DATED THE 23RD OCTOBER 1917

[SUBJECT.—Fees to Government Solicitor.]

HOME (EDUCATION) DEPARTMENT.

Sir P. S. Sivaswami Ayyar told me yesterday some question of a deed of conveyance of lands attached to Tirukkattupalle school was pending and wished me to have the matter disposed of soon.

Please let me see the papers.

R. RAMACHANDRA RAO—28-6-17.

Please see G.O. No. 1215, Home (Education), dated the 20th November 1916, in which the deed of conveyance of lands acquired for the Tirukkattupalle school was signed and returned to the Collector of Tanjore. No other question of deed in connexion with that school has come up to Government since. Perhaps Sir Sivaswami Ayyar may be informed accordingly.

P.R.—29-6-17.

C. RAMANUJA ACHARIYAR—29-6-17.

What Sir P. S. Sivaswami Ayyar spoke to me was that he was called on to pay the Government Solicitor's fees (something like Rs. 300) for the deed. Any papers?

He contends that as a lawyer he scrutinised the deed for his own purposes and that if Government needed any further scrutiny Government should pay the fees. Judicial section?

R.R.—29-6-17.

From the Director of Public Instruction, dated the 28th June 1917, R.O.C. No. 1834.

Please see G.O. No. 1128, Educational, dated the 21st December 1912, and the notes connected therewith. The Government Solicitor's claim for the fees he demanded appears to be justified by the orders as they now stand. There is, however, force in Sir P. S. Sivaswami Ayyar's statement that, the land having been acquired by the Government under the Land Acquisition Act and conveyed to him, there was no need to call for an examination of the deeds. In view of this fact it is for consideration whether the orders in G.O. No. 1128, Educational, dated 21st December 1912, may be modified so as to entitle the Government Solicitor to a smaller fee in cases in which the property mortgaged has been acquired under the Land Acquisition Act. If so, the remarks of the Judicial Department may be obtained on the point and that department may be requested to suggest a reasonable percentage of the fee leviable in such cases.

P.R.—2-7-17.

G.O. No. 1128, Educational, dated the 21st December 1912, prescribes the maximum scale of fee that can be levied by the Government Solicitor. It appears that this scale is uniformly applied to all cases without any variation to suit the nature of individual cases. This procedure is sought to be justified by the fact that the scale when applied to cases involving smaller amounts brings him only a small fee. This may not be fair, as the fees are payable by managers and as it will virtually be asking one manager to pay more than what he should, to compensate for the smaller fee paid by another. Within the maximum prescribed, the fee should reasonably bear some proportion to the amount of work involved. As pointed out above, in the present case there should have been comparatively less work, the title having been settled by the application of the Land Acquisition Act and the mortgage being in the usual form prescribed in the Grant-in-aid Code.

This indicates the necessity for a varying scale to be prescribed by Government if that would be feasible, instead of leaving the question entirely to the discretion of the Government Solicitor. Judicial may be consulted.

2. As regards the *general* question whether the mortgagor should pay the charges for the examination of the titles and settling the mortgage incurred by the mortgagee (the Government) the Government Solicitor's opinion may be accepted for the reasons given by him in paragraph 4 of his letter. The fact that such examination is only in the interests of Government does not seem to affect the question. The Government have already decided this point in G.O. No. 1128, dated 21st December 1912, and there seems to be no reason to reopen it. The only point for consideration is about the scale of fee referred to above.

C. RAMANUJA ACHARIYAR—3-7-17.

Acquisition under the Act conveys an indefeasible title. Examination of prior title-deeds is not necessary.

2. The mortgage deed is in the code; there is no conveyancing.
3. The only argument for the payment of the fee is, it is usual, for the mortgagor to pay. But there is considerable force in Sir P. S. Sivaswami Ayyar's arguments.
4. Sir P. S. Sivaswami Ayyar desires me to submit the case for His Excellency's orders.

First to the Judicial section for remarks.

R. RAMACHANDRA RAO—3-7-17.

HOME (JUDICIAL) DEPARTMENT.

Under G.O. No. 1128, Educational, dated 21st December 1912, the Government Solicitor is entitled to a fee for scrutinizing the mortgage bond. His work in this case was no doubt very light, and it is open to the Government to sanction the payment to him of a fee not exceeding one per cent of the grant paid to the school. The terms of paragraph 1 of G.O. No. 1128, Educational, dated 21st December 1912, make it clear that one per cent is the *maximum* payable to the Government Solicitor and that in particular cases any fee within that limit proportionate to the work involved may be sanctioned. [Cf. in this connexion rule 11 (1) of the rules on pages 4-5 of G.O. No. 545, dated 11th March 1915, prescribing that the fees to Public Prosecutors should be graduated within the maximum of Rs. 25 per diem with due regard to the work involved in each case.] The same principle may be applied to the present case also.

As regards the actual amount of fees that should be paid on the present occasion, perhaps this department may suggest that half the maximum fees admissible or Rs. 170-6-0 will be a suitable remuneration.

2. It may also be suggested that for his future guidance, the Director of Public Instruction may be told that he has the discretion to fix the fees of the Government Solicitor in cases of this kind in proportion to the amount of work involved in each case subject to the maximum of one per cent (paragraph 1 of G.O. No. 1128, Educational, dated 21st December 1912).

A.K.K.—7-7-17.

C.R.—7-7-17.

E. A. HARVEY—7-7-17.

HOME (EDUCATION) DEPARTMENT.

Submitted for orders with reference to paragraph 4 of the Secretary's note above.

P.R.—9-7-17.

Judicial is for paying fees to the Government Solicitor; the rate to be determined within the maximum. If fees are to be paid eventually, we have no data to fix the *actual* amount. The Director of Public Instruction may have to be consulted. The suggestion of Judicial to fix it at half the maximum is only arbitrary.

C. RAMANUJA ACHARIYAR—10-7-17.

Has Director of Public Instruction any suggestions to make?

R. RAMACHANDRA RAO—11-7-17.

OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION.

The amount of fee suggested above is no doubt arbitrary, but I am not able to fix in this or any other case what ought to be paid. It appears to me that only a lawyer can do this.

2. If the whole question is going to be reconsidered I should like to suggest whether it is after all equitable for the grantee to pay all the legal expenses of a grant for the purchase of land or buildings for educational purposes. Government is as much interested in the matter as the grantee, since the grant is made for a public purpose. It might lead to carelessness on his part if the grantee were wholly relieved of the expense. But there is much to be said for Government's paying half as they do for the preparation of plans and estimates.

