Education (1948) Department

A S

Closed

G. O. No. 1818 Edn

(213)

DATED 21-7-48

The Madras Aided Institutions & Prohibition of Transfers of Property) Act, 1948 - Papers recorded

Further papers.

G.O.Ms.No. 142 Edn.
19-1-'51.

92

D.O. Office of the Director of Public Instruction,
Cathedral P.O., Madras, 23rd September 1946.

My dear Sir,

With reference to your letter dated 10th August about the Coimbatore Stanes' High School authorities selling part of their compound, I would like to bring to your notice that this matter was reported to Government in my letter R.S.No.970 E/46 dated 29-6-46 and in their Memorandum No.35669-C.1/46-1, Education, dated 13--8--46, orders have been received that there is no objection to the Correspondent selling 5 acres of the school estate provided he refunds to Government Rs.714/- for every acre of land sold. I also consulted the Government Solicitor and am enclosing herewith a copy of his letter dated 28-8-46 which agrees with the orders passed in the Government Memorandum. The Govt Memo has however not been communicated as yet to the management

Yours sincerely,

To

The Hon'ble Mr.T.S.Avanashilingam Chettiar,
B.A.,B.L.,
Minister for Education,
Fort St.George, Madras.

P.T.O.

--2--

Copy of letter dated 28th August 1946 from the Government Solicitor, Madras.

Sub: Building grant to Stanes European High School, Coimbatore - Sale of land by the management.

I am in receipt of your letter No.4240-E1/46 dated 20th instant.

I do not think Government can compel the school authority to sell the property to any particular institution under the provisions of the Grant-in-Aid Code. Government can only insist on a return of the proportionate amount due under the mortgage. The whole amount due under the mortgage may be claimed and not only the proportion relating to the five acres proposed to be sold by the School authority.

U.O.reply No.4240-E/46

Office of the
Director of Public Instruction,
M a d r a s, 28th November 1946.

SUB:-Lands purchased by managements of private Schools with the aid of Government grants - Legislation to prevent sales at higher prices - Remarks - Submitting.

REF:-U.O.Note from Government No.60136 C1/46-1, E. & P.H.,Dept., dated 6th November 1946 communicating the Minutes of H.M.(Education) dated 11th October 1946.

ASST. SECRETARY TO GOVERNMENT 73261 29 NOV 1946 EDUCATION AND PUBLIC HEALTH DEPT.

.....

I am enclosing herewith a copy of my D.O. letter dated the 23rd September 1946 to the Hon'ble Minister for Education for reference.

2. I support the proposal for introducing legislation to prevent completely the sale of any part of a site or a building purchased or constructed out of Government grant for other than educational purposes. The value of land has appreciated so much that it would be profitable to any management to sell land or buildings.

S Ranganathan Sawoor.
Director of Public Instruction,
Madras.

To

The Secretary to Government,
Education and Public Health Department,
Fort St. George, Madras.

.....

COPY of D.O. letter dated 23rd September 1946 from the Director of Public Instruction, Madras, to the Hon'ble Minister for Education.

With reference to your letter dated 10th August about the Coimbatore Stanes' High School authorities selling part of their compound, I would like to bring to your notice that this matter was reported to Government in my letter R.C.No. 970-E/46, dated 29-6-1946, and in their Memorandum No. 35669-C.1/46-1, Education, dated 13-8-1946, orders have been received that there is no objection to the Correspondent selling 5 acres of the school estate provided he refunds to Government Rs.714/- for every acre of land sold. I also consulted the

Government Solicitor and am enclosing herewith a copy of his letter dated 28-8-1946 which agrees with the orders passed in the Government Memorandum. The Government Memorandum has however not been communicated as yet to the management.

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COPY of letter No.2135 dated 28th August 1946 from the Government Solicitor, Madras, to the Director of Public Instruction.

...

Building grant to Stanes European High School, Coimbatore - Sale of land by the management.

....

I am in receipt of your letter No.4240-E1/46 dated — noticed 20th instant.

I do not think Government can compel the school authority to sell the property to any particular institution under the provisions of the Grant-in-Aid Code. Government can only insist on a return of the proportionate amount due under the mortgage. The whole amount due under the mortgage may be claimed and not only the proportion relating to the five acres proposed to be sold by the school authority.

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S R C Sarma.

Very Urgent

Memo. No. 60316 C1/47-5 Edn. Dt. 1/10/47

Sub:- Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

A copy of a Bill together with a statement of Objects and Reasons on the Subject noted above are furnished to the Govt. Solicitor, Madras. He is requested to obtain and forward to govt. the opinion of the Advocate-general as to whether the Bill, especially clause 4(a), contravenes Section 299(2) of the Govt. of India Act, 1935. in any respect. It is also requested to furnish the opinion

29.9.47. 30/9/47 1/10/47 before a very urgent.

To

The Govt. Solicitor
Madras (with enc.)

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No.55.

C; VM/65 7

O P I N I O N.

ASST. SECRETARY TO GOVERNMENT 17 OCT 1947 EDUCATION AND PUBLIC HEALTH DEPT.

Sub: Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the province of Madras:

Ref: Memorandum No.60316 CI/47-5 Education dated 2-10-1947, Education and Public Health Department.

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not pubd

I am of opinion that the Bill does not offend the provisions of section 299(2) of the Government of India Act, 1935. The object of the legislation, its pith and substance is not to authorise or enable the Provincial Government to acquire the property of the educational institutions in question but to put a restraint upon transfers of properties of the institution. The scheme of the Bill is to require the previous permission of the Government before a transfer is made and the Government, in giving such permission, is entitled to ask for repayment of a portion of the grant or a portion of the current market value of the land or building accordingly as the improvement or construction or alteration or repair was made with the aid of the grant of the Government or the land or building itself was granted by the Government to the institution. Section 4 of the Bill requires a closer scrutiny and provides for the consequence of transfer without the permission of the Government as required by section.3. Under this section the Collector is directed to take possession of the land or the building in case the manager exercises the option not to pay the full amount of the grant or the market value. When the option is exercised by the manager not to pay the amount of the grant or value of the property to the Government, the Collector

pp 3-4 of the draft Bill

pp 2-3 ibid

is

8

is obliged to take possession of the land and the building and, by operation of section 6, on such possession being taken, the land or building is to vest absolutely in the Crown. This, of course, operates as an acquisition by the Government of the property but there are two reasons why this provision does not contravene section 299(2) of the Government of India Act. As already observed, the object of the legislation is not to acquire the property and so long as the manager of the institution does not transfer the property or transfers it with the previous permission of the Government, no occasion for the exercise of the power arises. Therefore there is no compulsory acquisition. It is only intended to compel the manager of the institutions to carry out and fulfill the conditions on which the Government gave the aid or transferred the property to the institution. I may, in this connection, observe that, if the conditions of the grant expressly provide for the taking back the property in case the provision against transfer is violated, there is no necessity to resort to this legislation at all. It is only because the original grant presumably does not contain the power to take back the property that there is need for legislation. Therefore it is really a case where the manager of the institution is required to observe the condition and so long as the condition is observed, the Government cannot take any action and have no power to acquire under the Bill. Secondly, there is no acquisition <u>for a public purpose</u> as is required in section 299(2) of the Government of India Act as it cannot be generally stated that, whenever Government takes the property of any individual or an institution, it is necessarily for a public purpose.

Sd/- K. Rajah Iyer.
Advocate-General.

Madras.
15-10-1947.

(TRUE COPY)

Srinivasagan
Government Solicitor,
Madras.

(6) 6 9

From:

H.M.Small Esq., O.B.E., M.A., LL.B.,
Government Solicitor,
Madras.

To

The Secretary to Government,
Education & public Health Dept.,
Madras.

No. 2795 Dated 15-10-1947.

Received on 15-10-1947.

Dispatched on

Forwarded with reference to Memorandum No.60316 CI/47-5 Education dated 2-10-1947.

for GOVERNMENT SOLICITOR.

BNP.

2796

Copy to the Secretary to Government,
Legal Department, Madras.

Education and P.H.(C.1.)Dept.

THE
NOTE FOR THE INFORMAL MEETING OF/HON'BLE MINISTERS.

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Subject: Legislation - Draft Bill to prohibit transfers of lands and buildings of educational institutions.

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A copy of a draft bill to prohibit tranefers of certain lands and buildings by Managers of Educational institutions in the Province with the statement of 'Objects and Reasons' is appended. The principle of the legislation has been accepted by the H.M's the Hon'ble Premier and H.E. The Legal Department while preparing the draft bill stated that it ~~is~~ was intra vires of the Provincial Legislature but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The ~~Government~~ Advocate-General has opined that the draft Bill did not contravene this provision.

~~Concurrently~~ When the draft file was briefed before the Hon'ble Premier on the draft Bill was circulated to H.M's (Edn.) and (Home) prior to placing it before the informal meeting of the Hon'ble Ministers they minuted as follows:-

"The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules, the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home), the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all H.Ms. T.S.A. 13-11-47"

O.P.R. 20-11-47"

The note is now circulated for consideration at the informal meeting for orders whether the draft bill may be proceeded with.

