

Law (1926) Department.
(Education)

Ordinary SERIES.

G.O. No. 256

DATED 17-2-1926

[Despatch Abstract.]

Elementary Education Act.

Bill to amend the Madras-----Mr. Saldanha--recorded.

BACK PAPERS.

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

FURTHER PAPERS.

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

Government of Madras

LAW (EDUCATION) DEPARTMENT

G.O. No. , January 1926

Elementary Education Act—A Bill to amend the—.

READ—the following paper :—

Letter from J. A. SALDANHA, Esq., M.L.C., to the Secretary Legislative Council, Fort St. George, dated 1st December 1925.

I enclose a Bill to amend the Elementary Education Act which I shall move for leave to be introduced at the next meeting—among the Bills to be moved for such leave this will have precedence over any others of mine, but it comes next in precedence to my Bill to amend the District Board and Municipalities Acts which I shall move for first reading. I trust both will be balloted and put in the agenda.

ENCLOSURE.

A

BILL

TO

*Amend the Madras Elementary Education Act
VIII of 1920.*

WHEREAS it is expedient to amend the Madras Elementary Education Act (VIII of 1920), it is enacted as follows :—

1. The Act may be called the Madras Elementary Education (Amendment) Act.

2. *Omit* the proviso to section 5, and in clause (5) after the words "Local authority" *add* the words "and every educational society duly registered, managing, controlling or aiding an elementary school or schools in which 1,000 or more pupils are given instruction."

3. *Add* to section 34 the following proviso :—

"Provided that the members of an educational society duly registered which maintains an elementary school or schools giving instruction to 1,000 pupils or more shall be exempted from any of the aforesaid taxes."

4. *Add* to section 37 the following :—

"Provided further that such contribution shall be paid in due proportion to the society maintaining elementary school or schools, the members of which are exempted from payment of taxes under the proviso to section 34."

Section 49.

5. *Substitute* for the words "a Muhammadan child" the words "a child of a faith, which lays down the obligation of religious instruction in an elementary school, such as the religion of Roman Catholics or of Muhammadans".

Substitute for the words "Muhammadan faith" the words 'in the faith of that child or to attend a school other than one under the management of a society the members of which are exempted from the payment of taxes under the proviso to section 34'.

STATEMENT OF OBJECTS AND REASONS.

There are religious bodies like Roman Catholics and Muhammadans who attach highest importance to religious instruction in their schools and would undergo any sacrifice for that purpose. It is to meet their requirements that the amendments of the Elementary Education Act are sought.

1st December 1925.

J. A. SALDANHA.

LAW (DRAFTING) DEPARTMENT.

[SUBJECT.—*A Bill to amend the Madras Elementary Education Act.*]

'Education' is a provincial subject — item 5 of the list of provincial subjects, page 130, Legislative Council Manual.

Clause 2.—This does not require previous sanction. It merely deals with the subject of the constitution of the District Educational Council.

Clause 3.—This clause has the effect of reducing the proceeds of taxation and consequently the amount of contribution to be made by the Governor in Council from provincial revenues. Thus, it does not affect adversely the public revenues of the province within the meaning of section 80 C of the Government of India Act. No sanction is necessary for this clause.

Clause 4.—This clause is intended to admit a registered society maintaining an elementary school to the benefit of contribution, notwithstanding the exemption from taxation sought to be given to it in clause 3 of the Bill. No sanction is necessary for this clause. Of course, Mr. Saldanha does not mean that the Government contribution should be equal to the amount of the proceeds of taxation *plus* the amount excused to the society under clause 3.

Clause 5.—This clause exempts compulsory attendance of certain children at schools in which adequate provision is not made for religious instruction in their respective faiths and thus reduces the responsibility of their guardians. This requires no previous sanction.

N. NARAYANA RAO NAYUDU—16-12-25.

No previous sanction is needed.

V. T. KRISHNAMA ACHARIYAR—17-12-25.

LAW (EDUCATION) DEPARTMENT.

EXISTING SECTION.