J. H. STONE—13-7-17.

HOME (EDUCATION) DEPARTMENT.

The Director of Public Instruction pleads inability to decide in this or in any other case what fees ought to be paid to the Government Solicitor. It seems therefore necessary that the Government should prescribe a scale of fees. As such a varying scale to suit different cases cannot easily be fixed, it is for consideration whether the limit of one per cent of the grant laid down in G.O. No. 1128, Educational, dated the 21st December 1912, may be subject to a maximum of, say, Rs. 200 or 250 in each case. Perhaps the Judicial Department may be requested to state whether such a condition may be imposed, or whether a definite, varying scale to suit all cases may be laid down for the guidance of the Director of Public Instruction and in the latter case to suggest one.

2. In view of the Government Solicitor's remarks in paragraph 4 of his letter it does not appear that there is sufficient reason to consider the question of the Government's undertaking to pay one-half of the Government Solicitor's fees in such cases as suggested by the Director of Public Instruction.

P.R.—17-7-17.

T.K.—19-7-17.

First as regards the amount of fee to be paid, we may ask the Government Solicitor himself to fix it with reference to the *work* involved in the present case and not at the uniform maximum rate of one per cent of the grant. He has not till now attempted to fix the fee in this case with reference to his labours and we should first hear what his demand is. The Director of Public Instruction may be asked to ascertain this.

2. As regards the incidence, the Director of Public Instruction's proposal that the Government should meet half the cost seems reasonable. As observed by him the interests of Government are equally involved in view of the grants from Provincial funds given for such undertakings. Rule 52 (ii) of the Grant-in-Aid Code provides for the fee, paid to the architect and draughtsman employed in preparing plans and estimates for educational buildings for which grants are sanctioned, being included in the estimates. The grants sanctioned are based on the amount of estimates and bear a definite proportion to it. Fees paid to solicitors for examining title-deeds and fixing the mortgages may also be similarly treated, and according to the usual rate of

grant may be borne equally by the management and the Government. This arrangement, if approved, will be in modification of that sanctioned in G.O. No. 1128, Educational, dated 21st December 1912, in which it was decided that the amount should be recovered wholly from the management.

C. RAMANUJA ACHARIYAR—23-7-17.

Strictly speaking, Sir P. S. Sivaswami Ayyar cannot complain as he must have been duly informed—vide paragraph 2 of G.O. No. 1128, Educational, dated 21st December 1912.

2. But there is much force in the Director's views and in Sir P. S. Sivaswami Ayyar's objections. While conceding that a lawyer ought to be paid a fee, I think the fee ought to be proportionate to the labour involved. In cases like this, the form of conveyance is stereotyped. I should therefore think the fee may be limited to a maximum of Rs. 250.

3. If the Director's opinion—that half the fee should be borne by Government—be accepted, it follows that half the fee need not be actually disbursed as the Government Solicitor is a public servant. If this be accepted, the simplest method of giving expression would be by amending the second sentence of paragraph 1 of the Government Order above referred to.

This sentence is as follows:—

'But this permission will be subject to the condition that the fee proposed shall in no case exceed one per cent of the grant.'

4. For orders whether—

- (a) the present practice may continue, or
- (b) the words 'not exceeding Rs. 250' be added to the above sentence, or
- (c) whether the last six words of the sentence be omitted and the following words be inserted:—

"One-half per cent of the grant not exceeding Rs. 125."

R. RAMACHANDRA RAO—24-7-17.

The Director of Public Instruction's suggestion as to half-and-half seems worthy of consideration if the present rule as to fees is to be re-considered.

But I shall be glad to have Honourable Member, Judicial's views as to (i) the general question, (ii) this particular case, first.

P[ENTLAND]—25-7-17.

In his letter of 27th June 1912, the Government Solicitor suggested, as an alternative, that fees 'might be charged at the usual scale' according to the amount of work involved as I am now permitted to charge for leases granted (cf. also G.O. No. 2914, Judicial, dated 30th November 1915). Can you give me particulars of the "usual scale"?

H. F. W. G[ILLMAN]—25-7-17.

Please see paragraph 1 of the Government Solicitor's letter No. 916, dated the 31st July 1917, which contains the 'usual scale' of fees charged by him.

According to these rates, the outside fee, that is, chargeable is Rs. 30-8-0. This assumes that there was only one document for perusal that the highest fee for instructions, viz., Rs. 15, is leviable in this case, and that the document extended over four folios. It may probably be better to ascertain from the Government Solicitor, himself, **M** as to what he would have charged under these rates for the mortgaged-deed in question. In any case there seems to be little doubt that the fee according to these rates will be much lower than the ad valorem rate of 1 per cent of grant.

T.K.—1-8-17.

C.R.—3-8-17.

It is better to get the information above **M** from the Government Solicitor. Draft.

R.R.—4-8-17.

A draft memorandum is submitted for approval.

P.R.—4-8-17.

T.K.—6-8-17.

C. RAMANUJA ACHARIYAR—9-8-17.

Issue

R. RAMACHANDRA RAO—10-8-17.

[Memorandum No. 545 B-3, dated the 10th August 1917.]

From the Government Solicitor, No. 1009, dated the 14th August 1917.

Please see the Government Solicitor's letter. One of the deeds examined by the Government Solicitor must have been the conveyance on pages 3-4 of G.O. No. 1215, Educational, dated the 20th November 1916. It is not clear whether there were any other. No copy of the mortgage-deed is also available. Submitted that documents or their copies may be obtained from Sir Sivaswami Ayyar and forwarded to the Government Solicitor to enable him to estimate his charge under the scale given in his letter. The following demi-official is for approval:—

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO AVARGAL, Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

Dated—Ootacamund, the 20th August 1917.

With reference to your letter to the Director of Public Instruction, dated the 27th May 1917, regarding the Government Solicitor's fee for examining the title and mortgage-deeds relating to the Tirukkattupalli high school, I am desired to request you to furnish me with all the documents, title and mortgage-deeds examined and granted by the Government Solicitor in that connexion or with a copy thereof, for reference.

P.R.—16-8-17.

C.R.—18-8-17.

R.R.—20-8-17.

Demi-official—from Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO AVARGAL, Secretary to Government, Home (Education) Department.

Dated—Camp, Tanjore, the 27th August 1917.