21/11/47.

24/11/47

26/11/47.

Please copying to all H.M's and Hon'ble Premier. and 5 s/c folio

28/10/47

pp 1-7 of the draft Bill

p 5 ng

para 2 p 7 ng

para 7 pp 7-8 ng

R ong 8 cf

if approved meeting of the Hon'ble Ministers, H.E. & Hon'ble Premier his ministers

pp Secy. to Govt.

× on behalf of H.M.(Home)

12

Annexure

(Here enter the Draft Bill)

(5)

Education and P.H.Department.

(8)

NOTE FOR THE CABINET.

Sub: Legislation Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intravires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act,1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Edn.) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam) 13-11-47

On behalf of H.M.(Home)
O.P.R(amaswamy Reddy)
20-11-47.

A note was circulated for consideration at the informal meeting for orders whether the draft bill might be proceeded with. Subsequently H.M.(Education) has minuted that he has had a talk with the Hon'ble Premier and that this may be included in the Agenda for the next meeting of the Cabinet to be held on the 17th. The point for orders is whether the draft bill annexed may be proceeded with.

M.V. Subramaniam,
Secretary to Government -9-12-47

ANNEXURE.

A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

Whereas it is expedient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:-

Short title, extent and commencement.

1(1). This Act may be called the Madras Educational Institutions(Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.
(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context.--

(1) " Government" means the Provincial Government as defined in section 3, clause (43 a), of the General Clauses Act, 1897. | Central Act X of 1897.

(9) 14 9

(2) "institution" means any college, school, patasala, madarasah, or other educational institution in the Province of Madras;

(3) "manager" means the owner, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Govt:

3.(1) Where before or after the commencement of this Act--

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or (b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion-

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Govt. of such portion as the Govt. may deem proper in the circumstances of the case, of the grant referred to in sub-section(1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section.

3.

(4). If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order.--

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Govt. and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land(together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Govt. for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Govt. or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Govt. shall recoup to the manager

any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6(1) Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or building, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the preseidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for educational purposes.

Sums due under Act to be recovered as arrears of land revenue.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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STATEMENT OF OBJECTS AND REASONS

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionalbe practice should be put an end to at once, and that, as in the English School Grants Act. 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits(except with Government Permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution; and (2) where some other valid reason justifies the transaction. In the first case, only a propertionate part of the grant of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, either to direct the manager to repay the entire grant or the entire market value of the property grant or to claim possession and ownership of the property. Where, however, the

more stringent requirements for the construction of buildings to ensure adequate fire-resistance and adequate means of escape in case of fire. Clause 4 of the Bill makes provision for the enforcement of the provisions of the Act and the Regulations made thereunder by the Government.

STATEMENT OF OBJECTS AND REASONS

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Any property of which possession is taken by the Government for the purposes of this Act shall be used only for such purposes as are specified in the Act and for no other purpose. It is proposed to provide that the Government may, by notification in the Official Gazette, withdraw any property from the operation of this Act and thereupon the property shall vest in the Government free from all encumbrances. Provision is also made for the payment of compensation in respect of any property taken possession of under this Act. Provision is also made for the appointment of a Collector who shall be competent to hear and decide claims to compensation and to apportion the compensation among persons interested in the property compensated and generally to perform the functions specified in the Act.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where there is reason to believe that any building is likely to be demolished or altered in contravention of the provisions of clause 3 of the Act, the Collector may, by notice in writing, require the person who is erecting or demolishing or altering the building to show cause why the building should not be demolished or altered, as the case may be. Sub-clause (2) of clause 4 provides that if the person to whom the notice is issued does not show cause to the satisfaction of the Collector why the building should not be demolished or altered, the Collector may pass an order to that effect and may also direct that any person who refuses or fails to comply with the order shall pay such fine as may be specified in the order. Sub-clause (3) provides that any person who is aggrieved by the order of the Collector may appeal to the District Court within thirty days from the date of the order.

Clause 5 provides that where any building is demolished or altered in contravention of the provisions of clause 3 of the Act, the Collector may, by notice in writing, require the owner of the building to demolish or alter the building so as to bring it into conformity with the provisions of clause 3 of the Act or to restore it to the condition in which it was before the contravention took place. Sub-clause (2) provides that if the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 6 provides that the Collector may, by notice in writing, require the occupier of any building to demolish or alter the building so as to bring it into conformity with the provisions of clause 3 of the Act, if the Collector is of opinion that the building is likely to endanger human life or property in the neighbourhood. Sub-clause (2) provides that if the occupier fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the occupier as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 7 provides that where any building is demolished or altered in contravention of the provisions of clause 3 of the Act, the Collector may, by notice in writing, require the owner of the building to demolish or alter the building so as to bring it into conformity with the provisions of clause 3 of the Act or to restore it to the condition in which it was before the contravention took place. Sub-clause (2) provides that if the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 8 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 9 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 10 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 11 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 12 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 13 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 14 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 15 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 16 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 17 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

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Clause 68 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 69 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 70 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 71 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 72 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 73 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 74 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to require the owner of the building to demolish or alter the building so as to remove the danger. If the owner fails to comply with the notice issued under sub-clause (1), the Collector may cause the building to be demolished or altered, as the case may be, and may recover the cost thereof from the owner as an arrear of land revenue. Sub-clause (3) provides that no suit or other legal proceeding shall be instituted against the Collector in respect of any act done in good faith in pursuance of the Act.

Clause 75 provides that where any building is likely to endanger human life or property in the neighbourhood by reason of its ruinous condition it shall be lawful for the Collector, by notice in writing, to

MEETING OF THE COUNCIL OF MINISTERS HELD AT 6.30 P.M. AT COOUM HOUSE.

SECRETARIAT, GOVT. OF MADRAS
19 DEC 1947
GOVERNMENT OF MADRAS

The Hon'ble the Premier presided.

PRESENT.

1. The Hon'ble Dr. P.Subbarayan.
2. TheHon'ble Dr.T.S.S.Rajan.
3. The Hon'ble Sri M.Bhaktavatsalam.
4. The Hon'ble Sri B.Gopala Reddi.
5. The Hon'ble Mr. Daniel Thomas.
6. The Hon'ble Sri K.Chandramouli.
7. The Hon'ble Sri T.S.Avinashilingam.
8. The Hon'ble Sri K.Madhava Menon.
9. The Hon'ble Sri A.B.Shetty.
10. The Hon'ble Sri V.Kurmayya.

AGENDA

Legislation - Draft Bill to prohibit transfers of lands and buildings of educational institutions.

ORDER

The draft bill was approved. But it was decided that the scope of the Bill should be widened to include other public institutions like hospitals receiving capital grants. It was also decided that there should be a provision in Section 6 providing for punishment of people who refuse to surrender possession or obstruct the act of taking possession.

19/12

O.P.RAMASWAMI REDDY.

E & P.H. DEPARTMENT

-1-

...ooo...

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

the land and constructing the building.

Second, these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to restore to the educational institution the amount spent by it in acquiring

GOVERNMENT OF MADRAS
LEGAL DEPARTMENT

Memorandum No.371-1 dated 12-1-1948.

Bills - The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 - Publication.

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the
G.O.No.20, Legal, dated/12th January 1948, directing the publication of the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, in the Fort St. George Gazette in English and in the Tamil, Telugu, Malayalam and Kannada languages, is forwarded to the Superintendent, Government Press. He is requested to publish the Bill in Part IV-A of the Fort St.George Gazette in English on the 13th January 1948 and in the other languages on the 20th January 1948.

2. The Senior Translator to Government is requested to forward the translations of the Bill and the Statement of Objects and Reasons to the Superintendent, Government Press, in sufficient time for publication in the Gazette, dated the 20th January 1948.

K.V. RAJAGOPALAN,
Joint Secretary to Government

To the Superintendent, Government Press (with enclosures)
" the Senior Translator to Government.
" Education and Public Health Department.
" the Secretary, Madras Legislature.

Forwarded / By Order.
K.G.Umamathan
Superintendent.

NN/12-1.

21(14)

14

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Government" means the Provincial Government;

(2) "institution" means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*.

(3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where, before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed

of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for improving, altering or repairing or constructing the land or building;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4 shall be final and shall not be liable to be questioned in any Court of Law.

Property to vest in Crown absolutely, on possession being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 may be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

STATEMENT OF OBJECTS AND REASONS.

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains

24

in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, for example, a hospital, should be treated in regard to this matter in the same manner as an educational institution. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, *either* to direct the manager to repay the entire grant or the entire market value of the property granted *or* to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to pay to the institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for purposes similar to those for which it was being used before it vested in the Government.

T. S. AVINASHILINGAM CHETTIAR.

(16) 16 25

EDUCATION AND PUBLIC HEALTH DEPARTMENT.

LETTER NO. 60316 c1/46-7 Edn.

