

Law Education (1926) Department.

Wm SERIES.

G.O. No. 1250

DATED

6-7-26.

(24)

[Despatch Abstract.]

Land Acquisition

Hindu College Tinnevely

Notification under Section 6-

Published

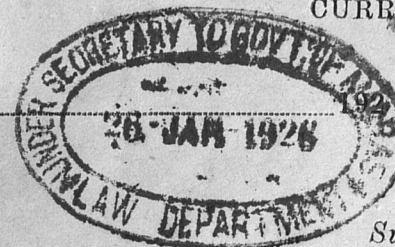
LAW (EDUCATION)

DEPARTMENT.

C.F. 31

CURRENT No.

Received



Registered

26.1.1926.

Subject.

LAND ACQUISITION - (Tinnevely) - Tinnevely taluk -
Sindupundurai village - S. No. 8 - Trees etc. - Hindu
College, Tinnevely - Draft declaration submitted to
Government.

ENCLOSURES.

No.....

Spare copies.....

REFERENCE No. C.236/26-1.

Station Madras, Dated the 21st January 1926

From

W. Scott Brown Esq., I.C.S.,
Secretary,

Land Revenue. and

The Board of Revenue Revenue Settlement, etc.

Separate Revenue.

M.R.Ry. Dewan Bahadur T. Raghaviah Pantulu Garu, C.S.I.,
Commissioner of Land Revenue.

Resolution

Reference.

Read the following:-

Letter from A.McG.C. Tampoe Esq., I.C.S., Collector
of Tinnevely, No. R.Dis. 1191-25, dated 6th January 1926:-

Reference:- G.O. No. Mis. 1132, dated 30-6-1925 and
Board's Ref. C.4420/25-1, dated 8-7-1925 and C.4420/25-2,
dated 6-11-1925.

Notification under section 4 (1) of the Land Acquisition Act was published in the Fort Saint George Gazette dated 7-7-1925. Individual notices were published in the village and also served on the Dharmapuram Mutt by registered post. Objection petitions received on behalf of the Mutt by registered post. Objection petitions received on behalf of the Mutt are enclosed including the one received with the Board's Reference C.4420/25-1, dated 6-11-1925.

FURT

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clw
This is for
from
Mutt

2 ✓

The Revenue Divisional Officer, Tinnevely, duly enquired into the objections and inspected the place in the presence of parties.

The petitions contain the same grounds of objections as have been put forward since 1921, when the proposal of acquisition was started and they are fully met in this office C.6099-B-1-21, dated 18-4-23 and they are fully met in this office C.6099-B-1-21, dated 18-4-23 to Government, Law (Education) Department. Copies of this report and its enclosure (the then Secretary's letter) are now submitted for Board's reference. Please see also Board's C.4252/23-1, dated 21-8-1923 and this office reply thereto dated 11-1-1924. It is now verified that there are only five samadhis on the land and the College Committee has given an undertaking in addition that it will allow the Mutt people to have access to the genuine graves to perform worship occasionally. To avoid sentimental feelings the Committee may be asked to fence and allow access to all the five samadhis real or bogus, now existing on the land. In the objection petition received with the Board's C. 4420/25-2, dated 6-11-1925, the sentimental grounds of objection are much exaggerated and there is no additional point in it except that (paragraph 12 (f)) private lands are also available for acquisition, surrounding the college. These lands are reported to be unsuitable for the purpose for which they are required and to be too costly to acquire. The available extent of 70 cents costs Rs.33,366/- as will be seen from the Tahsildar's report - copy enclosed. A copy of the College Secretary's letter dated 13-12-25 objecting to these lands is also enclosed. The offer made in paragraph 14 of the petition to accept other land in exchange or compensation not for the trees alone, but for the land also as claimed by the Mutt, shows that this religious objection is more assumed than real. Draft notification under Section 6 of the Act is submitted in diglott for favour of approval and publication in the Fort St. George Gazette and District Gazette.

Mr. 1-3
8-4072
17-3-24

2. Besides the trees notified under section 4 (1) there is a well and a terraced gateway which also should be acquired. They are all valued at the market rate. The total cost of acquisition including 15 per cent addition amounts to Rs.801-8-10, of which Rs.557-12-0 are payable to the Mutt and the balance of Rs.243-12-10 to Government for the melwaram share of the other

Mr. 7-8-24

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- 3 -

item trees and the value of some miscellaneous trees.

3. I am asking the Secretary of the College Committee to place the above amount at the disposal of the Revenue Divisional Officer, Tinnevely soon after the publication of notification under section 6. The Committee also undertakes to meet additional amounts, if any, for compensation and other expenses incidental to the acquisition. This undertaking is obtained in view of the fact that it is not unlikely that the Mutt will resort to Civil Court.

REFERENCE.

Submitted to Government.

2. The Board agrees with the Collector in considering that the objections may be overruled.

hannadurais
27/1
for Secretary.

To the Secretary to Government, Law (Education) Department with enclosures.

V.C/23.1.26.

ms
23/1

Copy of letter No.1068/13-12-25 from the Hony. Secretary, Hindu College Tinnevely to the Tahsildar of Tinnevely.

With reference to your R.O.S.C.No.3738/25 dated 9-12-25, I have the honour to state that the site to the west of the College is not suitable for the purpose for which the site is required. The site is much smaller than the one now asked for and far less useful for a play ground, and will also not admit of further extensions for High School buildings, Hostel accommodation, Garden land, Museum etc., It adjoins the Tinnevely Junction station and the road leading therefrom and the noise and the bustle caused by the trains and the traffic throughout the day and night make it unsuitable for any purpose connected with the College. There are buildings on the site which will have to be acquired at great cost only to be demolished.

2. It is therefore requested that the site now asked for may be assigned.

Copy of report dated 14-12-25 from the Revenue Inspector, Naranammalpuram to the Tahsildar, Tinnevely.

Subject:- Acquisition of land - Extension of Hindu College premises - Objection of Dharmapuram Mutt to the Board.

A sketch showing the site available in the west is submitted herewith. The ~~xxx~~ available portion is part of a cartstand, Town Survey No.1078. T.S.Nos.1075 to 1081 are Inam single crop wet lands endowed in favour of the 6th days festival in Ani and Aipasi festivals in Swami Nellayappar Sri Kanthimathi Ambal Temple, Tinnevely. T.S. Nos.1075 to 1077 and 1079 to 1081 are shop buildings adjoining the Tinnevely-Palamcottah road. S.No.1087 Salai Kumaraswami Temple. Excluding the portions covered by shops in the ~~xx~~ frontage of the road and some vacant space behind it in a line with the northern boundary of Salai Kumaraswami Temple compound, the rest of the land in S.No.1078 marked A in the sketch measures 70 cents.