(5) Every local authority within the district shall be entitled to elect such number of persons as may be prescribed to represent it on the district educational council.

(6) The other members of the district educational council shall be appointed by the Governor in Council who in making such appointments shall have regard to the representation of Muhammadans and other minorities;

Provided that it shall be competent for the Governor in Council by notification to authorize any private educational body maintaining elementary schools or any association of managers of elementary schools to elect one or more persons to represent it on the council.

Proposed Amendment:

Omit the proviso to section 5, and in clause (5) after the words 'local authority' add the words 'and every educational society duly registered, managing, controlling or aiding an elementary school or schools in which 1,000 or more pupils are given instruction.'

There is no proviso to section 5 as such. The Honourable Member apparently proposes to omit the proviso to clause 6. When the Elementary Education Bill was under consideration, the Missionary Educational Council of South India made the following suggestion:—

"The Council suggests that any private educational body carrying on elementary educational work to an extent to be defined in the clause should be entitled to elect one or more representatives, such elected persons to have the same status as those elected under subsections (4) and (5). The Council further suggests that in the definition of work entitling to

1-889

the right of election, such matters as the number of elementary schools and the number of pupils be taken into account and in particular that the maintenance of a training school for elementary teachers should of itself entitle the managing body of that school to representation on the District Educational Council."

vide flag (A)

2. At the interview which the deputation consisting of some of the members of the Council had with Sir L. Davidson, it was agreed that practical difficulties rendered it hopeless to attempt a statutory definition of the extent to which private educational agencies should be entitled to elected representation.

3. The existing proviso is *elastic* and enables any educational body or association of managers to secure recognition and direct representation on the District Educational Council if they can make out a case. The amendment suggested by the Honourable Member proposes to restrict representation on the District Educational Council to educational societies which are registered and which manage or control elementary schools attended by a thousand or more pupils. The suggestion is retrograde and cannot be accepted.

N.K.—21-12-25.

If the societies of the description given exist, they will ordinarily be allowed the privilege. We cannot afford to have every registered society managing about 20 or 25 elementary schools represented on the council. The constitution of the council will be needlessly large and cumbrous. There must be some discretion left in choosing representatives of private managers.

C. RAMANUJA ACHARIYAR—22-12-25.

V. T. KRISHNAMA ACHARIYAR—22-12-25.

EXISTING SECTION.

The Education tax and Government contribution.

34. With the previous sanction of the Governor in Council any local authority for which an elementary education fund has been constituted under section 32 may levy within its area the following taxes, namely :—

(i) if the area is within a municipality, a tax not exceeding twenty-five per centum of the taxation leviable in that area under the law for the time being in force governing municipalities under all or any of the following heads : viz., property tax, tax on companies and profession tax ;

(ii) if the area is not within a municipality, a tax not exceeding twenty-five per centum of the taxation leviable in that area under the law for the time being in force governing local boards under all or any of the following heads : viz., land-cess tax on companies, profession tax and house tax.

Proposed Amendment.

Add to section 34 the following proviso :—

"Provided that the members of an educational society duly registered which maintains an elementary school or schools giving instruction to 1,000 pupils or more shall be exempted from any of the aforesaid taxes."

LAW (EDUCATION) DEPARTMENT.

Under section 83 of the Madras District Municipalities Act, 1920, and section 99 of the Madras Local Boards Act, 1920, buildings used for educational purposes are exempt from property tax and house tax, respectively, and this exemption involves also exemption from payment of education tax. The Railway Administrations in the Madras Presidency have claimed exemption from payment of education tax on the ground that they are maintaining elementary schools for the benefit of their employees. This claim has been opposed by the Government. The proposal made by the Honourable Member is similar to the claim made by the Railway Administrations and cannot be entertained.

N.K.—21-12-25.

The proposed proviso refers to the exemption of the members of the Educational society. The Educational buildings which the society owns are exempt. There is no reason why the members should claim any exemption from the profession or other tax to which they in their private capacity will be liable. The wording of the proviso is capable of such application.