Your letter of the 21st instant was received by me at Tinnevely two days ago. I will send you all the title-deeds examined by the Government Solicitor in connexion with the Tirukkattupalli high School, as soon as I go to Madras which it will be on the 30th instant.

Demi-official—from Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO AVARGAL, Secretary to Government, Home (Education) Department.

Dated—Madras, the 4th September 1917.

As desired in your demi-official No. 545 B-4, dated 21st ultimo, I send you herewith the documents submitted to the Government Solicitor and request you will be good enough to acknowledge receipt of the same.

List of documents.

1. The conveyance of the site by the Government to myself.
2. Printed draft of the proposed mortgage and manuscript schedule of the sites proposed to be included in the mortgage.

A draft memorandum to the Government Solicitor forwarding the documents is submitted.

2. The following demi-official may be sent to Sir Sivaswami Ayyar :—

Demi-official— from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO AVARGAL,
Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

Dated—Ootacamund, the 7th September 1917.

No.—545 B-5.

(1) Conveyance deed.

(2) Printed draft of the proposed mortgage and manuscript schedule of the site proposed to be included in the mortgage.

I write to acknowledge, with thanks, the receipt of the papers noted in the margin forwarded with your demi-official of the 4th instant.

P.R.—7-9-17.

C. RAMANUJA ACHARIYAR—7-9-17.

R. RAMACHANDRA RAO—7-9-17.

From the Government Solicitor, No. 1180, dated 15th September 1917.

The papers obtained from Sir Sivaswami Ayyar are no longer required. They may be returned to him with the following demi-official :—

Demi-official— from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO AVARGAL,
Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

Dated—Ootacamund, the 19th September 1917.

In continuation of my demi-official No. 545 B-5, dated the 7th September 1917, I am returning the documents received with your letter of the 4th instant.

2. According to the usual scale the Government Solicitor's charge is only Rs. 39-8-0 against Rs. 340-12-0 claimed by him under G.O. No. 1128, Educational, dated the 21st December 1912. The file may be submitted to the Honourable Member (Judicial) with reference to his note on page 4 ante.

P.R.—17-9-17.

C.R.—18-9-17.

R.R.—19-9-17.

There is a great difference between the fees claimed by the Government Solicitor ad valorem and those permissible according to the usual scale, the former being ten times greater than the latter. Conversely, there may be cases where the fee according to the usual scale is inadequate remuneration for the work done. It seems to me, therefore, that the ad valorem scale fixed in G.O. No. 1128, dated 21st December 1912, does not work equitably, and that it will be well to pay the Government Solicitor according to the usual scale, which makes due allowance for the amount of work involved.

2. I think that Mr. Stone's suggestion, that the Government and the grantee should each pay half the legal expenses, is a fair one and may be adopted.

3. The Government Order quoted above may be amended accordingly.

H. F. W. G[ILLMAN]—28-9-17.

Submitted to His Excellency the Governor.

R.R.—1-10-17.

P[ENTLAND]—4-10-17.

Draft.

R.R.—5-10-17.

A draft order is submitted for approval. It may be sent to Financial for acceptance.

P.R.—6-10-17.

C.R.—7-10-17.

R.R.—8-10-17.

FINANCIAL DEPARTMENT.

Please see the letter from the Director of Public Instruction with its enclosures, and his note on page 3 ante et. seq. The proposal that in future, one-half of legal expenses connected with a grant for the purchase of lands and buildings for educational institutions should be borne by Government has been agreed to by Honourable Member (Judicial) and His Excellency the Governor. The extra liability involved in the proposal is *not* known, but it does not appear that the amount involved will be large. Submitted that the draft order may be accepted in Financial.

V.V.—18-10-17.

V.G.K.—19-10-17.

L. E. KERSHAW—20-10-17.

L. DAVIDSON—20-10-17.

HOME (EDUCATION) DEPARTMENT.

The draft may now issue.

C. RAMANUJA ACHARIYAR—22-10-17.

R. RAMACHANDRA RAO—23-10-17.

[G.O. No. 1324, Home (Education), dated the 23rd October 1917.]

conveyancing scale, which makes due allowance for the amount of work involved.

2. In future, one-half of the legal expenses connected with a grant for the purchase of lands or buildings will be borne by the Govt.

3. The case of the Tirukkattupalli high school referred to in the Director's letter read above should be disposed of in accordance with these orders.

6.10.17

7.10.17

23/10/17

To,
The S.O.
A.G. (through File)
Home (and) Dept
Govt. Solicitor
E.T. (order only)



G.O. No. 1324, 23rd October 1917

Building grants

Directing the Government Solicitor, in modification of the previous orders on the subject, to charge only such fees as are admissible under the usual conveyancing scale for the examination of titles and settlement of mortgages in connexion with — and agreeing to bear one-half of the legal expenses connected with —.

Read—the following papers:—

I
G.O. No. 1128, Home (Educational), dated 21st December 1915.
ABSTRACT.—

II
Letter—from the Hon'ble Mr. J. H. Stone, M.A., F.R.H.S., C.I.E., Director of Public Instruction.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 28th June 1917.
No.—R.C. 1834 of 1913.

In G.O. No. 385, Educational, dated 5th April 1916, a grant of Rs. 34,073 was sanctioned towards the cost of extending the Tirukkattupalli High school buildings. The work has been completed and the grant paid. The draft mortgage deed submitted by the manager of the school, Sir P. S. Sivaswami Ayyar, was, in the usual course, sent to the Government Solicitor together with the conveyance deed for scrutiny and he approved it with some modifications. Sir Sivaswami Ayyar was thereupon requested to remit to the Government Solicitor a sum of Rs. 340-12-0 on account of his fee for examining the deeds. In this connexion Sir Sivaswami Ayyar has addressed to me a letter dated 27th May 1917 and the Government Solicitor has sent me his views thereon. I have the honour to submit copies of these two letters for the orders of Government.

ENCLOSURES.

(i)
Letter—from Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E., Ootacamund.
To—the Director of Public Instruction.
Dated—the 27th May 1917.