(2) There had been no sales of similar lands in the vicinity in Sindupundur village. The buildings and sites south of the Tinnevely-Palamcottah road lie within the limits of Melaviraraghavapuram village, and there had been no sales of sites or buildings adjoining the road. Particulars of 3 sales of vacant sites further south

- | | |
|---|--|
| 1. Vacant site in S.No.91 on the eastern row of the north to south road leading to Viraraghavapuram just opposite to Madura road was purchased by one Arumugham Asari about 6 years ago at Rs.8-8-0 per kuli. | amidst habitation in Mela Viraraghavapuram are noted in the margin*. Local enquiry shows that vacant building sites in the vicinity in Melaviraraghavapuram are ordinarily sold at Rs 10 per kuli. |
| 2. Vacant site of door No.34 in north car street was purchased by the said Arumugham Asari about 2 years ago at Rs.15 per kuli. The purchaser admits that the price paid by him for this site is high. | |
| 3. Vacant site in another part of the northern car street was purchased by one Ramasubbu Asari at Rs.10 per kuli about 4 years ago. | |

(3) The owner of S.Nos.1075 to 1081 has now leased out the lands with the buildings thereon at Rs.1600 per annum vide statement of the lessees enclosed. The proportionate estimated income from the shop buildings in S.Nos.1075 to 1077 and 1079 to 1081 are as noted below.

3 shops - masonry buildings west of the path-way to the cartstand in 1078.	Rs 360.
3 shops - zinc plate wall and roof, buildings east of the pathway.	180.

Total Rs 540.

Three other tiled sheds exist behind the said shops in the portion south of plot A within the limits of the portion reserved for the owner. The proportionate income on these buildings may be estimated at Rs.84.

Two buildings exist in the portion marked A - one, a small old two-storied tiled building and another, a mud walled tiled building with 3 rooms and a thatched shed in front. The proportionate income on these buildings may be estimated at Rs.108.

The balance is the income on the cartstand in S.No.1078 which measures 70 cents and it comes to Rs.868 and the proportionate income on the 70 cents is Rs.778-14-0. The proportionate gross income on plot A including that on buildings is Rs.886-14-0 and the competitive rent value thereon comes to Rs.22171-14-0. At this rate the value per kuli comes to Rs 5-11-0.

(4) In consideration of the selling price of building sites in the midst of habitations in Melaviraraghavapuram closeby and of the competitive rent value referred to in para 3 supra, I submit that the value of the land may be estimated at Rs.7 per kuli. It may be noted that the frontage of the road site has been reserved. The value of the two-storied building on the site may be estimated at Rs.250 and of the other building at Rs.200. Besides these buildings, ruined compound walls exist on the eastern, northern and western sides of which the western wall adjoins the stream and is strongly built. The value of the compound wall may be estimated at Rs.1000. The value of the land at Rs.7 per kuli come to Rs 27,562-8-0. The total value of the land and buildings are as noted below-

Value of land.	Rs 27,562-8-0.
" buildings.	450-0-0
" compound wall.	1,000-0-0
" one young tulip.	
" one young vadamadakki.	
and " vadankottai trees.	2-0-0.

Rs 29,014-8-0

The 15 per cent allowance thereon comes to Rs 4352-2-10. The total cost of acquisition may be estimated at Rs.33,366-10-10.

(5) The extent now owned by the Hindu College is as noted below*

*1095-1.	1.02
2.	0.98
3.	0.02
1097.	0.93 or 2.95 acres.

(6) As regards the allegation in the objection petition that lands are available all round, I submit that the eastern boundary of the Hindu College is S.No.8, already proposed for acquisition and the Madura road. The land to the east of the road is also either occupied by buildings and cartstand or is low-lying wet land belonging to Ettayapuram Zamindar. The southern boundary is the Tinnevely-Palamcottah road. There is no land to the south of the road available for the purpose. The western boundary is the cartstand referred to in this report and Salai Kumaraswami temple and the northern boundary forms the wet lands. These wet lands are in low level and are separated from the College premises by a drainage channel. The wet lands will have to be raised from 3 to 4 feet before they can be utilised for the school.

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Copy with the copy of the letter of the Secretary of the Hindu College is submitted to the Revenue Divisional Officer, Tinnevely.

The answer to para 12 (f) is that the lands available around the Hindu College are either unfit for the purpose or too costly to acquire. An extent of 70 cents belonging to Pandiajar in the west can be acquired without objection but its cost is prohibitive. The Revenue Inspector's report was drafted under my instructions.

Enclosures.

* * *

FORM OF DRAFT DECLARATION:

UNDER Section 6, Act I of 1894, His Excellency the Governor in Council hereby declares that the ^{lands} ~~Land~~ mentioned in the following Schedule and measuring ^{about} ~~acres~~ *be the same a little more or less, is needed for a public purpose, to wit, for the extension of the premises of this, and, under sections 3 and 4 of the same Act*

the Revenue Divisional Officer, Tinarevelly, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. trees etc

the Revenue Divisional Officer, Tinarevelly, and may be inspected at any time during office hours.

SCHEDULE.

District.	Taluk.	Village.	Description of Land, Wet or Dry, Inam or Poramboke, with Survey or Pambash number.	Name of Owner or Occupier.	BOUNDARIES OF THE LAND REQUIRED TO BE TAKEN UP.				Extent to be taken up.	Estimated Cost of the Land to be taken up and the authority sanctioning it.
					North.	East.	South.	West.		
Jinnareilly.	Jinnareilly.	Siddurkundurai	Well and adjacent trees in S.No.8. (T.S.No.1096) Kandavaram Farm like	H.Misallanoo has belonging to Government Other item 3. mango and 2 cocconut trees - other item Kattadan - Rammajum Mut) - Muttom due to Govt. Muttom due to Govt. mutt. The Baranayalam Mut enjoys also the flowers / plant And one well in a well and gate way on the land.	S.No.8. T.S.No 1096 part.	Maduna Road S.No.187	Hindus College R.S.No.7 T.S.No. 1095-	Hindus College A.S.No. 7 & 9 T.S.No. 1095 and 1097.	3 Other items mango and 270 coconut trees, 19 flowers tree, 1 Nelli tree, one well and gate way and 4 miscellaneous trees.	Ra. Due to Govern- ment. Rs 243-12-10 Due to Mutt. Rs 557 12-0 801-8-10

(6)-27

Received by me as agent
J. I. V. B.
For Collector.
7/1/06

11/7/06

Jinnareilly, Collector's Office }
Dated 6-1-06

8

Copy of Reference from Board of Revenue, Land Revenue and Settlement, Refce.No.C.1249-26-2, dated the 8th March 1926:-

Submitted to Government.