From

The Hon'ble Sri T.S.Avinashilingam Chettiar,
Minister for Education.

To

The Secretary,
Madras Legislative Assembly.

Dated.....21.1.1948.

Sir,

I have the honour to give you notice under rule 75 of the Madras Assembly Rules, that I propose to introduce the Madras Aided Institutions (Prohibition of Transfer of Property) Bill, 1948, at the meeting of the Legislative Assembly commencing on the 20th January 1948, and to move that the Bill be taken into consideration at once. If the motion is carried and the Bill is considered, I propose to move that the Bill be passed into law.

2. The Bill together with the Statement of Objects and Reasons was published in the Fort Saint George Gazette dated the 13th January 1948.

Your obedient servant,

15A
21.1.48
Minister.

O/C
(F.C. attached)
43

Sgw
12
21.1.48

Education & Public Health Dept.

Letter No. 60316 C1-46-7

From

The Hon'ble Sri T.S.Avinashilingam Chettiar,

Minister for Education.

To

The Secretary,

Madras Legislative Assembly.

Dated 26th January, 1948.

Sir,

I have the honour to give you notice under rule 75 of the Madras Assembly Rules, that I propose to introduce the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, at the meeting of the Legislative Assembly commencing on the 29th January 1948, and to move that the Bill be referred, ~~at once~~, to a Joint Select Committee consisting of members of both the Houses.

2. The Bill together with the Statement of Objects and Reasons was published in the Fort Saint George Gazette dated the 13th January 1948.

Your obedient servant,

TSA

Minister. 26.1.48

Secretariat of the Madr.
Legislature.

IMMEDIATE.

No 602/48-1 ML dy 28.1.48

Sub: Madras Legislative Assembly - The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948.

The Hon. the Minister for Education (first) gave notice of his intention (to move) for consideration and passing into law of the above Bill. Notice has ~~xix~~ just been received of a motion for referring that Bill to a Joint Select Committee consisting of members of both the Houses. (This is presumably in supersession of the notice already received) Under rule 111 of the Madras Assembly Rules the motion should state the total number of members of both the Houses to be appointed to the Committee.

This Bill has been included in the agenda for 30-1-1948. The E.& P.H. dept. may be requested to state immediately the total number of members to be appointed to the Committee as required by the rule quoted above.

D.K.V. Raghava Varma,
Secretary to the Legislative Assembly.

To the Education & Public Health dept.

Forwarded/By Order/

A J Sabesan
Superintendent.
E & P. H Dept

The note may be circulated
to H (EdH)

28/1/48 S/Mdy H (EdH)
28/1/48 Mr. (Edn.)

The number of members for the Select Committee may be 12.

29.1-48

31
19

Education & Public Health Department.

Letter No.

From

The Hon'ble Sri T.S.Avinashilingam Chettiar,
Minister for Education.

To

The Secretary,
Madras Legislative Assembly

Dated, Fort St. George, the 28th January 1948

Sir,

I have the honour to give you notice under rule 75 of the Madras Assembly Rules that I propose to introduce the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, at the next meeting of the Assembly and to move under rule 111 of the Madras Assembly Rules that the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of × 12 Members to consider the Bill, 8 Members from the Assembly and × 4 Members from the Council.

The Bill together with the Statement of Objects and Reasons was published in the Fort St.George Gazette dated the 13th January 1948.

Your obedient servant,

TSA
29.1.48

Minister.

× nos. of members to be filled in by the Hon. Minister

o/c
t/c placed below

SECRETARY, EDN. AND P.H. DEPT.
29 JAN 1948
GOVERNMENT OF MADRAS

Copy.

From

H M.Education.

To

The Secretary, Madras Legislative Council,
Madras.

Dated 20th February 48.

Sir,

I have the honour to give you notice of my intention to move the motion mentioned in the annexure at the meeting of the Legislative Council commencing on the 23st Feby. 48.

Y.O.S.

Sd. T.S.A.

Annexure.

--

That this House concurs in setting up a Joint Select Committee of the two houses consisting of 12 members (8 members from the Assembly and 4 members from the Council) to consider the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, and that the following members of this House be nominated to the said Joint Select Committee.

Sd. T.S.A.

1. Hon'ble Sri Madhava Menon
2. Dr. A.Lakshmanaswamy Mudaliar
3. Mrs. M.Hensman
4. Mr. Uppi Sahib.

EDUCATION AND PUBLIC HEALTH DEPARTMENT.

Letter No._____.

From

The Hon'ble Sri T.S.Avinashilingam Chettiar,

EDUCATION MINISTER

To

The Secretary,

Madras Legislative Assembly.

Dated 23rd February 1948.

Sir,

I have the honour to give you notice of my intention to move the motion mentioned in the Annexure at the meeting of the Legislative Assembly to be held on the 24th February 1948.

Your obedient servant,

TSA

M i n i s t e r.

ANNEXURE.

That the following eight members of this House be nominated to the Joint Select Committee appointed to consider the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1947.

1. Sri D.V.Ramaswami
2. Sri S.Chidambara Ayyar
3. Sri L.S. Karayalar
4. Mr. N.Muhammad Anwar Sahib
5. Mr. M.V.Hydross Sahib
6. Sri A.S.Sahajananda, and
7. Sri A.Aaron Rao
8. The Mover.

4/ 22 23/

SECRETARIAT OF THE MADRAS LEGISLATURE.

ASST. SECRETARY TO GOVERNMENT
EDUCATIONAL AND PUBLIC HEALTH DEPTS.
12 MAR 1948

Fort St.George,

D.O. No. 434/48-2 M.L. 11th March 1948.

Dear Sir,

I enclose herewith a copy of the proceedings of the meeting of the Joint Select Committee on the Madras Aided Institutions (Prohibition of Transfers of Property) Bill,1948 held in the Council Chamber, Fort St. George, at 2 P.M. on Monday, the 8th March 1948.

Yours faithfully,

Hanumanta Rao
For Secretary,
Madras Legislature.

To

Copy to Legal and H & P.H. Departments.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE ON THE MADRAS AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) BILL, 1948 (L.A. BILL NO.7 of 1948)

****

The Joint Select Committee on the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No.7 of 1948), met in the Council Chamber, Fort St. George, at 2 P.M. on Monday, the 8th March 1948. The following members were present:

1. Sri D.V. Ramaswamy
2. " S. Chidambara Iyer
3. Mr. N. Muhammad Anwar Sahib
4. The Hon. Sri T.S. Avinashilingam Chettiar
5. The Hon. Sri K. Madhava Menon
6. Dr. Sir A. Lakshmanaswami Mudaliar
7. Mrs. Mona Honeman

The Secretary to the Madras Legislature was also present.

The Hon'ble Sri T.S. Avinashilingam Chettiar was elected Chairman.

To a question by Dr. Sir A. Lakshmanaswami Mudaliar in regard to conditions of grants to various institutions, the Hon'ble Minister for Education explained that in the case of money grants the rules in the Grant-in-aid Code would apply and that grants of land were subject to the conditions of the grants which might not be the same in all cases.

It was decided that the Committee should hear persons desirous of giving evidence at 5.30 P.M. on the 25th March 1948 and that a insertion should be made in the leading dailies in Madras that those bodies and gentlemen that were desirous of giving oral evidence before the Committee should send 30 copies of their memoranda so as to reach the Secretary to the Madras Legislature Fort St. George, Madras, by the 20th March 1948.

The Committee then adjourned to meet again at 5-30 P.M. on Thursday, the 25th March 1948.

D.K.V. Raghava Varma,
Secretary,
Madras Legislature.

Fort St. George,
8th March 1948.

SECRETARIAT OF THE MADRAS LEGISLATURE.

D.O.No.434/48-2 M.L. Fort St. George, 24th March 1948.

ASST. SECRETARY TO GOVERNMENT
25 MAR 1948
EDUCATION AND PUBLIC HEALTH DEPT.

22745

Dear Sir,

In modification of D.O.No.434/48-2 M.L. dated the 11th March 1948, I am to inform you that the Joint Select Committee on the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, will meet in the Council Chamber, Fort St. George, at 2 P.M. on Thursday, the 8th April 1948.

Yours faithfully,

Hammenlaccopd?
For Secretary,
Madras Legislature.

To
All members of the Joint Select Committee
Copy to the Legal department
Copy to E.& P.H. department.

From

The Hon. Sri T.S. Avinashilingam Chettiyar
Minister in-charge of Education.

To

The Secretary,
Madras Legislative Assembly.

Dated, 19th April 1948.

Sir,

I have the honour to give notice that at the present meeting of the Legislative Assembly, I intend to present the report of the Joint Select Committee on the Madras Aided Institutions (Prohibition of Transfer of Property) Bill, 1948 (L.A. Bill No. 7 of 1948) and to move that the Bill as reported by the Joint Select Committee be taken into consideration. If the motion is carried and the Bill is considered, I propose to move that the Bill be passed into law.

Your obedient servant,

Minister.

Secy&PK. OC.
Pls. Send this file.