I have to acknowledge the receipt of your R.O.C. No. 1834 of 1913, dated the 5th May 1917, with reference to the mortgage to be executed by me in respect of the grant paid by the Government for the extension of the school buildings at Tirukkattupalli. As regards the claim of Rs. 340-12-0 as the fee due to the Government Solicitor for examining the deeds at the rate of 1 per cent of the sanctioned grant, (I wish to point out in the first place that as a matter of principle the examination of the title-deeds by the Government Solicitor having been made in the interest of the Government and not on my account or at my request, it is not fair in principle that I should be called upon to pay the charge. In the next place, the land having been acquired by the Government under the Land Acquisition Act and conveyed to me there was no necessity in the face of the conveyance executed to me by the Government to call for an examination of the deeds. Thirdly, the ad valorem fee (Rs. 340-12-0) of 1 per cent of the sanctioned grant for the examination of the deeds in a case like this, in which practically very little work has been done by the Government Solicitor is exorbitant.

Under these circumstances I have the honour to request that you will be good enough to place my letter before the Government for their orders.

I will have the mortgage engrossed on stamped paper of the value of Rs. 172-8-0 and sent it to you for signature at an early date.

Permitting the Govt. Solicitor to charge fees not exceeding one per cent of the building grants for the examination of titles and settlement of mortgages in connexion with the building grants sanctioned for educational institutions.

(ii)
Letter—from H. BRIGHTWELL, Esq., the Government Solicitor.
To—the Director of Public Instruction.
Dated—Madras, the 21st June 1917.
No.—775.

1. I have the honour to acknowledge receipt of your letter No. 1834 of 1913, dated the 14th June 1917, with copy of letter, dated the 27th May 1917, from Sir P. S. Sivaswami Ayyar.
2. By virtue of G.O. No. 1128, dated 21st December 1912, I am entitled to charge fees for the examination of titles and the settlement of mortgages in connexion with building grants sanctioned for educational institutions not to exceed 1 per cent of the grant.
3. Whether the grant is a large or small one I only get 1 per cent on it,—sometimes the work which I have to do is out of all proportion to the grant, e.g., on a grant of Rs. 450 my fee is Rs. 4-8-0 when according to Solicitor's conveyancing scale for the work actually done in perusing and considering title-deeds pointing out defects in title and getting same rectified and settling the mortgage my fees would run into hundred of rupees and I apprehend that this was taken into account when my fees were settled by Government at 1 per cent.
4. Sir Sivaswami Ayyar points out that the examination of the title-deeds having been made in the interests of the Government and not on his account or at his request it is not fair in principle that he should be called upon to pay the charge—Sir Sivaswami Ayyar is a lawyer and knows well that the mortgagor always has to pay the mortgagee's costs. In the present case the Government is the lender mortgagee and Sir Sivaswami is the borrower mortgagor, therefore he should pay the costs. As to his second point I can only say with your letter No. 1834 of 1913, dated the 22nd March 1917, you forwarded draft mortgage and enquired whether it might be accepted and you stated that the site was acquired by Government under the Land Acquisition Act and sent the conveyance deed relating thereto. To enable me to say if the mortgage might be accepted I had to see the title was in order. With reference to his third point I have dealt with this in paragraph 3 of this letter.
5. I really see no reason why I should forego my fee in this case.

III
Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Superintendent, Home (Education) Department.
Dated—Madras, the 31st July 1917.
No.—916.

With reference to your telephone message, dated the 30th July 1917, the scale referred to in my predecessor's letter to the Director of Public Instruction No. 791, dated the 27th June 1912, is the usual conveyancing scale the items in respect of which are chargeable as follows:—

For perusals Rs. 3-8-0 per document or 4 annas per folio where they are long.		
„ instructions for conveyances, leases, mortgages, etc, according to the character and importance of the document from Rs. 3-8-0 to Rs. 15.		
„ drawing documents per folio	...	RS. A. P.
„ fair copying per folio	...	1 8 0
„ engrossing	...	0 12 0
„ letters each	...	0 12 0
„ „ special	...	2 8 0
„ and if more than 5 folios at the rate of Re. 1 per folio.	...	5 0 0
„ perusals of letters each	...	1 4 0
„ attendances Rs. 3-8-0 to Rs. 50 according to the importance and length of time occupied.	...	
„ attendances out of office Rs. 10-8-0 to Rs. 15.	...	

2. With reference to the authority asked for I cannot do better than refer you to G.O. No. 2914, Judicial, dated 30th November 1915, and my predecessor's letter No. 941, dated the 17th August 1915, referred to therein particularly paragraph 6 and from that Government order you will see that the Government agree with the Government Solicitor that he is entitled to fees for preparing leases and other deeds of transfer of property by Government to third parties. This, of course, has nothing to do with the scale of fees which I am entitled to charge under G.O. No. 1128, Educational, dated 21st December 1912.

He can say whether the should be printed

IV

Memorandum No. 545 B-3, Home (Education), dated 10th August 1917.

With reference to his letter to the Director of Public Instruction, Madras, No. 775, dated the 21st June 1917, the Government Solicitor is requested to state what fees he would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

R. RAMACHANDRA RAO,
Secretary to Government.

To the Government Solicitor.

V

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.

To—the Secretary to Government, Home (Education) Department.

Dated—Madras, the 14th August 1917.

No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school had I adopted the scale given in my letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

VI

Memorandum No. 545 B-6, Home (Education), dated 7th September 1917.

With reference to paragraph 2 of his letter No. 1009, dated the 14th August 1917, the Government Solicitor, Madras, is furnished with the documents specified in the margin relating to the Tirukkattuppalli high school and he is requested to furnish the Government with the information called for in Memorandum No. 545 B-3, dated the 10th August 1917, at a very early date.

R. RAMACHANDRA RAO,
Secretary to Government.

To the Government Solicitor, Madras, with enclosures.

VII

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.

To—the Secretary to Government, Home (Education) Department.

Dated—Madras, the 12th September 1917.

No.—1180.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-6, dated the 7th September 1917, with enclosures which I return herewith.

2. I beg to forward herewith a note of the charges according to the conveyancing scale which furnishes the information called for in Memorandum No. 545 B-3, dated the 10th August 1917.

ENCLOSURE

[Re-examination of title in connection with the building grant sanctioned for the Tirukkattuppalli high school.

	RS.	A.	P.
23rd, March 1917.—Perusing letter from you, sending draft mortgage-deed executed by Sir P. S. Sivaswami Ayyar and also the conveyance-deed relating thereto and enquiring whether it might be accepted.	1	4	0
23rd, March 1917.—Perusing the draft mortgage and the conveyance deed, enclosures to above letter, folios 54.	13	8	0

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 14th August 1917.
No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

III

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 14th August 1917.
No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

IV

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 14th August 1917.
No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

V

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 14th August 1917.
No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

VI

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 14th August 1917.
No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

VII

Letter—from H. BRIGHTWELL, Esq., Government Solicitor.
To—the Secretary to Government, Home (Education) Department.
Dated—Madras, the 14th August 1917.
No.—1009.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, requesting me to state what fees I would have charged Sir P. S. Sivaswami Ayyar, K.C.S.I., C.I.E., for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattuppalli high school, Tanjore, had he adopted the scale given in his letter No. 916, dated the 31st July 1917.