2. The Collector reports that the funds at the disposal of the Malabar Flood Relief Committee include contributions made by local bodies and considers that the funds may be said to come partly out of public revenues within the meaning of Section 6(1) of the Land Acquisition Act. He suggests, however, that it is safer to grant a nominal sum from public revenues towards the cost of acquisition.

3. The Board doubts if the Collector's view is correct. The fact that certain local bodies paid contributions to the Flood Relief Committee cannot make the fund one 'controlled by or managed by a local authority'. The Collector's alternative suggestion viz., to grant a nominal sum from public revenues is open to question in view of the High Court's observation in its judgment in A.S.No.165 of 23 a copy of which was submitted to Government in reply to Government Memorandum No.3051 B.25-2 dated 16th Feb. 1926.

4. An obvious course that may be followed with due regard to the High Court's ruling is (i) to require the Reconstruction Trust to remit the estimated cost of acquisition (Rs.2,185/-) into a public treasury as a contribution to be utilised by Government for a public purpose in any manner they think fit, (ii) to credit the amount to general revenues under 'XXXV Mis- c- contribution' or any other appropriate head that may be suggested by the Accountant General and (iii) to meet the cost of acquisition from public revenues. In that case the Trust should agree to make any additional contribution that may be required in case the actual cost exceeds the estimated cost.

5. In this particular case proceedings may be taken under part VII of the Act seeing that the Trust is a registered company. The Board does not, however, recommend this course as the land is said to be required urgently and proceedings

under part VII will involve delay. If the Trust is anxious to have the land at an early date it should agree to the course suggested in paragraph 4 above. The Collector of Malabar is requested to report to Government immediately the views of the Trust in the matter. The publication of notifications and the application of the urgency clauses of the Act may be held in abeyance pending receipt of the Collector's report.

6. The cost of acquisition has to be debited to '22 R.E. e-General administration-District administration-Other establishments- i- Taluk establishments- Supplies and services General- Miscellaneous.' There is no provision under this head to meet the charge. The Board requests that Government will be pleased to allot the required amount from the surrender made by the Board under "22 R.E. -a- General Administration- District administration- General establishments- i- Collectors and Magistrates."

(7)
In the High Court of Judicature
Wednesday the eighteenth day

Present -

The Hon'ble Mr. Justice Spence
and
The Hon'ble Mr. Justice Ramesam.

Appeal No.165 of 1923.

8

Appeal against the decree of the Court of Judge of Sivaganga in Original Suit No.64 of 1922.
This appeal coming on for hearing on Friday Tuesday the 6th, 9th and 10th days of March perusing the Grounds of appeal, the judgment of the Lower Court and the material papers in the case, and hearing the arguments of Mr. S. Srinivasa Ayyangar, Vakils for the Appellants and Mr. P. S. Ramaswami Ayyar, Pleader on behalf of the Government and the Government stood over for consideration till this day.
following Order:- This suit was brought to obtain a declaration that the acquisition of lands for the ostensible purpose of making a new Kallal and Managiri in the Rannad district was not binding on the plaintiffs. It is contended by the plaintiffs who are the appellants before us that the proceedings were not valid and bona fide but were the instigation of one Karuppan Chetty with a view to had a dispute at law as to the ownership of the land in order by indirect means to deprive them of the same. There was no necessity for diverting the road instead of repairing it, and that the provincial revenues of one anna out of the total required for the acquisition was an indication of the character of the object for which the proceedings have been made use of.

Mr. S. Srinivasa Ayyangar conceded that the acquisition of a public road was prima facie a public

Section 6 of Act I of 1894 that the
paid wholly or partly out of public
to be a test of the good faith of
payment of about 1/90,000th part of the
and bonafide compliance with the terms of the
not contend that the land was not needed
because section 6 clause (3) enacts that
the Gazette is conclusive evidence of the
by the Privy Council in Vijeyesekera - v -
1919, A.C. 646 that after such a declaration
the owner to contend in any Court that the
for a public purpose. The Amending Act 38
the institution of this suit contains an
that any person interested in any land which
present an objection in writing to the
an enquiry has to be made and the case
Government whose decision upon the
final. The Subordinate Judge who tried the
first issue that the Act did not require
part of the compensation should come out of
and that no matter how small the contribution
requirements of section 6 would be satisfied.
accept this as a correct view of the law. We
Legislature when they provided that a part of
could be paid from public revenues did not
tion would be satisfied by payment of a part.
Cave. 3 A.C. 483 (a copyright case) the
averse to putting such an interpretation on
"part" occurring in the Dramatic Copy right
in IV, as would make a part to mean a part.
ved that the words in the statute must receive
tion and were to be treated as implying some
ial and material. We think that the
passed the Land Acquisition Act did not
uld be deprived of their ownership by a mere
ons employing the Act for private ends or for