19-4-48

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Government" means the Provincial Government;

(2) "institution" means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*.

(3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where, before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed

in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, for example, a hospital, should be treated in regard to this matter in the same manner as an educational institution. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, *either* to direct the manager to repay the entire grant or the entire market value of the property granted *or* to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to pay to the institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for purposes similar to those for which it was being used before it vested in the Government.

T. S. AVINASHILINGAM CHETTIAR.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE ON THE MADRAS AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) BILL, 1948 (L.A. BILL No. 7 OF 1948).

(As approved by the Chairman.)

The Joint Select Committee on the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No. 7 of 1948), met in the Council Chamber, Fort St. George, at 2 p.m. on Monday, the 8th March 1948. The following members were present:—

1 Sri D. V. Ramaswami.
2 Sri S. Chidambara Ayyar.
3 Mr. N. Muhammad Anwar Sahib.
4 The Hon. Sri T. S. Avinashilingam Chettiyar.
5 The Hon. Sri K. Madhava Menon.
6 Dr. Sir A. Lakshmanaswami Mudaliyar.
7 Mrs. Mona Hensman.

The Secretary to the Madras Legislature was also present.

The Hon. Sri T. S. Avinashilingam Chettiyar was elected Chairman.

To a question by Dr. Sir A. Lakshmanaswami Mudaliyar in regard to conditions of grants to various institutions, the Hon'ble Minister for Education explained that in the case of money grants the rules in the Grant-in-aid Code would apply and that grants of land were subject to the conditions of the grants which might not be the same in all cases.

It was decided that the Committee should hear persons desirous of giving evidence at 5-30 p.m. on the 25th March 1948 and that an insertion be made in the leading dailies in Madras that those bodies and gentlemen that were desirous of giving oral evidence before the Committee should send thirty copies of their memoranda so as to reach the Secretary to the Madras Legislature, Fort St. George, Madras, by the 20th March 1948.

The Committee then adjourned to meet again at 5-30 p.m. on Thursday, the 25th March 1948.*

Thursday, the 8th April 1948.

The Joint Select Committee met in the Council Chamber, Fort St. George, at 2 p.m. on Thursday, the 8th April 1948. The following members were present:—

The Hon. Sri T. S. Avinashilingam Chettiyar (*Chairman*).
The Hon. Sri K. Madhava Menon.
Dr. Sir A. Lakshmanaswami Mudaliyar.
Mrs. Mona Hensman.
Sri D. V. Ramaswami.
Sri S. Chidambara Ayyar.
Sri A. Aaron Rao.
Mr. N. Muhammad Anwar Sahib.

The Secretary, Madras Legislature, and the Joint Secretary to Government, Legal Department, were also present.

The Joint Select Committee considered the Bill clause by clause.

* Adjourned to 8th April 1948.

Clause 2.

Sub-section (3).—The Committee felt that the "manager" should be so defined as to include local boards, panchayats and municipalities.

Clause 3.

Sub-section 2 (i).—It was decided that in case the entire assets were used in furtherance of the purposes of the institution or purposes similar or cognate to the original purpose, Government may give permission without any repayment and the question of such repayment came in only when the entire proceeds were not devoted to the original purpose or similar purpose.

It was also considered necessary that the Government should have power to impose certain conditions regarding the investment of moneys realized before they were utilized in furtherance of the purposes of the institution.

Clause 4 (*a*).

Dr. Sir A. Lakshmanaswami Mudaliyar moved that the words "or repairing" in the penultimate line of the clause be omitted. He said that it might not be practicable to estimate the repair charges.

The Committee accepted the amendment.

Clause 5.

Mr. Anwar stated that there should be an appeal from the orders of the Government.

The Hon. Mr. Madhava Menon was of the opinion that the appeal might lie to a District Judge as *persona designata* and his decision should be final.

The Hon. the Minister for Education was of the opinion that an appeal should be allowed only with regard to the quantum of amount to be paid to Government, but in all other cases, there should be no appeal.

After some discussion, it was decided that the section should be amended allowing an appeal with regard to the quantum of amount to be paid to the Government on lines similar to those in the Land Acquisition Act.

Clauses 6 and 7 were approved.

It was decided that Legal (Drafting) Department should produce suitable amendments in regard to the above decisions of the Joint Select Committee for scrutiny of the Chairman.

As no important amendments to the original Bill have been effected by the Joint Select Committee, it was decided not necessary to republish the Bill.

FORT ST. GEORGE,
8th April 1948.

D. K. V. RAGHAVA VARMA,
Secretary.

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
MADRAS.

THE JOINT SELECT COMMITTEE appointed to consider the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No. 7 of 1948) has the honour to make the following report.

2. The Bill was published in English in the *Fort. St. George Gazette*, dated the 13th January 1948.

3. The Joint Select Committee was appointed on the 24th February 1948.

4. The Joint Select Committee met in the Council Chamber, Fort St. George, at 2 p.m. on Monday, the 8th March 1948 and at 2 p.m. on Thursday, the 8th April 1948, and concluded the consideration of the provisions of the Bill.

5. The following are some of the more important decisions arrived at by the Joint Select Committee:—

In clause 2, sub-clause (3), the definition of 'Manager' has been so amended as to include local boards, panchayats and municipalities.

Clause 3, sub-clause (2), has been amended so as to provide that in cases where the entire assets were used in furtherance of the purposes of the institution or purposes similar or cognate to the original purposes, no repayment need be made to the Government, and where the entire proceeds were not devoted to such purposes, giving power to the Government to impose conditions regarding the investment of monies realized, etc., before they were utilized in furtherance of the purposes of the institution.

In clause 5, provision has been made for an appeal with regard to the quantum of amount to be paid to the Government on lines similar to those in the Land Acquisition Act.

6. The Joint Select Committee decided that in view of the minor character of the changes made in the Bill, it was not necessary to republish the Bill.

7. A copy of the Bill as amended by the Joint Select Committee is annexed.

FORT ST. GEORGE, T. S. AVINASHILINGAM CHETTIYAR,
8th April 1948. *Chairman.*

ANNEXURE.

[*Note.*—The changes made by the joint Select Committee are shown in clarendon type and the portions ommitted are shown by dots.]

(L.A. BILL No. 7 OF 1948.)

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " Government " means the Provincial Government;

(2) " institution " means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*;

(3) " manager " means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, **and includes a local authority;**

(4) " transfer " includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, **or** altered . . . for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) The transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes ;

(ii) the transfer is made **only in part** in furtherance of the purposes **aforesaid,** provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

Explanation.—**When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses ; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.**

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for

the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for improving, altering . . . or constructing the land or building;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Effect of orders under sections 3 (2) and 4.

5 (1) Every order passed by the Government under section 3 (2) or 4 shall, **subject to the provisions of sub-sections (2) and (3),** be final and shall not be liable to be questioned in any Court of law.

(2) (a) The Manager of Institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated or if the property is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or 4, as the case may be.

(b) Such application shall be made within sixty days from the date on which the order is communicated to the manager.

(3) The District or City Civil Court Judge shall determine the amount which is properly repayable or payable by or to the manager in accordance with the provisions of section 3 (2) or 4, as the case may be, and such determination shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely on possession being taken.

6 (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of

any land or building under this Act, he shall if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, . . . to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, without prejudice to any mode of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

Rules.

8 (1) The Government may, by notificatton in the *Fort St. George Gazette*, make rules not inconsistent with this Act for carrying into effect the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the court-fees payable on the applications referred to in section 5, sub-section (2);

(*b*) the procedure to be followed in respect of such applications;

(*c*) the payment of the costs incurred by the parties, in connexion with such applications.

EDUCATION & PUBLIC HEALTH
DEPARTMENT

Letter No. 34.

From

The Hon'ble Sri T.S. Avinashilingam Chettiar,
Minister for Education.

To

The Secretary,
Madras Legislative Council.

Dated 21st April 1948.

Sir,

I have the honour to give you notice under rule 103 of the Madras Council Rules that at the present meeting of the Legislative Council, I propose to move that the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A.Bill No. 7 of 1948), as passed by the Legislative Assembly be taken into consideration at once. If the motion is carried and the Bill is considered, I propose to move that the Bill be passed into law.

Your obedient servant,

MINISTER.

Received through attaches.

(J.C. attached)

LEGAL DEPARTMENT. 33

BILLS - The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 - Notice of motion to Council.

The above Bill has been passed by the Assembly. A draft notice of motion with a fair copy to the Secretary, Madras Legislative Council, is placed below. The Education & Public Health Department may be requested to obtain the signature of H.M. (Education) who is in charge of the Bill in the fair copy of the notice, after suitably filling up the blanks, and forward it to the Secretary, Madras Legislative Council immediately.

21/4/48 21/4/48 J.S. K.M. 21/4/48.

As H.H. (Edn.) is leaving tomorrow morning, perhaps his signature may be obtained now. I presume that H.H. will be in charge of the Bill & that he will move it in the Upper House after his return from tour, if the sittings of that House continue until then. Orders of H.H.