2. I regret to state that I am not in a position to give the information required, as I have not the title-deeds relating to the property nor the mortgage deed granted nor a copy thereof, as in view of the Government order which allows me to charge 1 per cent on the grant I keep no record of the work done, there being no necessity for it.

IV

Memorandum No. 545 B-3, Home (Education), dated 10th August 1917.
With reference to the letter to the Director of Public Instruction, Madras, dated the 21st June 1917, the Government Solicitor is requested to state whether he would have charged Sir P. S. Sivaswami Ayyar, for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattupalli high school, Tanjore, had he charged the scale given in the letter No. 515 B-3, dated the 21st July 1917.

Letter from H. Ramachandra Rao, Government Solicitor, dated the 10th August 1917.
The Government Solicitor, Madras, is requested to state whether he would have charged Sir P. S. Sivaswami Ayyar, for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattupalli high school, Tanjore, had he charged the scale given in the letter No. 515 B-3, dated the 21st July 1917.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, regarding the matter stated above. I have also received the letter from the Government Solicitor, Madras, dated the 10th August 1917, regarding the same matter. I have also received the letter from the Government Solicitor, Madras, dated the 10th August 1917, regarding the same matter. I have also received the letter from the Government Solicitor, Madras, dated the 10th August 1917, regarding the same matter.

Memorandum No. 545 B-3, Home (Education), dated 10th August 1917.
With reference to paragraph 2 of the letter No. 1005, dated the 10th August 1917, the Government Solicitor is requested to state whether he would have charged Sir P. S. Sivaswami Ayyar, for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattupalli high school, Tanjore, had he charged the scale given in the letter No. 515 B-3, dated the 21st July 1917.

Letter from H. Ramachandra Rao, Government Solicitor, dated the 10th August 1917.
The Government Solicitor, Madras, is requested to state whether he would have charged Sir P. S. Sivaswami Ayyar, for the examination of titles and the settlement of mortgages in connexion with the building grant sanctioned in respect of the Tirukkattupalli high school, Tanjore, had he charged the scale given in the letter No. 515 B-3, dated the 21st July 1917.

I have the honour to acknowledge receipt of your Memorandum No. 545 B-3, dated the 10th August 1917, regarding the matter stated above. I have also received the letter from the Government Solicitor, Madras, dated the 10th August 1917, regarding the same matter. I have also received the letter from the Government Solicitor, Madras, dated the 10th August 1917, regarding the same matter. I have also received the letter from the Government Solicitor, Madras, dated the 10th August 1917, regarding the same matter.

Handwritten signature

	RS.	A.	P.
27th, March 1917.—Writing you advising thereon and suggesting certain alterations as mentioned therein and returning the enclosures to your letter.	5	0	0
19th, April 1917.—Perusing letter from you with reference to paragraph 2 of above letter stating that the sum of Rupees 17,113-6-5 entered in the draft mortgage-deed appeared to be the actual total cost paid for the site while the amount entered in the conveyance-deed appeared to be the portion of the cost borne by the management and that under the circumstances to know whether it was necessary to make the alterations suggested by me and sending the two deeds.	1	4	0
21st, April 1917.—Perusing the two deeds sent and considering the question raised in the above letter writing you special letter advising and returning the enclosures sent me.	1	15	0
21st, June 1917.—Perusing letter from you forwarding copy of letter, dated 27th May 1917, received from Sir P. S. Sivaswami Ayyar and to have my remarks thereon and perusing enclosure.	3	8	0
21st, June 1917.—Writing you in reply pointing out the reasons how I am entitled to my fees as were settled by Government at 1 per cent and thereon.	...	...	...
Total	39	8	0

Order—No. 1324, Home (Education), dated 23rd October 1917.

The question of the fees chargeable by the Government Solicitor for the examination of titles and the settlement of mortgages in connexion with building grants sanctioned for educational institutions has, with reference to the correspondence read above, again been brought before Government for consideration. They have come to the conclusion that the ad volorem scale fixed in G.O. No. 1128, Educational, dated the 21st December 1912, does not work equitably. They accordingly direct, in modification of paragraph 1 of that Government order, that the Government Solicitor should charge only such fees as are admissible under the usual conveyancing scale, which makes due allowance for the amount of work involved.

2. In future, one-half of the legal expenses connected with a grant for the purchase of lands or buildings will be borne by the Government.

3. The case of the Tirukkattupalli high school referred to in the Director's letter read above should be disposed of in accordance with these orders.

(True extract)

R. RAMACHANDRA RAO,
Secretary to Government.

- To the Director of Public Instruction.
- Accountant-General (through Financial).
- Home (Judicial) Department.
- Financial Department.
- Government Solicitor.

Editors' table (paragraphs 1 and 2 of order only).

31/10
For approval
13
11.17

NOTES CONNECTED WITH G.O. No. 1324, HOME (EDUCATION),
DATED THE 23RD OCTOBER 1917

[SUBJECT.—Fees to Government Solicitor.]

HOME (EDUCATION) DEPARTMENT.

Sir P. S. Sivaswami Ayyar told me yesterday some question of a deed of conveyance of lands attached to Tirukkattupalle school was pending and wished me to have the matter disposed of soon.

Please let me see the papers.

R. RAMACHANDRA RAO—28-6-17.

Please see G.O. No. 1215, Home (Education), dated the 20th November 1916, in which the deed of conveyance of lands acquired for the Tirukkattupalle school was signed and returned to the Collector of Tanjore. No other question of deed in connexion with that school has come up to Government since. Perhaps Sir Sivaswami Ayyar may be informed accordingly. The following draft demi-official is for approval:

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal,
Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR Avargal, K.C.S.I., C.I.E.

Dated—Ootacamund, the 29th June 1917.

With reference to our conversation of the other day I write to say that the deed of conveyance of the lands acquired for the Tirukkattupalle school was executed by the Government and returned to the Collector of Tanjore with G.O. No. 1215, Home (Education), dated the 20th November 1916. No other question of deed in respect of the school appears to have been received since and no such paper is pending in the Government office.