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the gratification of private spite of malice. The Government
Leader informed us that the defendant was prepared to prove that
a substantial contribution was made towards the costs of the
new road and that it was paid into the Public Treasury for the
purpose. He referred us to Exhibit I which is a proceeding of
the Collector directing the Tahsildar to collect the full amount
of melwaram compensation from the Chetty which may or may not
be evidence that the sum that represented the reduction of
peishkush due by the Sivaganga estate to Government was collected
from a private person and paid into the public revenues. -
Mr. Srinivasa Ayyangar was not prepared to deny that Government
or a local body like the District Board might receive contribu-
tions from private individuals and might spend the same upon
public purposes such as hospitals, schools or roads. Such
gratuitous contributions may be included in and become part of
the public revenues. Section 6 itself makes mention of funds
controlled or managed by a local authority. In Veeraraghavacharia
- v - The Secretary of State, 48, M.L.J. 204 in which the legality
of certain land acquisition ~~proceedings~~ Proceedings was questioned in
Second appeal before Devados J. there was a finding of fact that
the cost of acquiring a site for Panchamas houses was met out of
public revenues. In the present case no Government official has
been examined as a witness to prove from what source the cost of
acquisition was met and whether any money was collected from
private sources and paid into the treasury, and if so upon what
terms the money was made over to Government and whether it became
the money of Government under their complete control to be -
expended as they might deem fit on a public purpose such as that
of improving a public communication by making a fresh alignment of
an existing road. As the lower Court dismissed the plaintiff's
suit upon a technical point which did not completely answer their
contention that the acquisition was illegal, the ~~Subordinate~~ Subordinate
Judge will be directed to take such fresh evidence as either side
may adduce to prove that the compensation paid in this case came
wholly or partly out of public revenues, the allegation of the
is kept the money required for the

cost of acquisition with themselves and the allegation of the defendant being that a fund was raised for a public purpose which became part of the public revenues and was under the control either of the District Collector or the District Board. The Subordinate Judge will return his finding upon this point together with the evidence recorded by him within one month after the reopening of this court after the summer vacation; and the parties will be at liberty to file objections to the said finding within ten days after notice of the return of the same shall have been posted up in this court.

Sd. Mir Amiruddin 19-3-25.

Dy. Registrar, App. Side.

Law (Education) Department.

[236B]

From the Board of Revenue, Land Rev. & Sett., Ref. No. 235/26-1, dated 21-1-1926.

Subject:--Acquisition of trees &c., over the land required for a play ground for the Hindu College, Tinnevely.

As recommended by the Board, the objections to the acquisition in this case may be overruled.

2. As regards the notification on page 7 of c.f., reference is made in it to 'trees belonging to Government' and 'Melvaran due to Government.' It is doubtful -- whether reference should be made to these in view of the fact that the acquisition proceedings relate only to the trees and &c., owned by the Mutt. The Revenue Department may be consulted.

3. When lands are acquired for private institution they are usually made over to the management of the institution by a formal deed of conveyance. It is presumed that the land in this case may also be similarly made over to the ^{Hindu College} (please see C2's note on page 27 of G.O. 274, dated 19--2--1925). The Revenue Department may be requested to offer ^{their} marks on this point also.

4. A draft order is submitted. The file may be sent to Revenue no.



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9.2.26
VTK
10.2.

Rev. u.o.

Receipt

To the Secretary

The draft declaration submitted by the Board Rev: is not in the form usually adopted ~~in~~ in cases where trees alone are acquired.

~~no 1274 Rev dated 2-6-1920.~~

~~The Law Dept. may be requested to adopt the form issued in the above etc.~~

~~2. Attention is invited to H.M.C.'s~~

~~note (then C₄) at page 27 of no 274~~

~~Law Dept. dated 19-2-25. His idea~~

~~appears to be that the the Govt. simply sanctioned the acquisition of the ~~tree~~ rights to the trees on the land. After this is done~~

~~the question of the grant of the land to the Trustees will have again to be considered by the Govt. With these remarks the file may be returned to Law Dept.~~

~~The notification may be recast in~~

~~the form adopted in no 1274~~

~~no 1274 Rev. dated 2-6-1920. The~~

~~reference to the "trees belonging to Govt."~~

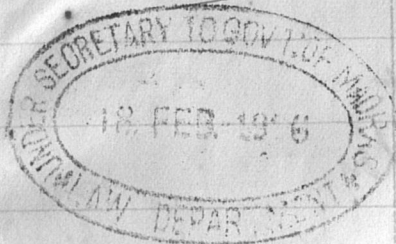
~~and "melvaram due to Govt." should be omitted as it is only the private~~

rights that have to be acquired.

2. The land already vests in Govt. The Board may be asked to submit proposals for the alienation of the land to the College authorities after acquisition is complete. Law (Edn) may be asked to amend para 3 of the draft accordingly.

For L.S. 18/2/26

Rev'd 579 Nov 11 18/2/26



Law

19/2/26
S.
H.H.
17.

Law (Edn)

Revised draft order and notification submitted.

CVV
19.2.26
S.K.
19.2.26

19/2/26
See Draft
V.T.
20.2

The expression 'flower trees' is used in the ^{draft} notification ^(submitted by the Coll^y) p. 7 (F.). The coll^y may be asked what these are. A

unnecessary. I have made revised the notif

V.T.
22.2.26

CVV
22.2.26
S.K.
22.2.26

19/2/26
S.

For L.S. 23/2/26
23/2/26

U.S. (Drafting) for remarks on paragraph 2 of the draft order

V.T.
24.2

Law (Drafting) Department

It is not permissible under the law to make a nominal contribution ~~ask~~ as here from out of public revenues and thereby validate the acquisition - proceedings--please see the judgment of Spencer and Ramesam JJ in a very recent case a copy of which is put up below. The part contributed from the public revenues must be a material and substantial part of the cost of acquisition.

S. To 25/2

V.K. 26-2

A.S.

Please reexamine with reference to the above.

V.K. 26-2

By no. 3227 28.2.22

W.S.K.

28/2

It is understood that the general question of the propriety of making a nominal contribution for and acquisition proceedings undertaken on behalf of private parties has been raised in the Revenue Department, and is under consideration.

2. In the present case the amount payable as compensation is only Rs. 557-12-0. There is no proposal for the payment of a half-grant on this amount. The entire cost is to be met by the college authorities. In order to meet the objection to the nominal contribution, it is for consideration whether the entire cost may, in the first instance, be met by Government and the amount recovered from the college when the land is alienated to it.

3. In regard to cases where a half-grant is sanctioned towards the cost of the acquisition, the procedure

It is highly doubtful if this procedure will be legal. The eventual result is the creation of a debt. The Government should be asked to pay the amount. As we are trying to straighten the procedure to satisfy legal requirements.

Paragraph 2.7
By 572 (A)
10.5.22

There may not be much objection to this.

By 392 5.3.26
By 2366.3 5.3.26



now followed is set out below. When the notification under section 6 of the Land acquisition Act is published, an order is issued sanctioning a contribution of one anna from provincial funds towards the cost of the acquisition and the management is asked to deposit the balance of the cost in the treasury. After acquisition proceedings are completed and the actual amount awarded is known, an order is issued including the item in the list of approved works. This declares it eligible for a half-grant, if and when funds become available. Though the contribution sanctioned in the first instance is nominal, one-half of the entire cost is eventually met by the Government. Objection cannot therefore be taken in these cases on the ground that the contribution is nominal. The Law (Drafting) section may be consulted as to whether any alterations is necessary in the above procedure. The one anna sanctioned in these cases practically takes the form of an advance of the half-grant.