2/60

may be taken as to whether the Bill should be moved if time is available before his return. If so, who should take charge of the Bill

H(RD). 21/4/48

Secy, Exph.

Mr. Richards
Ms. (Sec.)

by
21/4

ASST. SECRETARY TO GOVERNMENT
21 APR 1948
EDUCATION AND PUBLIC HEALTH DEPT.
0892
21/4

Ms. (Sec.)
ESA
21-4-48

ACT No. XIV OF 1948.

34 34

An Act to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Government" means the Provincial Government;

(2) "institution" means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*;

(3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, and includes a local authority;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, or altered for the purposes of any institution, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government for use for the purposes of any institution,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes;

(ii) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

SECRETARIAT OF THE MADRAS LEGISLATURE.

U.O.Note No. 1204/47-8 M.L. Dated the 19th February 1948

SUB: BILLS - INTRODUCED IN THE MADRAS LEGISLATIVE ASSEMBLY- NUMBERING OF.

ASST. SECRETARY TO GOVERNMENT
EDUCATION AND PUBLIC HEALTH DEPT.
20 FEB 1948

The Legal Department may be informed that the under-mentioned ~~Bill~~/Bills which ~~was~~/were introduced in the Assembly on the 19th February 1948 ~~has~~/have been numbered as noted against ~~it~~/each.

12603

1. The Madras Aided Institutions (Prohibition of transfer of property) Bill, 1948 - L.A. Bill No.7 of 1948.

2. The Motor Vehicles (Madras Amendment) Bill, 1948 - L.A. Bill No. 8 of 1948.

[redacted],

T. HANUMANTHAPPA,
Assistant Secretary,
Madras Legislature.

To the Legal Department
Copy to the E and P.H. Department.
" " " Home Department.
Forwarded/By Order/

Superintendent.

Madras Legis. I-8—704—12-9-47.

SECRETARIAT OF THE MADRAS LEGISLATURE,

Chepauk, dated the 24th April 1948.

ASST. SECRETARY TO GOVERNMENT
27 APR 1948
EDUCATION AND PUBLIC HEALTH DEPT.

The decision of the Legislative Assembly on the following

resolution / bill / motion of Mr. The Hon'ble Sri T.S. Avinashilingam Chettiar is communicated to the Education and Public Health Department and Legal Department., and Private Secretary to H.E. the Governor

Resolution/Bill/Motion.

The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948.

30438

Decision of the Assembly.

The motion that the Bill be passed into law was carried in the Assembly on 21-4-1948.

U.O. 2834/48-7 M.L.
24-4-48

T. HANUMANTHAPPA
For *Secretary, Madras Legislative Assembly.*

To

The Secretary to Government,
The E. & P.H. Department.
The Legal Department
Private Secretary to H.E. the Governor

Forwarded/By Order

A J Sabean
Superintendent.

PSK/24-4.

Legis. Council No. 1.—506—23-3-37.

SECRETARIAT OF THE MADRAS LEGISLATURE,

Fort St. George, dated the 23-4-48 38 *193* .

ASST. SECRETARY TO GOVERNMENT
27 APR 1948
EDUCATION AND PUBLIC HEALTH DEPT.

The decision of the Legislative Council on the following ~~resolution~~ bill of ~~motion~~

The Hon'ble Sri T.S.
Mr. Avinashilingam Chettiar is communicated to the E. & P.H. and Legal Departments and Private Secretary to H.E. the Governor.

~~Resolution~~/Bill/Motion.

The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A.Bill No.7 of 1948) as passed by the Assembly.

30439

Decision of the Council.

The motion that the Bill be passed into law was put and carried in the Council ~~23-4-48~~ 23.4.48

U.O.2833/48-7 M.L.
24-4-48.

M. SURYA RAO,
Secretary, Madras Legislative Council.

To

The Secretary to Government,

The E. & P.H. Department.
The Legal Department.
Private Secretary to H.E. the Governor

P.T.O.

Forwarded/By Order

Superintendent.

PSK/24-4.

GOVERNMENT OF MADRAS.
LEGAL DEPARTMENT.

39
39a

LETTER NO.4981-4
1948

From

Sri.K.V.Rajagopalan, M.A., M.L.,
Joint Secretary to Government.

To

The Secretary to the Government of India,
Ministry of Home Affairs,
NEW DELHI.

3667

DATED FORT ST. GEORGE 15th MAY 1948.

Sir,

Sub: The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948.

I am directed to say that His Excellency the Governorhas reserved the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, which was recently passed by the Madras Legislature, for the consideration of His Excellency the Governor-General. The authentic copy of the Bill bearing the appropriate endorsements made by the Speaker, the President and His Excellency the Governor, enclosed.

2. The subject matter of the Bill falls within the scope of the following Entries in the Legislative Lists:-

Provincial Legislative List.

Entry 17 - Education, ... ;
do 21 - . . . . transfer, alienation and devolution of agricultural land

Concurrent Legislative List.

Entry 8 - Transfer of property other than agricultural land . . . .

3. Clause 3 (1) of the Bill which provides that any land or building belonging to an institution shall not be *transferred without the permission of the Government* notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building may be said to be repugnant to the existing laows on the concurrent subjects of "Contract" and "Transfer of property" (Entries 10 and 8 of the Concurrent Legislative List). Clause 4 of the Bill which in effect provides for a compulsory transfer to the Government of the land or building belonging to an institution may also be said to be repugnant to the existing law on the concurrent subject of "Transfer of Property".

4. I am to enclose a memorandum explaining the scope of the Bill and embodying a summary of the proceedings of the Legislature. I am also to enclose five copies each of the following papers:-

(i) the Bill as published and introduced in the Legislature;
(ii) the Bill as amended by the Joint Select Committee;
(iii) the Bill as passed by the Legislature; and
(iv) the proceedings of the Legislature relating to the Bill.

5. I am to request that the assent of His Excellency the Governor-General may be obtained and the authentic copy of the Bill with the assentof His Excellency the Governor-General recorded thereon may be returned to this Government at an early date.

Your Obedient Servant,

K.V.Rajagopalan,

JOINT SECRETARY.

Copy to:-

1. The Private Secretary to His Excellency the Governor of Madras.

2. The Education and Public Health Department.

FORWARDED/BY ORDER.

Superintendent.

GS/15/5/

LEGAL DEPARTMENT.

M E M O R A N D U M.

(40) 40

Bills - The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 - Passed by the Legislature.

***

The Bill was published in Part IV-A of the Fort St. George Gazette dated the 13th January 1948. The Statement of Objects and Reasons which fully explains the objects of the Bill is reproduced below:-

"Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, e.g., a hospital, should be treated in regard to this matter in the same manner as an educational institution. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the ... ment of the provisions of clause 3. Where ... sions have been contravened, in any case, ... have been given the option, either to direc... to repay the entire grant or the entire ma... the property granted or to claim possess... of the property. Where, however, the s... options is exercised but the land or th... did not originally belong to the Gover... tion is laid on them to pay to the ins... spent by it in acquiring the land and ... building.

Any property of which possession ...

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and which will vest in them under the provisions of the Bill should be used, so far as may be, only for purposes similar to those for which it was being used before it vested in the Government."

2. The Hon'ble Sri T.S. Avinashilingam Chettiar, Minister for Education, introduced the Bill in the Legislative Assembly on the 19th February 1948 and moved that the Bill be referred to a Joint Select Committee of both the Houses. He explained the provisions of the Bill and said that it was a simple important measure. Some Members pointed out that simpl like the one before the House should not be referred to Joint Select Committee and that that procedure should be adopted only in rare cases. The Minister in charge then explained how the Bill affected the existing rights of educational institutions of various kinds, and said that it was an important measure which should be referred to a Joint Select Committee. The motion was accepted by the House, and was concurred in by the Legislative Council on the 23rd February.

3. The Joint Select Committee submitted its report on the 8th April 1948. It made some changes in the Bill. The definition of "manager" was amplified so as to include local authorities also. Clause 3 (2) was amended so as to provide that in cases where the entire assets were used in furtherance of the purposes of the institution or similar purposes, no repayment need be made to the Government. Where the entire proceeds were not devoted to such purposes, the Government were given power to impose conditions regarding the investment of the moneys realized, before they were utilized in furtherance of the purposes of the institution. Provision was also made for appeals with regard to the of the amount to be paid to or by the Government, similar to those found in the Land Acquisition Act. Hon'ble Sri T.S. Avinashilingam Chettiar presented f the Joint Select Committee to the Legislative he 21st April 1948. He said that no representa- received from the public in response to the and moved that the Bill be taken into

(A) 44

consideration at once. One Member (Congress) said that there could be no question about the necessity for the Bill. Another Member agreed with this view, but said that the penal provisions might be made less drastic. He also suggested that the orders of the Government should be subject to an appeal to a Court of Law at the instance of the aggrieved party. A third Member (Congress) said that while the object of the Bill was very good, the Government might well avoid the onerous responsibility of permitting transfers for particular purposes. Another Member (Congress) was of opinion that the provisions of the Bill might conflict with those of the Trusts Act and suggested that the Government need not assume discretionary powers, as in regard to matters relating to the disbursement of money provided in the Bill. One Member (Muslim) endorsed the suggestion that an appeal to a Court of Law should be provided for. After the Minister in charge had replied to the points raised, the motion for taking the Bill into consideration was carried, and the Bill was considered clause by clause. The Minister in charge accepted two verbal amendments to clause 3 which deals with the prohibition of the transfer of lands and buildings by managers of institutions. One Member (Congress) suggested an amendment to clause 7 in order to make it clear that the sum due to the Government would be recovered from the institution concerned if it had received the benefit from the transfer of the property, and from the manager concerned if he had been benefited by such transfer. The Minister in charge did not accept the amendment but promised to consider the point later, and the amendment was not put to the vote of the House. The Bill was then passed into law.