C. RAMANUJA ACHARIYAR—22-12-25.

I cannot understand what the Member of the Legislative Council has in view. Why should all members of the society be exempt from taxes ?

V. T. KRISHNAMA ACHARIYAR—22-12-25.

EXISTING SECTION.

Government contribution to elementary education fund.

37. When an elementary education fund is constituted under section 32, the Governor in Council shall contribute thereto a sum not less than the proceeds of the taxation levied under section 34 on behalf of the fund :

Provided that such contribution shall be in addition to, and not in lieu of, the amount of recurring expenditure incurred from provincial funds during the financial year before the coming into force of this Act on education in elementary schools under public management situated within the area for which such elementary education fund has been constituted.

Proposed Amendment.

Add to section 37 the following :—

“ Provided further that such contribution shall be paid in due proportion to the society maintaining elementary school or schools, the members of which are exempted from payment of taxes under the proviso to section 34.”

LAW (EDUCATION) DEPARTMENT.

The intention of the Honourable Member is not clear. Section 37 relates to the payment of contributions from Provincial funds to local bodies in support of the institutions under their control. Grants to private educational agencies maintaining elementary schools are paid by the District Educational Councils under rules framed for their guidance by the local Government. If the Honourable Member desires that the amount of grant now paid to private educational agencies should be raised, he should propose an amendment of the rules framed under the Elementary Education Act. The amendment proposed is out of place and may be rejected.

N.K.—21-12-25.

Grants to private aided institutions come out of the *District Educational Fund* under the charge of the District Educational Council. Elementary Education Funds maintained by the *local bodies* are not to be utilized for payment of grants to aided schools. The proposal cannot be accepted.

C. RAMANUJA ACHARIYAR—22-12-25.

V. T. KRISHNAMA ACHARIYAR—22-12-25.

EXISTING SECTION.

(3) *Responsibility of guardians.*

49. In every area affected by a notification under section 46 it shall be the duty of the guardian of every child of school age resident in such area, subject to the exceptions authorized by section 50, to cause such child to attend an elementary school in such area :

Responsibility of guardian to cause child of school age to attend school.

Provided that no guardian shall be compelled to cause a child to attend a school at which attendance at religious instruction in a faith other than that to which the child belongs is compulsory :

Provided further that no guardian shall be compelled to cause a Muhammadan child to attend a school at which adequate arrangements have not been made for religious instruction in the Muhammadan faith.

*Proposed Amendment.**Section 49.*

5. Substitute for the words ‘a Muhammadan child’ the words ‘a child of a faith, which lays down the obligation of religious instruction in an elementary school, such as the religion of Roman Catholics or of Muhammadans’.

Substitute for the words ‘Muhammadan faith’ the words ‘in the faith of that child or to attend a school other than one under the management of a society the members of which are exempted from the payment of taxes under the proviso to section 34’.

LAW (EDUCATION) DEPARTMENT.

When the Elementary Education Bill was under consideration, Rao Bahadur T. Balaji Rao Nayudu suggested that the concession allowed by the second proviso to section 49 to Muhammadan pupils should be extended to all pupils. The suggestion was, however, not accepted for the reasons contained in the following extracts :—

The Hon'ble the Rev. E. M. Macphail.—I have a great amount of sympathy with what the Hon'ble Mr. Balaji Rao Nayudu has said as to the desirability of giving religious instruction in connexion with education and I feel myself that at the present time people have not sufficiently taken advantage of the provisions already made by the Government of India in the way of opening schools connected with different religions in which religion may be taught to the children in the school. My difficulty in connexion with this amendment is—I felt it to a certain extent in the Select Committee when we passed it in regard to the Muhammadans—that it seems to me to be really making it practically very doubtful whether we shall have free compulsory education at all ; because it means that we shall have to provide in every school religious education for every child and for every creed and for every subdivision of a creed, provided that these children or rather their parents choose to lay emphasis upon the necessity of providing religious education. I do not quite see myself how under present circumstances it is going to be done. I wish to submit that in connexion with the present policy of the Government of India it does seem to me that we shall be landing ourselves in difficulties if no child is to be compelled to attend a school in which he does not find that religious education is compulsorily enforced. It is merely for that reason that I find it rather difficult to support Mr. Balaji Rao Nayudu's amendment.

pp 381-383 of the Council proceedings
22.9.1920
put up.