4. The Law (Drafting) and the Revenue Departments may be consulted.

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8K
3.3.25

Q 573
S
V.K. 5/3

Law (Drafting) } u.o.
Rev

Law (Drafting) Department

Para 2 of Law (Education) note

I agree with the Assistant Secretary that the suggestion made in this paragraph cannot be entertained involving, as it does, an attempt to circumvent a legal requirement, that a substantial and material part of the compensation should come from public revenues. As

Revised page

19
the Assistant Secretary says 'the eventual debit is the criterion'. Section 6 of the Land Acquisition Act declares that the decision of the Government ^{that} with a certain purpose for which they were to acquire the land is a public purpose is conclusive evidence of the fact, ^{The safeguard} which the legislature has provided against an indiscriminate use of this large power is that the Government on such a decision should be prepared to pay a material and substantial part of the compensation. The suggestion ^{which implies loan} cannot apply to a ~~land~~ and its recovery is incompetent.

Para 3 of Education note. The argument in the note is that though the contribution of an anna is nominal in the first instance, one-half of the entire cost is eventually met by the Govt. If this argument is correct, the procedure outlined in the note may be justified. The one anna that is paid is not an advance from any sanctioned grant of half the cost. The procedure adopted previous to G.O. 572 Law (Education) dated 10-5-22 was to issue, on approval of plans and estimates, an order sanctioning the grant which would be paid as funds become available. The G.O. withdraws the power to make an order sanctioning the grant and consequently ^{the power to} guarantee the payment involved in the previous procedure. The placing of a work on the list of approved works under the G.O. carries with it no guarantee or commitment on the part of the Govt that half the cost will, for certain, be borne by the Government. The payment of one anna cannot therefore be considered as an advance payment for any fund earmarked for the purpose. It is as true to say that no grant for the work will be

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more ~~not~~ eventually as that a grant will be made. The argument in A.S.'s note cannot stand. No responsibility can be accepted ^{under the G.O.} at any stage by the Govt for making a grant actually for any work. If and when funds are available, some contribution would be made towards the cost of works entered in the approved list with reference to their urgency. In view of G.O. No. 572, I am doubtful of the legality of the procedure referred to in para 3 of the A.S.'s note.

Rev. 8/3

To Under Secy.

Revised
The question regarding the legality of paying a nominal contribution to satisfy the requirements of Sec 6 of the L.A. Act has been raised by the Secy in another file which has been circulated to Hon'ble C₂. = This may be our pending the decision in the other file.

16326
17326

To Under Secy.

No definite order was passed by Hon'ble C₂. On the question raised by the Secretary

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10.392-1
8-3-26

880A
9.3.26



in the linked file. It would appear that he approves of the course proposed by the Board of Rev in para 4 of its letter C1249-26.2 of 8.3.26 in that file.

The Law Dept: may it is submitted be advised to adopt ^{similar} ~~the~~ course, if they see no objection, in this case also.

24376

For acceptance of the suggestion at ^{S.} ~~A~~

Law.

Law (Education) Dept.

The procedure suggested by the Board of Revenue and endorsed by the Revenue Department is (i) to require the private agency (in the present case the management of the Hindu College, ^{Tinnevely}) to remit the estimated cost of acquisition into a public treasury as a contribution to be utilised by Government for a public purpose in any manner they think fit;

(ii) to credit the amount to general revenues under the head "XXXV Misc. - c - contribution" ^{or any} ~~any~~ other appropriate head that may be suggested by the A.G;

(iii) to meet the cost of acquisition from public revenues; and

(iv) to require the private agency to make any additional contribution that may be required in case the actual cost exceeds the estimated cost.

In effect, the cost of ~~the~~ land is ^{to be} recovered in the

C no 905 A26

(linked file)

delinked index

12 CF linked file

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Rev no 880 A26-1
874/26

slip (V)



first instance from the private agency and credited to public revenues and the compensation to the owner of the land is ^{to be} paid out of public revenues. In paragraph 2 of this Department ^{note} on page 4, ante a reverse process was suggested viz., to pay the compensation in the first instance from public revenues and to recover the amount from the private agency thereafter. The Law (Drafting) section has objected to this on the ground that it is an attempt to circumvent a legal requirement. The same objection would seem to apply to the procedure suggested by Revenue also. It is understood from the Revenue Department that the procedure suggested by ^{that Dept} ~~Revenue~~ has not yet been applied finally in any particular case. It is for orders whether the case may ^{lie} ~~lie~~ over till the Revenue Dept. come to a definite decision on the matter.

C. V. V. V.
8th
15.4.26.

May we not consult Law/Drafting about the procedure proposed by Rev.?

CR
1576

V.T.
16.4.

Law (Drafting) Dept.

Law (Drafting) Department

If the management of the Hindu College, - Tinnevely makes a deposit of the cost of the proposed acquisition, it cannot be considered except by a fiction to be at the disposal of the Government for any purpose they may think proper. The deposit will, in truth, be a trust for a specific purpose viz, acquisition of land and its delivery by the Government to the college management. As such, ^{the} a deposit cannot be incorporated with the public revenues of the province at the

disposal and under the control of the Local Government. The course suggested is as much an attempt to circumvent a legal requirement as the proposal to pay compensation in the first instance and recover it later on.

S. File

Under the proviso to section 6(1) of the Land Acquisition Act, the Local Government cannot make a declaration that a land is needed for a "public purpose" unless the compensation to be awarded for such property is to be paid "wholly or partly out of the public revenues". In the judgement at (R) the High Court has held that "the Legislature when they provided that a part of the compensation should be paid out of the public revenues did not mean that this condition would be satisfied by payment of a part". The usual device of a contribution of lanna will not therefore be legal.

2. The solution suggested by the Board at (U) and accepted by H.M. Rev in the case of the Malabar Flood Relief Committee will not avail in this case. That Committee is a body constituted for receiving contributions and

spending them on measures of relief. It can therefore make a contribution to the Govt for such measures. The position of the Hindu College Committee is different. I agree with U.S. (drafting) that the course suggested in (U) would be illegal if adopted in this case.