5. On the 23rd April 1948, the Hon'ble Sri K.Madhava Menon, in the absence of the Hon'ble Sri T.S. Avinashilingam Chettiar, moved in the Legislative Council that the Bill as passed by the Legislative Assembly be taken into consideration. One Member (Independent) supported the measure and said that it would assist Government in preventing the properties of schools and hospitals from being sold away to others. He hoped that

the protection given by the Bill would be extended to buildings constructed with the help of Government loans and that if necessary, an amending-Bill would be introduced. The Minister in charge gave the necessary assurance, and the motion was then ~~xxxx~~ carried and the Bill was considered clause by clause. One Member objected to the phraseology of clause 7 of the Bill which authorized the Government to proceed against the succeeding manager also. The Minister replied that the doubts raised by the Member ~~x~~ would be examined later. The Bill was then passed into law, without any amendment.

GOVERNMENT OF MADRAS
LEGAL DEPARTMENT.
MEMORANDUM NO. 4981-5 Dated the 12th June 1948.

ACTS- The Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948- Publication.

44013

G.O.No.~~M.~~ 102, Legal, dated the 12th June 1948 directing the publication of the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948 in the Fort St. George Gazette in English and in the Tamil, Telugu, Malayalam, Kannada and Hindustani languages is forwarded to the Superintendent, Government Press. He is requested to publish the Act in Part IV-B of the Fort St. George Gazette, in English on the 15th June 1948 and in the other languages at a very early date and to report to Government the dates of publication of translations in the Gazette.

2. The Senior Translator to Government is requested to forward the translations of the Act to the Superintendent, Government Press, very expeditiously, and to report to Government the dates of transmission of the translations to the Superintendent, Government Press.

M.ANANTANARAYANA AYYAR
Deputy Secretary to Government.

To

The Superintendent, Government Press, Mint Buildings
(With enclosure).
The Senior Translator to Government.
The E & P.H. Department.

Forwarded/ By Order

D-Balachandran

RKM.12.6.

SUPERINTENDENT.

ASST. SECRETARY TO GOVERNMENT
EDUCATION AND PUBLIC HEALTH DEPTT.
51508
12 JUL 1948

Government of Madras

LEGAL DEPARTMENT

G.O. No. 102, 12th June 1948

Acts—The Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948—Publication ordered as Madras Act XIV of 1948.

Order—No. 102, Legal, dated 12th June 1948.

The Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948, will be published in the *Fort St. George Gazette* in English and in the Tamil, Telugu, Malayalam, Kannada and Hindustani languages as Madras Act XIV of 1948.

(By order of His Excellency the Governor)

P. V. Balakrishna Iyer,
Secretary to Government.

To the Superintendent, Government Press.
" Senior Translator to Government.
" Education and Public Health Department.
" Secretary, Madras Legislature.
" Private Secretary to His Excellency the Governor.

APPENDIX.

The following Act of the Madras Legislature received the assent of His Excellency the Governor-General on the 7th June 1948, and is hereby published for general information :—

ACT No. XIV OF 1948.

An Act to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

Whereas it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " Government " means the Provincial Government ;

(2) " institution " means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants ;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants ;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette* ;

(3) " manager " means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, and includes a local authority;

(4) " transfer " includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, or altered for the purposes of any institution, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government for use for the purposes of any institution,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2) ; nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes ;

(ii) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be ;

(iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

Explanation.—When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for improving, altering or constructing the land or building ;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Effect of orders under sections 3 (2) and 4.

5. (1) Every order passed by the Government under section 3 (2) or 4 shall, subject to the provisions of sub-sections (2) and (3), be final and shall not be liable to be questioned in any Court of Law.

(2) (*a*) The manager of the institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated or if the property is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or 4, as the case may be.

(*b*) Such application shall be made within sixty days from the date on which the order is communicated to the manager.

(3) The District or City Civil Court Judge shall determine the amount which is properly repayable or payable by or to the manager in accordance with the provisions of section 3 (2) or 4, as the case may be, and such determination shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely on possession being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, without prejudice to any mode of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the manager thereof, as if it were an arrear of land revenue due from such institution or manager.

Rules.

8. (1) The Government may, by notification in the *Fort St. George Gazette*, make rules not inconsistent with this Act for carrying into effect the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the court-fees payable on the applications referred to in section 5, sub-section (2);

(*b*) the procedure to be followed in respect of such applications;

(*c*) the payment of the costs incurred by the parties, in connexion with such applications.

Forwarded to the Education & Public Health Dept

(By order) D. Balachandran

Superintendent.

To the Secretary, E.&.P.H.

It has been brought to my notice that certain institutions which have received Government grants for acquisition of land as well as for putting up buildings have lateron tried to sell those lands because of the favourable prices that they are getting now. I think it is highly objectionable that educational institutions which once received Government grants and purchased lands at a considerably low price should for monetary reasons be allowed to sell those lands. One such instance is the Stanes High School, Coimbatore. I have received a letter from the D.P.I. of their contemplated sale off certain portions of their compound. The D.P.I. seems to have taken legal opinion in the matter and says that we cannot prevent the sale under the rules. But we may be able to get only a moiety of the money that we paid to them as grant, under the terms of contract under which we have paid them the grant. This is not a desirable state of affairs. We are giving lots of money to many institutions owned by foreign missions also. If they make up their minds to sell off the property in later years owing to a policy of quit India, it will be a disaster to this country. Besides there is a natural trend due to inflation and other reasons for prices to be going on the increase and it is not just that people should be allowed to act under monetary motives in these matters.

I am told that in England when money is granted to private institutions for buildings and acquisition of lands, the buildings and lands are permanently mortgaged to Governmer with a promise that they will not be used for non-educational purposes except with the permission of the Government. I think it is necessary that we should also enact a Law with these provisions so that managements which have received Government grants cannot sell off their property. The matter may be examined and reported so that we may provide for a Bill for that purpose, if necessary.

SECRETARY, EDN. AND P. H. DEPT. 11 OCT 1946 60316 GOVERNMENT OF MADRAS

Fac. Colleges in DP/B

TSA 11-10-46

Please see the minutes of H.M. (Edn) on the previous page. The D.P.'s may be executed first. Admitt memo is dated. A copy of H.M.'s minute may be sent to the Min 1/11/46. D. Wallace for remarks

B.M. 1/11/46 S / 6/11/46 / Ref

C.73 261 c/46. From the D. P. O. U-O NVR 4290-E/46 dt 28-11-46 p3 of.

Keeps in 7-12-46

Edn. u.o. 10184 c/46 D.10-12-46 [on a/c of pressure of Part II enquiries I am regretful this paper was not put up sooner]

Please see the U.O. reply from the D. P. O. at P 3 c.f. The D.P.O.

Supports ~~supports~~ the ~~the proposal for~~ introducing a Bill for the prevention of the sale or other disposal of a site or a building. Govt. grants for educational purposes ~~the D.P.O. has approved supports proposed~~. The file may be sent to the Legal dept. for advice as to whether a new Bill would be necessary for the above purpose. They may also be requested to state the name of the Analogous Act in England referred to by U.O. (Edn) at A on p 1 ante, & to put up a copy of it for reference, if available, in this file.

Copies only the Secretariat.

Bonplands

Legal may be requested to note their remarks on the proposal of the Minister of Education to enact a law so that managements for buildings or lands which have received Govt grants cannot sell or alienate their property.

B.M. 6/12/46 S / Ref

Hospital in England (Admiralty) Rules to Mackay ; Legal may be asked to advise a position to do it. In view of the existing Legislation Rules [illegible]

Complaints

HM (Edn.) desires that in

Avoids [illegible]

85

Grant. if any future Cases were dealt with, a new Bill in the Assembly you [illegible] Office.

Ref 7/1/47

Legal.

Edn. u.o. 10316 c/46

7.12.46.

D.10184 Extract ©

Legal Department

ASSISTANT SECRETARY 9 DEC 1946 LEGAL DEPARTMENT.