P.R.—29-6-17.

C. RAMANUJA ACHARIYAR—29-6-17.

What Sir P. S. Sivaswami Ayyar spoke to me was that he was called on to pay the Government Solicitor's fees (something like Rs. 300) for the deed. Any papers?

He contends that as a lawyer he scrutinised the deed for his own purposes and that if Government needed any further scrutiny Government should pay the fees. Judicial section?

R.R.—29-6-17.

From the Director of Public Instruction, R.O.C. No. 1834, dated the 28th June 1917.

Please see G.O. No. 1128, Educational, dated the 21st December 1912, and the notes connected therewith. The Government Solicitor's claim for the fees he demanded appears to be justified by the orders as they now stand. There is, however, force in Sir P. S. Sivaswami Ayyar's statement that, the land having been acquired by the Government under the Land Acquisition Act and conveyed to him, there was no need to call for an examination of the deeds. In view of this fact it is for consideration whether the orders in G.O. No. 1128, Educational, dated 21st December 1912, may be modified so as to entitle the Government Solicitor to a smaller fee in cases in which the property mortgaged has been acquired under the Land Acquisition Act. If so, the remarks of the Judicial Department may be obtained on the point and that department may be requested to suggest a reasonable percentage of the fee leviable in such cases.

P.R.—2-7-17.

17
2 Pms
24 P

2 NOTES TO G.O. No. 1324, HOME (EDUCATION), 23RD OCTOBER 1917

G.O. No. 1128, Educational, dated 21st December 1912, prescribes the *maximum* scale of fee that can be levied by the Government Solicitor. From his letter on page 4 of current file it appears that this scale is *uniformly* applied to all cases without any variation to suit the nature of individual cases. This procedure is sought to be justified by the fact that the scale when applied to cases involving smaller amounts brings him only a small fee. This may not be fair, as the fees are payable by managers and as it will virtually be asking one manager to pay more than what he should, to compensate for the smaller fee paid by another. Within the maximum prescribed, the fee should reasonably bear some proportion to the amount of work involved. As pointed out above, in the present case there should have been comparatively less work, the title having been settled by the application of the Land Acquisition Act and the mortgage being in the usual form prescribed in the Grant-in-aid Code.

This indicates the necessity for a varying scale to be prescribed by Government if that would be feasible, instead of leaving the question entirely to the discretion of the Government Solicitor. Judicial may be consulted.

As regards the *general* question whether the mortgagor should pay the charges for the examination of the titles and settling the mortgage incurred by the mortgagee (the Government) the Government Solicitor's opinion may be accepted for the reasons given by him in paragraph 4 of his letter. The fact that such examination is only in the interests of Government does not seem to affect the question. The Government have already decided this point in G.O. No. 1128, dated 21st December 1912, and there seems to be no reason to reopen it. The only point for consideration is about the scale of fee referred to above.

C. RAMANUJA ACHARIYAR—3-7-17.

Acquisition under the Act conveys an indefeasible title. Examination of prior title-deeds is not necessary.

2. The mortgage deed is in the code; there is no conveyancing.

3. The only argument for the payment of the fee is, it is usual, for the mortgagor to pay. But there is considerable force in Sir P. S. Sivaswami Ayyar's arguments.

4. Sir P. S. Sivaswami Ayyar desires me to submit the case for His Excellency's orders.

First to the Judicial section for remarks.

R. RAMACHANDRA RAO—3-7-17.

HOME (JUDICIAL) DEPARTMENT.

Under G.O. No. 1128, Educational, dated 21st December 1912, the Government Solicitor is entitled to a fee for scrutinizing the mortgage bond. His work in this case was no doubt very light, and it is open to the Government to sanction the payment to him of a fee not exceeding one per cent of the grant paid to the school. The terms of paragraph 1 of G.O. No. 1128, Educational, dated 21st December 1912, make it clear that one per cent is the *maximum* payable to the Government Solicitor and that in particular cases any fee within that limit proportionate to the work involved may be sanctioned. [Of, in this connexion rule 11 (1) of the rules on pages 4-5 of G.O. No. 545, dated 11th March 1915, prescribing that the fees to Public Prosecutors should be graduated within the maximum of Rs. 25 per diem with due regard to the work involved in each case.] The same principle may be applied to the present case also.

NOTES TO G.O. No. 1324, HOME (EDUCATION), 23RD OCTOBER 1917 3

As regards the actual amount of fees that should be paid on the present occasions, perhaps this department may suggest that half the maximum fees admissible or Rs. 170-6-0 will be a suitable remuneration.

2. It may also be suggested that for his future guidance, the Director of Public Instruction may be told that he has the discretion to fix the fees of the Government Solicitor in cases of this kind in proportion to the amount of work involved in each case subject to the maximum of one per cent (paragraph 1 of G.O. No. 1128, Educational, dated 21st December 1912).

A.A.R.—7-7-17.

C.R.—7-7-17.

E. A. HARVEY—7-7-17.

HOME (EDUCATION) DEPARTMENT.

Submitted for orders with reference to paragraph 4 of the Secretary's note on page 2 ante.

P.R.—9-7-17.

Judicial is for paying to fees the Government Solicitor; the rate to be determined within the maximum. If fees are to be paid eventually, we have no data to fix the actual amount. The Director of Public Instruction may have to be consulted. The suggestion of Judicial to fix it at half the maximum is only arbitrary.

C. RAMANUJA ACHARIYAR—10-7-17.

Has Director of Public Instruction any suggestions to make?

R. RAMACHANDRA RAO—11-7-17.

OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION.

The amount of fee suggested above is no doubt arbitrary, but I am not able to fix in this or any other case what ought to be paid. It appears to me that only a lawyer can do this.

2. If the whole question is going to be reconsidered I should like to suggest whether it is after all equitable for the grantee to pay all the legal expenses of a grant for the purchase of land or buildings for educational purposes. Government is as much interested in the matter as the grantee, since the grant is made for a public purpose. It might lead to carelessness on his part if the grantee were wholly relieved of the expense. But there is much to be paid for Government's paying half as they do for the preparation of plans and estimates.

J. H. STONE—13-7-17.

HOME (EDUCATION) DEPARTMENT.