3. The acquisition in this case is certain to be strongly contested by the Dharma-puram Math and we should be absolutely certain of the legal position before initiating proceedings under the Act.

4. There seem to be only two courses open:-
1. To apply Part VII of the Act. Is the 'College Committee a Company according to section 3(c) of the Act?
2. To pay the usual half-grant at once, as a special case. Please ask D.P.I. whether he can provide the funds required for this purpose.

V.Tk

24.4.

From the University Calendar it is observed that the Hindu College and its properties are in the hands of a society called the 'Educational Society, Tinnevely' registered under the Societies Registration Act, 1860. The entire management of the Society is vested in a

The D.P. Office has no information.

12 25

a committee of seven members. Under Section 3 (e) of the Land Acquisition Act the expression, "Company", ~~includes~~ includes a society registered under the Societies Registration Act. Part VII of the Act may therefore be applied for the acquisition of land for the "Educational Society, Tinnevely." ^{Under the rules in this Part} ~~Under the rules in this Part~~ a previous enquiry should be held by an officer appointed by the local Government, an agreement should be executed by the Society and the agreement ~~executed~~ published in the ~~the~~ Gazette of India and the Fort St. George Gazette. It is doubtful whether ^{these} provisions relating to the acquisition of land for companies should be invoked in this particular case. The land in question belongs to Government though the Dharmapuram Mutt contests it. It is proposed to acquire only the rights of the Mutt over the trees &c. standing on the site. The total cost of acquisition is ~~about~~ about Rs. 800 of which Rs. 557 should go to the Mutt and the balance to Government for the melwaram share of certain trees on the land. After acquisition the land is to be alienated to the College.

2. The College committee has not asked for a grant of one-half of the cost. Even if a half grant is to be given, the amount required is small and can easily be met from the provision for building grants in the current year's budget. ^(No reference to the D.P. seems necessary) The Mutt may make a reference to court in which case there is the possibility of a larger amount of compensation being awarded. The committee has undertaken to bear such additional expenditure.

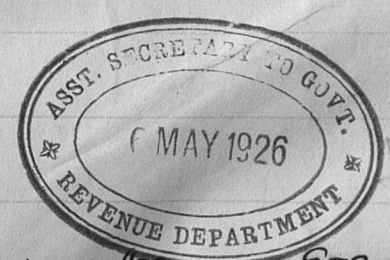
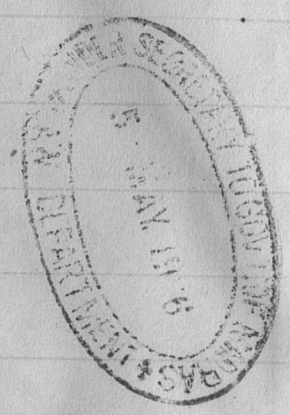
8/5
30.4.26.

CR
11/5
S

I think the best course is to proceed under Part VII

V.T.
3.5

Rev. u. o. before us



Law (M) no 959 B-2

5/5/26
Page 3 of 5

(with copy of L. A. Act)

Rev 1684-A
Re. 6.5.26

4/5

To Under Secy

13 26 16 Rev Dept 16

This Dept may agree to the acquisition in this case being proceeded ^{with} under Part VII of the Act.

1/5/26
8/5/26

CR
11/5
S

I do not accept the opinion of Messrs Drafting of a private person or a company or a society chooses to make a contribution to Govt. for use for a public purpose in any manner in which Govt. may choose to use it. The only trust created is a trust to use the money for a public purpose & the money becomes a part of that portion of the public revenues which is utilized for public purposes. There is no fiction involved.

Might I suggest that it is no part of the functions of Messrs Drafting to give advice to Govt. on points of law that it is improper - if not dangerous - to ask that department for advice on points of law to act upon it. Govt. has duly constituted legal advisers to whom any legal question which the department

concerned with it is unable to decide ought to be refused.

This file may kindly be circulated to the Hon. the Revenue Member (C2) who is also the Member who deals with the ^{Procedure} ~~Office~~ ^{of the} Secretariat.

With ref. to para 3 of the Office note at p.1. supra I would enquire why it is considered necessary that the Crown should be required to execute a formal deed of conveyance in respect of land which it has acquired & which it is granting to one or more of its subjects. The provisions of the Crown Grants Act of 1895 apply just as much to this kind of grant as to any other & any conditions considered necessary can be inserted in the grant.

L.S.G. 135-6
Law (C2) Dept.

L. En 1747B
Revno 1084 A 21-1
17.5.26



Submitted for orders.

2. The Law (Drafting) section is consulted on points of law by the departments of the Secretariat. The advice of the Adv. Genl. is obtained on important matters. As regards the authority under which Law (Drafting) gives legal opinions on questions referred to it, attention is requested to G.O.No: 32 Finance (Mis) dated 10-1-24, which sanctioned the permanent retention of the Drafting department. The note of the then Secretary (Mr. R. Ramachandra Rao) dated 10-8-23 at "K" on page 15 describes the ^(which) ~~an~~ functions of the department was discharging and was intended to discharge. Mr. Ramachandra Rao places in the forefront of the functions of the department the giving of legal opinions on all points referred to it. The large number ~~number~~ of legal opinions given by the Drafting dept. is specifically and prominently referred to by H.M. Law in his note at "Q" on page 24--please see also note of the then H.M. Finance (Sir Charles Todhunter) at "L" on page 27. The note for the Finance Committee--M at p.43 of the G.O.--makes mention of the fact that legal opinions were being given at the rate of 300-400 per year by the Assistant Secy, as the officer then in charge of this dept, was designated.

H.M. Law ^{has} in his note ~~has~~ at page 6 of G.O.No: 1718 Rev: dated 5-11-25, recently recognised that it is among the functions of the Under Secy (Drafting) to give advice in ordinary cases.

In the present case it is for orders whether the Adv. Genl. may be consulted as to whether the course suggested by the Bd. of Rev: in para 4 of its reference at slip "U" may be adopted. If action is to be taken under Part VII of the Land Acquisition Act in this case, the question of adopting the procedure suggested by the Board need not be considered in this file.