As regards the position in England, please see paragraph 281 on pages 131 and 132 of Halsbury's Laws of England, Volume XII. There is a general provision in the School Grants Act, 1855, as amended by the Education (Administrative Provisions) Act, 1907, that wherever any parliamentary grant has been made towards the provision, repair or furnishing of any school premises with the consent of the trustees or holders of the legal estate, no sale, exchange, or mortgage can be validly made of the premises, subject to certain exceptions, without the consent of the Board, unless the grant be repaid to the Treasury. Attention is also invited to the provisions of sections 17 (4), 90 and 100 of the Education Act, 1944 (7 & 8, Geo.6 Ch.31).

So far as this Province is concerned, if the management of the schools who have been given grants for buildings or lands should be prevented from disposing of the lands, legislation is necessary on the lines of the English Statutes. Eve as regards future cases, legislation is necessary as any restraint on alienation imposed by agreement or rules made by Government would not invalidate an alienation which is permitte under the ordinary law.

1680

8 JAN 1947

pp 238, 286 + 292 a no box (Ships)

Legal u.o.10184-1 8.1.47.

8.1.47

S/Cord 8/1/47. E+PM.

For orders as to circulation

B.M. 29/1/47 S / Ref 30/1/47 HM (Edn.)

A draft bill on the lines of Bombay Bill may be asked to be prepared by Legal. By common or most common exemptions cases also.

This may need a difficult making / Shall be glad if it can put up the draft bill as soon as possible.

ISA
15-2-47

A draft Memorandum is Subd. Finance and Legal may see before circ.

21/2/47 S

Fin. (Exp. A)

The draft memorandum may be accepted and the case passed on to Legal.

26.2.47

Legal.

LEGAL DEPARTMENT.

A revised memorandum is placed below:- flag (H). A paragraph has been added regarding the wires of the legislation.

K.M. 21/3/47

E&P.H Dept
C1

For orders as to circulation.

29/3/47 S

Fin. U.O. 11267 Exp A-1.
27/2

While the draft is generally approved, the following provision should also be made.

(1) Power should be taken by the Govt. under the proposed legislation to give exemption from the above rule in certain cases such as when the alienation is in the interest of furthering the educational activity of the school; OR

(2) In certain cases when the alienation may be allowed after the full repayment of grant allowed by the Govt. OR

(3) For any other valid reason which the Govt. may accept.

With these suggestions, legislation may be undertaken as proposed.

G.I.R 7/5

ISA
19-4-47

The points suggested in HM's minute, may be embodied in the draft Bill to be prepared by the Legal Dept. Under the section 32 (2) of the Secretariat Instruction, the may now be circulated to all Hon'ble Members and H.E.

21-5-47

HE has agreed

J.B. Bruce
9.7.47 Gl

ISA
28-5-47

With reference to Secretariat 32(3) a draft Memorandum indicating the lines on which the draft Bill is to be prepared is submitted for approval.

In the linked file H.M.(Education) has suggested certain additional provision that should be embodied in the draft bill. The file has not been circulated to other H.Ms or H.E. As the principle involved is the same it does not seem necessary to circulate the file to all H.Ms. and H.E. The points raised have been included in draft memorandum. Mention may be made of this when the draft bill is circulated --para 32(b) of ~~Business Rules.~~

The file may be sent to Legal for preparing a draft bill with a statement of object and reasons and explanatory notes on clauses where necessary.

LSA
2-8-47

The file may now be sent to Legal u.o. as proposed at A above.

ASSISTANT SECRETARY 5 AUG 1947 LEGAL DEPARTMENT

Edn. u.o. 6031601/46-4
4.8.47
8524 (matter)
8525

LEGAL DEPARTMENT.

A draft Bill with Statement of Objects and Reasons is placed below. Clause 6(2) is based on S. 47 of the Land Acquisition Act, 1894

2. The Bill falls within the scope of the following Entries in the Legislative Lists and is intra vires the Provincial Legislature:

PROVINCIAL LEGISLATIVE LIST

Entry 17 - Education;

Entry 21 - Transfer, alienation and devolution of agricultural land;

CONGURRENT LEGISLATIVE LIST

Entry 8 - Transfer of property other than agricultural land.

3. The inroad made into the concurrent legislative field by this Bill is only incidental and consultation with the Government of India with reference to Secretariat Instruction 33-A is not therefore necessary.

4. The Bill does not require the previous sanction of the Governor-General under the Government of India Act, 1935.

5. The object of the Bill is only to ensure that lands acquired and buildings constructed for educational purposes with the aid of Government grants should continue to be available for such purposes. No question of paying any compensation as for a compulsory acquisition of the property, within the meaning of section 299 (2) of the Government of India Act, 1935, seems to arise. The present case thus appears to fall within the scope, not of section 299 (2), but of section 299 (3) of the Government of India Act. The previous sanction of the Governor is necessary under section 299 (3) and may be obtained.

6. The Bill does not require the recommendation of the Governor under section 82 (3) of the Government of India Act.

7. Ex abundanti cautela, the Advocate-General may perhaps be requested to advise on the question referred to at 'A' above. A copy of the Bill and Statement of Objects and Reasons may be furnished to him and he may be asked for

his opinion as to whether the Bill, especially clause 4(a), contravenes section 299 (2) in any respect.

19.9.47 19.9.47

Legal U.O.No.8524/47-1. 19.9.47 (W.L.P.)

E.& P.H. Dept

Please see the legal dept's note on pp 7-8 above. The Advocate General may be consulted as suggested by them. A draft memo. is submitted for approval.

1/10/47 S

26.9.47. 20/9/47

may be expedited 1/10/47 1/10 (Cr.)

9-10-47.

In information.

[Issued as Memo. No. 60316 C1/47-5 Edn. Sf dt 1.X.47]

From the Govt Solicitor, Madras No. 55 dt 15.X.47)

The Advocate-general has advised that the provisions of the Bill does not contravene Section 299 (2) of the G. of I. Act, 1935. Please see his opinion at pages 4-8 ante. The file may be circulated for orders as to whether the draft Bill with the Statement of Objects and Reasons may be published and the E. may also be requested to accord his previous sanction to the Bill as required under sec. 299 (2) of the G. of I. Act, 1935. Legal may see before circulation.

30/10/47 S 1/11/47

1/11 (Cr.)

28/10/47. 28/10/47.

Ranps of w.r.t. the Secr. Instruction 32(6) on p24 of Business Rules

cp. Mandyam

9 OCT 1947

ASSISTANT SECRETARY 1 NOV 1947 LEGAL DEPARTMENT

G.O.Ms.No. 3716 C1/47-31/X/47

L11158

LEGAL DEPARTMENT.

Seen in Legal.

The attention of the E.& P.H. Department is invited to U.O.Note No.10271/47-1, Legal, dated 23-9-47 according to which H.M.(Home) should see a Bill with regard to its drafting. E.& P.H. may kindly take the necessary further action in connexion with the Bill in pursuance of that u.o. note.

1.11.47 J.S. 1/X/47

E.& P.H. Dept

Legal U.O.No. 10758/47-1 1.11.47

ASST. SECRETARY TO GOVERNMENT EDUCATION AND PUBLIC HEALTH DEPT. 3 NOV 1947

A copy of the u.o.note referred to by the Legal dept in their note above, is put up at ①. The file may be circulated to H.M. (Home) and H.M.(Edn) before it is placed before an informal meeting of the Ministers.

5/11/47. 5/11/47

6/11/47 S 6/11/47

1/11 (Cr.) 1/11 (Home).

The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules, the Government can claim only a portion of the grant that has been paid on the land or school building. In the present state of affairs, money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English Law and cannot be said to cause hardship to anybody. As cases have come to our notice that

such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M. (Home), the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all H.Ms.

O.P.R
20/11/47

TSA
13-11-47

A draft note for the informal meetings of H.M's is submitted. It may be circulated to H.M. (Edn) for approval. After copies of the note have been despatched to all the H.M's and Hon'ble Premier, the file may be sent to the Principal Private Secy to the Hon'ble Premier for its inclusion in the Agenda for the next informal meeting.

21/11/47.

24/11/47 S

26/11/47

H.M. (Edn.)

TSA
27.11-47

Copies of the note have been despatched. The file may now be sent to the Principal Private Secretary to the Hon'ble Premier as suggested at A above.

30/11/47

Private Secy to Premier.

(with file)
(Since ADC after H.M's approval)

29/11/47

I have had a talk with H.Ms. This may be included in the agenda of the next Cabinet meeting to be held on the 17th.

TSA
7.12-47

SECRETARY, EDN. AND P. H. DEPT. 20 NOV 1947 GOVERNMENT OF MADRAS

SECRETARY, EDN. AND P. H. DEPT. 28 NOV 1947 GOVERNMENT OF MADRAS

SECRETARY, EDN. AND P. H. DEPT. 8 DEC 1947 GOVERNMENT OF MADRAS

With ref. to the orders of H.M. (Edn.) on the previous page a draft note for the Cabinet is submitted for approval. It may be sent to C.S. for acceptance.