The Hon'ble Mr. P. Siva Rao.—Your Excellency, I am also in full sympathy with the Hon'ble Mr. Balaji Rao Nayudu, but I believe if his suggestion is carried into effect it will be sounding a death blow to elementary education. If once we start religious education, the practical question arises what kind of religious instruction should be provided. There are numerous religions in India, and unless every school is provided with religious instruction in the numerous faiths in the land, it would not satisfy the purpose of any compulsory scheme that we are inaugurating. For there is the difficulty of providing according to each one's religion. It will be a terrible burden upon the local authority to open such institutions, and we would not be able to carry out our programme of compulsory education if we introduce this provision.

The Hon'ble Mr. N. Subba Rao.—I submit, Your Excellency, that there would be many practical difficulties in introducing religious education. There are so many religious and faiths in India—the Varnashrama, Vedanta, the Saivite, etc., there are 101 varieties and any attempt in introducing religious education would be landing us in difficulties. My own idea, Your Excellency, is that religious and moral education must be in the hands of parents themselves. The teachers in and outside the school by their precept and example can effectively impress upon their pupils the right moral standard. Therefore, I submit, Your Excellency, I oppose the amendment, though I sympathize with the spirit of the proposition.

The Hon'ble Mr. L. Davidson.—Your Excellency, the proviso attached to this clause was introduced at the express desire of the Hon'ble Mr. Ahmad Tambi Marakkayar, whose absence I regret, for he would have been able to emphasize with greater knowledge and far more forcibly than any one else, the peculiar position in which the Muhammadan child stands in this respect. In the eyes of orthodox Muhammadans, it is, I understand, a religious obligation to provide for the instruction of their children in the Koran in the earliest years when they go to school; and this binding obligation we are assured, could not be discharged if the children had to attend a secular school in which the Koran was not taught.

I quite agree with the Hon'ble Mr. Narasimha Ayyar that religious education should be provided whenever possible, but we have not yet reached that stage.

In regard to the amendment we are discussing, I have one verbal criticism, and that is the 'faith in which a child is born' is not necessarily the faith which he follows when he comes to school-age. But the gist of my opposition is that the Muhammadans stand in a peculiar position. It is, as I have said, a very definite obligation, recognized by the great majority of them, to provide for the instruction of their children in the Koran and I think I am right in saying that in no other community is any similar obligation at the present moment recognised. The Government are aware that if satisfactory arrangements for instruction in Islam cannot be made in elementary schools in general, the passing of this proviso may involve great risk of retarding the spread of elementary education among Muhammadans. The proviso is admittedly an exception to the general principle of the Bill, acquiesced in with reluctance because of the special footing on which Muhammadans stand.

* * * *

I do not want to prolong the discussion. It has been sufficiently explained that by the insertion of this proviso we are running the risk of retarding the future of compulsory education. But there is a definite religious obligation in the case of the Muhammadan community, and I do hope that their case will be regarded as entirely exceptional and not treated as an example to be followed by all and sundry faiths.

Apparently the Honourable Member proposes to extend the concession as regards religious instruction only to children of the Roman Catholic persuasion, though the amendment suggested by him will have the ultimate effect of extending the concession to all other children who are under similar obligation. The first question to be examined is whether the Roman Catholic community are under similar obligation as

the Muhammadan. The Director of Public Instruction may be requested to examine this point. If the obligation is strong, there can be no ground for refusing the concession which is granted to the Muhammadan. The question is one of fact. We may have to compare the religious obligations of the two creeds.