3. The Rev. Secy: suggests that a conveyance deed is not necessary for the transfer of lands acquired under the Land Acqn. Act for private educational institutions and that such land ^(may) be granted under the Crown Grants Act apparently by a G.O. Attention is solicited to G.O. No: 29 dated 8-1-24 and G.O. 1104 dated 8-7-24, which contain copies of deeds executed in the case of two private institutions. In these cases, one-half of the cost of the land is paid by the private agency and the other half by Govt. The deed states that in consideration of the amount contributed by the private agency the Secy. of State who is called the 'Vendor' conveys the land to the private agency who is called the 'purchaser'. One of the principal conditions embodied in the deed is that if the land is diverted to any purpose other than educational within 40 years of the date of the conveyance it should revert to Govt. It is doubtful whether the execution of the conveyance deed can be dispensed with in the cases in question. In connection with the assignment of lands acquired for house sites etc. for depressed classes, the question whether, in lieu of the conveyance deed, an order might be issued embodying the necessary conditions was examined in 1924. It was held by the Adv. Genl. that such transfer of land amounted to a conveyance which would not be exempt from stamp duty. After prolonged consideration it was decided to continue the system of executing conveyance deeds in such cases. It is for orders whether a reference should be made to the Advocate General on the question raised by the Rev. Secy. If so, extracts will be taken and a separate file started on the subject.

S.K.

CR
14.6.26
5

p-14 under

(H)
(M) } removed

f. 134 (2)
27.1.26
removed

M. 5 + 16-20
f. 3100 L.S. (Y)
6.11.26
removed

yes
VTK
15.6.

- I have dealt with the ^{main} points for decision in this file ~~at~~ on pages 10 & 11. n.f. 18 18
2. The ^{main} point is as regards the position created by the decision at (R) in which the High Court has held that the condition laid down in Section 6(1) of the Land Acquisition Act - that the Govt cannot make a declaration that a land is needed for a public purpose unless the compensation to be paid "wholly or partly out of the public revenues" - cannot be satisfied "by payment of a part out of the public revenues."
- 3) Mr. Hall suggests, following the Bd's view at slip (U), that the private agency in this case (namely, the College Committee) should ~~give~~ make "a contribution to Govt to be used for a public purpose" (the amount of the contribution being the amount of compensation payable) and that Govt should use this amount for acquiring the trees etc in question. He is of opinion that if this arrangement is followed, the ~~transac~~ acquisition would be legal & that ^{it} ~~has~~ ^{be in} would be complete with the High Court's dictum. The Bd's view in slip (U) ^{particular} was correct in the circumstances of that case - as the Malabar Flood Relief Committee

had funds which it could expend on a range of purposes of public utility and from which it could contribute ^{to Govt} to such objects.

The College Committee holds funds which can only be expended on the College and for purposes connected with it and I cannot see how it can make a contribution to Govt out of these funds "to be used for any public purpose". Then what about excess contribution if the Civil Courts award it [&] and costs? We should be in a position to recover these.

4) In this case, there is certain to be ~~the~~ a claim by Dharmapuram Matt and reference to Civil Courts and Govt should protect itself against financial loss.

5) I think the best course is to proceed under Part VII as I have already suggested.

6) M^{rs} Hall's note about legal advice being given by U.S. (Drafting) is answered above. The point about the necessity for conveyances in such cases will be examined separately: my impression is that the enforcement of conditions in grants under the Crown Grants Act has been made difficult by

judicial decisions.

V.T.K.
15.6.

M₂
C₂
C₁

On the face of it the course suggested in 'U' may not be valid in cases of acquisition of private estates, as in this case.

The recent decision of the High Court emphasises substantial contribution in accordance with S. 6(1) of the L. A. Act.

I am not sure Crown Grants Act 1855 applies to this class of cases. Nor the device to call upon the Management or Trustees to deposit the amount to the credit of Govt for "public purposes" is satisfactory - because the Trustees cannot make a grant & the kind of grant for such purposes out of the Trust funds.

The more practical course seems to me to make help grant ^{in the first instance} & ultimately paid by Govt to meet the interpretation of the grant. It is doubtful if part III will apply.



On the question of law that arise in
this case I am prepared to follow
the advice of my hon. Col. C.
If Govt is to make a half grant
I shall be prepared to do so
by hon. Col. C. order.

On the other question arises
whether I am not aware that
the Law Drafting Section of
the Secretariat is constituted to give
advice on legal points. We have
the P.S. for that purpose: (a)
I am not in favour of legal
consequences but will say no
more heading the question
but that the Law Secy indicates.

28/6
16.6.26

The result of the High Court's judgment must be
taken to be that a substantial payment out of public
revenues is essential for the purpose of invoking -
the provisions of the Land Acquisition Act and the -
High Court was further prepared to concede that -
contributions or donations from private individuals
for the purpose of being spent on public utility may
be included in and become part of the public revenues
for the purpose of attracting the provisions of the
Act. In the present case, however, ^{there is involved the question of the trustees' power to make such a grant.} there are -
likely to be claims by the Dharmapuram Mutt and a
reference to civil courts. I agree with the Law Secretary
in thinking that expediency dictates that we should -

A

not give any appearance of a colourable compliance
with the provisions of the Act.

I however differ from the Law Secretary -
as to the applicability of Part VII because that
Part has reference only to companies registered -
under the English or the Indian Companies Act and
it will be very difficult to apply that Part to
proceedings such as the one under contemplation.
In the case dealt with in Flg. U it so happened
that the ^{reconstruction} Trust in question was a registered com-
pany and therefore the reconstruction trust was a
limited company; but, even there, the Board did
not recommend the procedure under Part VII which
according to them and in my opinion rightly, will
involve delay.

The course suggested by Sir Parasuramas
Patro, namely, of making a half grant in the first
instance will, I believe, satisfy all the require-
ments of the law.

CPD
19.6.26



note ref. to H.H. C. 2/2 note
at A on page 20
ante

A draft order directing the publication of
the notification under section 6 of the Land Acquisi-
tion Act and sanctioning a half grant for the acqui-
sition is submitted below. As the grant is sanctioned
under the Grant-in-aid Code and as the expenditure
can be met from the provision for building grants in
the current year's budget, the file need not be sent
to Finance. ~~As the acceptance of that~~ The acceptance of that
Department is not obtained for ~~the~~ sanctioning of
grants to individual institutions under the Grant-in-aid

Code.

2. The file may be sent to Revenue for perusal.

8A
24.6.26.