The Director of Public Instruction pleads inability to decide in this or in any other case what fees ought to be paid to the Government Solicitor. It seems therefore necessary that the Government should prescribe a scale of fees. As such a varying scale to suit different cases cannot easily be fixed, it is for consideration whether the limit of one per cent of the grant laid down in G.O. No. 1128, Educational, dated the 21st December 1912, may be subject to a maximum of, say, Rs. 200 or 250 in each case. Perhaps the Judicial Department may be requested to state whether such a condition may be imposed, or whether a definite, varying scale to suit all cases may be laid down for the guidance of the Director of Public Instruction and in the latter case to suggest one.

2. In view of the Government Solicitor's remarks in paragraph 4 of his letter it does not appear that there is sufficient reason to consider the question of the Government's undertaking to pay one-half of the Government Solicitor's fees in such cases as suggested by the Director of Public Instruction.

P.R.—17-7-17.

T.K.—19-7-17.

4 NOTES TO G.O. No. 1324, HOME (EDUCATION), 23RD OCTOBER 1917

First as regards the amount of fee to be paid, we may ask the Government Solicitor himself to fix it with reference to the *work* involved in the present case and not at the uniform maximum rate of one per cent of the grant. He has not till now attempted to fix the fee in this case with reference to his labours and we should first hear what his demand is. The Director of Public Instruction may be asked to ascertain this.

2. As regards the incidence, the Director of Public Instruction's proposal that the Government should meet half the cost seems reasonable. As observed by him the interests of Government are equally involved in view of the grants from Provincial funds given for such undertakings. Rule 52 (ii) of the Grant-in-Aid Code, provides for the fee, paid to the architect and draughtsman employed in preparing plans and estimates for educational buildings for which grants are sanctioned, being included in the estimates. The grants sanctioned are based on the amount of estimates and bear a definite proportion to it. Fees paid to solicitors for examining title-deeds and fixing the mortgages may also be similarly treated, and according to the usual rate of grant may be borne equally by the management and the Government. This arrangement, if approved, will be in modification of that sanctioned in G.O. No. 1128, Educational, dated 21st December 1912, in which it was decided that the amount should be recovered wholly from the management.

C. RAMANUJA ACHARIYAR—23-7-17.

Strictly speaking, Sir P. S. Sivaswami Ayyar cannot complain as he must have been duly informed—vide paragraph 2 of G.O. No. 1128, Educational, dated 21st December 1912.

2. But there is much force in the Director's views and in Sir P. S. Sivaswami Ayyar's objections. While conceding that a lawyer ought to be paid a fee, I think the fee ought to be proportionate to the labour involved. In cases like this, the form of conveyance is stereotyped. I should therefore think the fee may be limited to a maximum of Rs. 250.

3. If the Director's opinion—that half the fee should be borne by Government—be accepted, it follows that half the fee need not be actually disbursed as the Government Solicitor is a public servant. If this be accepted, the simplest method of giving expression would be by amending the second sentence of paragraph 1 of the Government Order above referred to.

This sentence is as follows :—

"But this permission will be subject to the condition that the fee proposed shall in no case exceed one per cent of the grant."

4. For orders whether :—

(a) the present practice may continue, or

(b) the words "not exceeding Rs. 250" be added to the abovesentence, or

(c) whether the last six words of the sentence be omitted and the following words be inserted.

"One-half per cent of the grant not exceeding Rs. 125."

R. RAMACHANDRA RAO—24-7-17.

The Director of Public Instruction's suggestion as to half-and-half seems worthy of consideration if the present rule as to fees is to be re-considered.

But I shall be glad to have Honourable Member, Judicial's views as to (i) the general question, (ii) this particular case, first.

P[ENTLAND]—25-7-17.

In his letter of 27th June 1912, the Government Solicitor suggested, as an alternative, that fees "might be charged at the usual scale" according to the amount of work involved as I am now permitted to charge for leases granted (cf. also G.O. No. 2914, Judicial, dated 30th November 1915). Can you give me particulars of the "usual scale?"

H. F. W. G[ILLMAN]—25-7-17.

Please see paragraph 1 of the Government Solicitor's letter No. 916, dated the 31st July 1917, which contains the 'usual scale' of fees charged by him.

According to these rates, the outside fee, that is, chargeable is Rs. 30-8-0. This assumes that there was only one document for perusal that the highest fee for instructions, viz., Rs. 15, is leviable in this case, and that the document extended over four folios. It may probably be better to ascertain from the Government Solicitor, himself, **M** as to what he would have charged under these rates for the mortgaged-deed in question. In any case there seems to be little doubt that the fee according to these rates will be much lower than the ad valorem rate of 1 per cent of grant.

T.K.—1-8-17.

C. RAMANUJA ACHARIYAR—3-8-17.

It is better to get the information above **M** for the Government Solicitor. Draft.

R. RAMACHANDRA RAO—4-8-17.

A draft memorandum is submitted for approval.

P.R.—4-8-17.

T.K.—6-8-17.

C.R.—9-8-17.

Issue.

R.R.—10-8-17.

[Memorandum No. 545 B-3, dated the 10th August 1917.]

From the Government Solicitor, No. 1009, dated the 14th August 1917.

Please see the Government Solicitor's letter. One of the deeds examined by the Government Solicitor must have been the conveyance on pages 3-4 of G.O. No. 1215, Educational, dated the 20th November 1916. It is not clear whether there were any other. No copy of the mortgage-deed is also available. Submitted that documents or their copies may be obtained from Sir Sivaswami Ayyar and forwarded to the Government Solicitor to enable him to estimate his charge under the scale given in his letter. The following demi-official is for approval:—

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

Dated—Ootacamund, the 20th August 1917.

With reference to your letter to the Director of Public Instruction, dated the 27th May 1917, regarding the Government Solicitor's fee for examining the title and mortgage-deeds relating to the Tirukkattupalli High School, I am desired to request you to furnish me with all the documents, title and mortgage-deeds examined and granted by the Government Solicitor in that connexion or with a copy thereof, for reference.

P.R.—16-8-17.

C.R.—18-8-17.

R.R.—20-8-17.

Demi-official—from Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Education) Department.

Dated—Camp, Tanjore, the 27th August 1917.

Your letter of the 21st instant was received by me at Tinnevely two days ago. I will send you all the title-deeds examined by the Government Solicitor in connexion with the Tirukkattupalli High School, as soon as I go to Madras which it will be on the 30th instant.

Demi-official—from Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Education) Department.

Dated—Madras, the 4th September 1917.

As desired in your demi-official No. 545 B-4, dated 21st ultimo, I send you herewith the documents submitted to the Government Solicitor and request you will be good enough to acknowledge receipt of the same.