The additional words at **M** on page 5 ante have apparently been suggested with a view to secure that Roman Catholic children are not compelled to attend schools run by educational bodies other than Roman Catholics. In the interests of the education of the children of the Roman Catholics themselves, the proposal cannot be accepted.

N.K.—21-12-25.

C. RAMANUJA ACHARIYAR—22-12-25.

V. T. KRISHNAMA ACHARIYAR—22-12-25.

The draft Bill is by no means clear and the meaning is obscure.

2. None of the provisions suggested can be accepted.

V.T.K.—22-12-25.

The amendments proposed are meaningless. They betray complete ignorance of the main principles of the existing Act. The Honourable Member has some vague idea which in expressing it makes confusion worse confounded.

2. He picked up one or two suggestions made during the discussion of the Bill in the Legislative Council in 1920 and repeats the same with less intelligence. These suggestions were rejected by the Legislative Council.

3. The amendments relating to sections 34 and 37 relate to financial obligations which cannot be accepted.

Amendment to section 49 relates to religious neutrality.

Therefore the amendments are unnecessary, uncalled for and are also unacceptable. The Bill will have to be circulated to my Hon'ble Colleague C-4, as regards sections 34 and 37.

A. P. P[ATRO]—23-12-25.

T. N. S[IVAGNANAM PILLAI]—23-12-25.

P. R[AMARAYANINGAR]—8-1-26.

G[OSCHEN]—12-1-26.

I agree with my Honourable Colleague.

T. E. M[OIR]—16-1-26.

Elementary Education Act.
Amending Bill

1. First amendment.

There is no proviso to S. 5.

The proviso relates to S. 6.

Every Society managing 1000 Schools &c.

it is retrospective. The present
provision enables representation to all
Societies or Managements in charge of

Schools. 2. It further gives re-
presentation to managers and
Teacher managers as such. &

The amendment restricts & includes
the latter class. In S. Canon,

Representation is given to all Societies
in charge & schools - If the Catholic
Managements did not get in, The Act
cannot be amended to give a
separate representation to the particular
Ams in which the members may
be interested & may belong to.

2. S. 34.

Members of Educational Society shall
be exempt from payment of
Educational tax - Why?

Any Society of Charitable Institutions
may claim similar exemption -

3. S. 37, While claiming exemption

from payment of the, the amendments
claims of the Society share in the Contributions
of Govt payable to the Local Bodies.

There is Elementary Education Fund & the Local Bodies.

... District Education Fund & the Aided Schools.

Govt Contributions under the Section relates to local
bodies leaving an Educational Com.

The Society is not a local body is not entitled
to a share.

4. S. 49. Inheritance. Inheritance Child.

This will make free & Compulsory & Grants
impracticable unless provision for each child
for each creed and sub creed or provide
separate schools for Catholic Christians.

The existing Section seems to be elastic enough.

If a few Catholics do not like they can
have their own schools. ^{existing provision} Education is quite
adequate saved.

To

THE SECRETARY TO GOVERNMENT,

Law (Edn)

DEPARTMENT.

250-16-11-22.

A & S 38
12/12/26

The following resolution was

carried.
lost.
not moved and was therefore deemed to have been withdrawn.
in the absence of the mover, deemed to have been withdrawn.
by leave, withdrawn.

(4) The Madras Elementary Education Bill.

Mr. J. A. SALDANHA, M.L.C., will move for leave to introduce the Madras
Elementary Education Bill.

Not moved

Amendment.

RV Krishnas

LEGISLATIVE COUNCIL OFFICE,

107 2

1926.

Secretary to the Legislative Council.

The Bill will have to be
balled again before
it can be moved in
the Council on a day
allotted for non-official
business. It is not likely
that it can be taken up
earlier than June next

E. & H.

Bill to amend the Madras
Mr. Saldanha
Recorded

Page No. 256

mis 17.2.26 Recorded

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16.2.26

V. TK

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When signed _____

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READ AGAIN G.O. No. _____
192 .

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT ...

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LETTER OF GOVERNMENT.

STATEMENT WITH DIVTO.

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IN ORIGINAL.

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