CA
28/6
S

VTK
9.6

Rev u.o

Thanks. I would be obliged if
Mr. Secy could have the
promised note on the necessity for
conveyances the difficulties created
by judicial decisions in enforcing
conditions in grants under the Crown
Grants Act prepared at an early
date as it will have an important
bearing on certain matters which
are now under consideration in the
Revenue Dept.

30.6.26
Law (Edm)

Revenue Dept

For orders whether the draft may be issued.

8A
5.7.26.

CA
5/7
S

Law (Edm) no 959 D-3
2368 D-1
29.6.26



(This is under reference to
Rev (S) 544 A/16-1
Regd 30.6.26)

Op

Rev u.o (S)
544 A/16-1
30/6/26

After issue please
extract notes has to be
taken & sent to Drafting
Section.

36 (21)
Law (Education) Department 21

Routine Note.

With reference to H.M. C.1's note below
it is submitted that under section 3 (e) of the
Land Acquisition Act as amended by the Land Acqui-
sition (Amendment) Act, 1919, the expression "company"
means not only a company registered under the
English or the Indian Companies Act, but also a
society registered under the Societies Registration
Act, 1860, and a registered society within the meaning
of the Cooperative Societies Act, 1912. In the present
case the managing Committee of the Hindu College,
Tinnevely, is a society registered under the Socie-
ties Registration Act.

8A
24.6.26.

CA
28/6
S

VTK
9.6

Submit to C, may after the file
returns from Rev.
To go to Rev here in an
urgent hand

VTK
9.6

File below may be marked

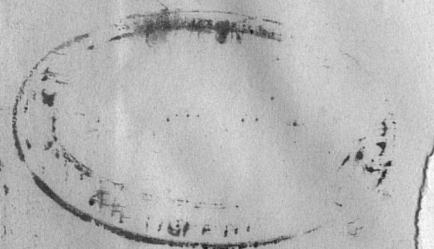
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CA
1.7.26

VTK
1.7

C,

Law Department to the
Informant at (as) 2.7.26



en received for Fair-
pying.

en copied

en examined

en signed

en despatched

Date.

Initials.

Land Acquisition - Hindu College, Tinnevely

~~Rights of trees &c.~~ Notification under

section 6 - Published.

LD AGAIN G.O. No. 1132 L.E., dated 30-6-1925.

” ” ” ” ” 192 .

READ ALSO:—

C. No. 2368-B From the Collector of Tinnevely, No.R.Dis....., dated 6-1-1926.
1191/25

" " " " Bd. of Revenue, L.R. & S. " Ref.C.235/26-1 21-1926.

” ” ” ” ” ” 192

ORDER.

Mis.

No. 1250, dated 6. 7. 1928

The appended notification under section 6 of the Land Acquisition Act, 1894, for the acquisition of the trees, etc. on the land required for the extension of the Hindu College, Tinnevely, will be published in English in the Fort St. George Gazette and in English and Tamil in the Tinnevely District Gazette.

2. The Government are pleased to sanction a grant not exceeding Rs 278 or one-half of the cost whichever is less, towards the cost of acquisition. The Collector of Tinnevelly is requested to call on the authorities of the College to deposit in the treasury the other half of the cost and to undertake to pay such larger amount as may be required on actual determination of the award or as

$\therefore \frac{1}{2} \text{ of } 2,557.12.0. (\text{paragraph 2})$
 par 2 of ef.

may be required by a civil court to which a reference may be made under section 18 of the Act.

3. The Board of Revenue is requested to submit proposals for the alienation of the land to the College authorities after the acquisition is completed.

8/19
24.6.26.

CR
28/6

V.K.
9.6.

Appendix

DESPATCHED
M 4 - JUL 1926

To

The Board of Revenue (L.R. & S.
(with papers below re-
turned.)

The Collector of Tinnevelly

The D. P. I.

The A. G.

The Revenue Dept.

The S.G.P. (for publication of
notification in
Gazette.)

Paragraph 2, page 3 of n.f.

What are "flower"
trees?
V.K.

Appendix 31
Notification

Under section 6, Act I of 1894, the Government hereby declare that the 50 trees, be the same a little more or less, and ~~the~~ well and ~~the~~ gateway standing on the land mentioned below are needed for a public purpose, to wit, in connection with the extension of the ~~premises of the~~ Hindu College, Tinnevelly; and under sections 3 and 7 of the same Act, the Revenue Divisional Officer, Tinnevelly, is appointed to perform the functions of a collector under the Act and directed to take order for the acquisition of the ~~said~~ said trees ~~and~~ well and gateway -

Tinnevelly District, Tinnevelly Taluk,
Sindupundur Village.

3 mango trees, 27 cocoanut trees, 19 ^{and} ~~other~~ ~~flower~~ trees and (one nelli tree) one well and a gate way in S. No. 8 (T.S.No.1096) Nandavanam Poramboke, bounded on the north by S.No.8 (T.S.No. 1096) part, East by Madura Road S.No. 187, South by Hindu -- College R.S.No. 7/1 ~~and~~ (T.S.No. 1095) and West by ^(Hindu college) R.S.No. 7/1 and 9 (T.S.Nos. 1095 and 1097) --belonging to ~~the~~ ^{Shay} mapuram Mutt.

2. A plan of the land is kept in the office of the Revenue Divisional Officer, Tinnevelly, and may be inspected at any time during office hours.

CV
19.2.26

8/19
19.2.26.

19/2

[Standing Order No. 90, paragraph 11.]

[30-ம் நெ. ஸ்டாண்டிங் ஆர்டர் என். 11-வது பாரா.]

[illegible]

தேரங்குறைய ஏகா அளவுன்னதாய் அடியிற்கண்ட ஷெட்யூவில் குறிக்கப்பட்டிருக்கும் சீமைகளை பொதுவாக அடியிருக்கிறதென்று இதனால் பிரகித்கப்படுத்துகிறார்கள்; மேலும், அதே ஆக்டின் 3-வது 7-வது பிரிவுகளின் பிரகாரம் நேச்செய்யும்படி சியமிக்கப்பட்டு, மேலேகண்ட சிலத்தை எடுத்துக்கொள்வதற்காக வேண்டிய ஏற்பாடுகளைச் செய்யும் (இன்னொரு)டைய ஆபீஸில் வைக்கப்பட்டிருக்கிறது; ஆபீஸ் திறந்திருக்கும் மணிநேரங்களில் பூல.

[illegible]



Enclosure to Gov. no. 12506
Gon 8 6-7. 26



Trinity

Coll

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STK

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