List of documents.

1. The conveyance of the site by the Government to myself.
2. Printed draft of the proposed mortgage and manuscript schedule of the sites proposed to be included in the mortgage.

6 NOTES TO G.O. No. 1324, HOME (EDUCATION), 23RD OCTOBER 1917

A draft memorandum to the Government Solicitor forwarding the documents is submitted.

2. The following demi-official may be sent to Sir Sivaswami Ayyar:—

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal,
Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

Dated—Ootacamund, the 7th September 1917.

No.—545 B-5.

(1) Conveyance deed.

(2) Printed draft of the proposed mortgage and manuscript schedule of the site proposed to be included in the mortgage.

I write to acknowledge, with thanks, the receipt of the papers noted in the margin forwarded with your demi-official of the 4th instant.

P.R.—7-9-17.

C. RAMANUJA ACHARIYAR—7-9-17.

R. RAMACHANDRA RAO—7-9-17.

From the Government Solicitor, No. 1180, dated 15th September 1917.

The papers obtained from Sir Sivaswami Ayyar are no longer required. They may be returned to him with the following demi-official:—

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal,
Secretary to Government, Home (Education) Department.

To—Sir P. S. SIVASWAMI AYYAR, K.C.S.I., C.I.E.

Dated—Ootacamund, the 19th September 1917.

In continuation of my demi-official No. 545 B-5, dated the 7th September 1917, I am returning the documents received with your letter of the 4th instant.

2. According to the usual scale the Government Solicitor's charge is only Rs. 39-8-0 against Rs. 340-12-0 claimed by him under G.O. No. 1128, Educational, dated the 21st December 1912. The file may be submitted to the Honourable Member (Judicial) with reference to his note on page 4 ante.

P.R.—17-9-17.

C.R.—18-9-17.

R.R.—19-9-17.

There is a great difference between the fees claimed by the Government Solicitor ad valorem and those permissible according to the usual scale, the former being ten times greater than the latter. Conversely, there may be cases where the fee according to the usual scale is inadequate remuneration for the work done. It seems to me, therefore, that the ad valorem scale fixed in G.O. No. 1128, dated 21st December 1912, does not work equitably, and that it will be well to pay the Government Solicitor according to the usual scale, which makes due allowance for the amount of work involved.

2. I think that Mr. Stone's suggestion, that the Government and the grantee should each pay half the legal expenses, is a fair one and may be adopted.

3. The Government Order quoted above may be amended accordingly.

H. F. W. GILLMAN—28-9-17.

Submitted to His Excellency the Governor.

R.R.—1-10-17.

P[ENTLAND]—4-10-17.

Draft.

R.R.—5-10-17.

A draft order is submitted for approval. It may be sent to Financial for acceptance.

P.R.—6-10-17.

C.R.—7-10-17.

R.R.—8-10-17.

NOTES to G.O. No. 1324, HOME (EDUCATION), 23RD OCTOBER 1917 7
FINANCIAL DEPARTMENT.

Please see the letter from the Director of Public Instruction with its enclosures,
• and his u.e. note on page 3 ante et. seq. The proposal that in future, one-half of legal
expenses connected with a grant for the purchase of lands and buildings for educa-
tional institutions should be borne by Government has been agreed to by Honourable
Member (Judicial) and His Excellency the Governor. The extra liability involved
in the proposal is *not* known, but it does not appear that the amount involved will be
large. Submitted that the draft order may be accepted in Financial.

V.V.—18-10-17.

V.G.K.—19-10-17.

L. E. KERSHAW—20-10-17.

L. DAVIDSON—20-10-17.

HOME (EDUCATION) DEPARTMENT.

The draft may now issue.

C. RAMANUJA ACHARIYAR—22-10-17.

R. RAMACHANDRA RAO—23-10-17.

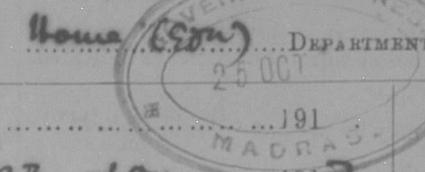
[G.O. No. 1324, Home (Education), dated 23rd October 1917.]

ORDINARY.

PRESS SLIP.

PREFERENCE.

URGENT (a).



Current No dated 1917
G.O. No. 1324, dated 23-10-1917.

INSTRUCTIONS FOR THE SECRETARIAT.

Number of MS. pages sent { (b) Correspondence.....
(b¹) Notes.....

(a) If a paper is marked to be printed urgently, the Superintendent of the section concerned should sign the Press slip. The Superintendent should exercise a careful discretion in the matter.

(b) Each letter, memorandum, or order, or set of orders, in the file of correspondence should be headed in succession with the Roman numeral I, II, III, etc., the number being written in red ink or blue chalk above the item. The particular papers to be printed in the special issue-copies should be indicated by the Roman numeral (I, II, etc.) by which that item has been headed in the correspondence file. All matter, including marginal remarks or references, to be printed should be written in ink and matter which should not be printed should be encircled. Initials and signatures that are not quite legible should be re-written distinctly.

(b¹) For rules regarding printing of notes, see rule 315 of the office Manual.

(c) The number of copies and the details of distribution should be filled in by the Superintendent or Referencer concerned.

(d) In the absence of special instructions to the Press to keep matter standing for a specified period, ordinary papers of 8 pages and under will be kept standing for one week, and larger papers for two weeks only. The type of notes and of all confidential papers is distributed immediately after striking.

(e) This slip, properly and completely filled in, should accompany every paper sent to Press; it will be returned by the Press when proofs are furnished; it should be sent to the Press when a call is made for revised proofs or when a corrected proof is sent for striking. When finally returned by Press it should be filed with the original order or letter.

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(b) Unless a note to the contrary is made against the matter, pencil entries should not be printed. The Superintendent of the Press may bring to the notice of the Registrar any instance of incomplete or careless editing.

(c) Signature copies or letters to the Secretary of State or to the Government of India should be printed on hand-made paper.

(d) This slip should be returned by the Press to the Secretariat when proofs are furnished; it will be sent back to the Press when proofs are returned corrected and should be finally returned to the Secretariat when struck-off copies are supplied.

(e) The names of the Secretary and Members should be printed in full when they occur on the right hand side, only the first time when they appear on the left side, the initials alone being printed later.

Brief subject.....

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9.7.56 DS

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Clerk.

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