8/12/47 S

Chief Secy.

ASST. SECRETARY TO GOVERNMENT EDUCATION AND PUBLIC HEALTH DEPTS. 11 DEC 1947

11/12/47.

Edn. u.o.
6031 c1/46-7
9.12.47

The file may be circulated to H.M (Edn) for approval of the draft note for the Cabinet.

11/12/47 S

11/12/1947

H.M. (Edn.)

SECRETARY, EDN. AND P. H. DEPT. 18 DEC 1947 GOVERNMENT OF MADRAS

TSA
13-12-47

Copies of the note have been despatched. The file may now be sent to Pub (Spl.) u.o.

13/12/47.

13/12/47 Asst (Spl)

Edn. u.o.
60316 c1/46-8
13/12/47

DEPUTY SECRETARY PUBLIC DEPARTMENT 14 DEC 1947

SECRETARY, EDN. AND P. H. DEPT. 18 DEC 1947 GOVERNMENT OF MADRAS

The file may be sent to the Legal Secretary and he may be asked to carry out these amendments and suggest the draft corrections. I shall be glad to have the Bill introduced in the next session of the Assembly and so, he may be asked to suggest his amendments by about the 7th January.

He may also be asked to prepare a note of the English Law on this subject and how we propose to bring this in a line with the English Law, so that it may be useful to me during the discussions of this Bill in the Legislature.

TSA
23-12-47

12

The file may be sent to Legal.

23/12/47 S/

Legal

Legal.

Legal Department

Discussed with the Secretary.

2. The Cabinet decision that the scope of the Bill should be widened so as to include other public institutions like hospitals receiving capital grants, may be implemented by amplifying the definition of "institution" in clause 2 (2) of the Bill as follows:-

"(2) 'institution' means--

(a) any college, school or other place in the Province of Madras which is intended for an educational purpose, and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(b) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(c) any other institution or class of institution in the Province notified by the Government in the Fort St. George Gazette."

3. With reference to the Cabinet decision that provision should be included in clause 6 for the punishment of persons who refuse to surrender possession or obstruct the act of taking possession, the following may be inserted as sub-clause (3) of that clause, existing sub-clause (3) being renumbered as sub-clause (4):-

"(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both."

4. The maximum limits of 6 months imprisonment and 5000 Rs. fine are for consideration by E. & P.H.

5. These and some other consequential alterations and some drafting improvements have been made in red ink in the draft Bill. The Statement of Objects and Reasons has also been modified suitably.

(P.T.O.)

Edn.H.W.& N.D. 60316/46-SCI 23.12.47

14075

ASSISTANT SECRETARY 23 DEC 1947 LEGAL DEPARTMENT

13

6. A note on the English law vis-a-vis the Bill is placed below for the use of H.M. (Education), as desired by him.

Legal 14075-1 7-1-48

SECRETARY TO GOVT. EDN. AND P.H. DEPT. 7 - JAN 1948 GOVERNMENT OF MADRAS

The amendments may be approved. H.M. Home may see and on his approval, the bill may be sent for publication. I am anxious that we should get through the Libraries Bill and this bill in the coming session of the Assembly, and I shall be glad if H.M. Home provides for the introduction of the bill in the second or third day of the session.

TSA 8.1.48

H.M. (Home) may see to-day, as he is leaving on tour tonight

8/1/48

May be published 8/1

H.M. (Home)

SECRETARY TO GOVERNMENT 8 - JAN 1948 LEGAL DEPARTMENT

SECRETARY TO GOVERNMENT 9 - JAN 1948 LEGAL DEPARTMENT

9/1/48

S | Under rule 73 of the Assembly Rules, orders of H.E will have to be obtained for the publication of the Bill. The file may be sent to E & P.H. for obtaining H.E's orders. They may also be requested to * Specify the languages in which the Bill shd be published

9/1/48 Is. 9.1.48

E. & P.H. Dept

X | The Bill may be published in English and in all the South Indian languages. The file may be circulated to H.E w.r.t 'S' above. H.M (Edn) and H.M (Home)

Kagall.G.No 275/48-1 9.1.48.

also may see.

JSM
9/1/48 S

hf
S/Asst H. (Ex.) ✓ CP 10.1.48 0824 9/1
H. (Pub.) ✓ 10/1
H.E. P.S.G. H.E. agrees
M 11/1/48
52/48
11.1.48

The file may be returned to legal now for further action.

JSM
12/1/48 S

hf
12/1/48 Legal.

Edn. w.o.
60316 C1/47-1
12.1.48.

Legal Deptt

A.S.

Please see the order in circulation and the note of E & P.H above. The Bill at (B) may be published in ~~English~~ Part IV-A of the T.S.G. Gazette as in English on 13/1/48 and in Tamil, Telugu, Malayalam, Kannada and Hindustani on 20/1/48. The necessary drafts are submitted. It is requested that the Bill is to be published in Hindustani also.

WS
12/1/48 Legislative 12/1/48.

Ascertained from E & P.H over the phone that publication in Hindustani is not necessary & that the meaning of Tamil, Telugu, Malayalam & Kannada languages. Drafts modified accordingly

371
12/1/48

JSM
12/1/48 T.S

KVR
12/1/48

(Issued as Leg. No. 20, Legal D. 12/1/48
& Memo No. 371-1, Leg. D. 12/1/48)

A.S.

The Bill at (B) has been ordered to be published in English in Part IV-A of the T.S.G. Gazette dated 13/1/48.

E & P.H may be requested to say whether

C (34) 97

A/ the Bill is to be introduced in the Assembly first or the Council first and to specify the nature of motion that is proposed to be made in that Chamber — see in this connexion, rule 75 of the Madras Assembly/Council Rules — to enable this Deptt to prepare and forward the suitable notice of motion for the introduction of the Bill in the Legislature.

B/ (B)

Extracts to follow

WS
12/1/48 Legislative 12/1/48.

JSM
15/1/48

E & P.H
C1

Legal No.
371-2
15/1/48 C/

The Bill may be introduced in the Assembly first and it may be taken into consideration at once.

JSM
15/1/48 S

hf
15/1/48

H. (Ex.)

TSA
17.1.48

The file may be returned to Legal.

JSM
19/1/48

Legal Deptt

A.S.

With reference to C above, a draft notice of motion (with a fair copy) is put up. E & P.H may be requested to obtain the signature of H.M (Edn) in the fair copy of the notice and to forward it to the Secretary, Madras Legislative Assembly.

WS
19/1/48

JSM
19/1/48

KVR
19-1-48

The file may be sent to H.M (Edn) for favour of signature in the fair copy of the notice.

JSM
19/1/48 S

hf
19/1/48

H. (Ex.)

TSA
21-

Extracts with translation to follow

Edn. w.o.
60316 C1/48-5
19.1.48

D 605
to proceed below

Legal No.
605-1
19/1/48

also may see.

JSM
9/1/48 S

hf
Submit

M. (Ex.) ✓ CH 10.1.48
M. (Fin.) ✓ 10/1
H.E. P.S.to H.E. agrees

Cl 24
9/1

The file may be returned to legal now for further action.

JSM
12/1/48 S

hf
12/1/48 Legal.

Legal Deptt

Edn. w.o.
603 1 b c1/47-1
12.1.48.

A.S.

Please see the orders in circulation and the note of E&P.H above. The Bill at (B) may be published in English Part IV-A of the T.S.G. Gazette as in English on 13/1/48 and in Tamil, Telugu, Malayalam, Kannada and Hindustani on 20/1/48. Necessary drafts are submitted. It is presumed that the Bill is to be published in Hindustani also.

WS
12/1/48 Ker 12/1/48.

Ascertained from E&P.H over the phone that public in Hindustani is not necessary & that he means only Tamil, Telugu, Malayalam & Kannada Languages. Drafts modified accdly

371
12/1/48

DMK
12/1/48 T.S

KRR
12/1/48

(Issued as Edn. No. 20, Legal T. 12/1/48
" Memo No. 371-1, Leg T. 12/1/68)

A.S.

The Bill at (B) has been ordered to be published in English in Part IV-A of the T.S.G. Gazette dated 13/1/48.

E&P.H may be requested to say whether the Bill is to be introduced in the Assembly first or the Council first and to specify the nature of motion that is proposed to be made in that Chamber — see in this connexion, rule 75 of the Madras Assembly/Council Rules — to enable this Deptt to prepare and forward the suitable notice of motion for the introduction of the Bill in the Legislature.

(A)
(B)

Extracts to follow

DS
12/1/48 Ker 12/1/48.

Legal wo.
371-2
15/1/48 (C)

DMK
15/1/48

E&P.H
C1

The Bill may be introduced in the Assembly first and it may be taken into consideration at once.

JSM
15/1/48 S

hf
15/1/48

M. (Edn.)

TSA
17.1.48

The file may be returned to Legal.

JSM
19/1/48

Legal Deptt

A.S.

With reference to C above, a draft notice of motion (with a fair copy) is put up. E&P.H may be requested to obtain the signature of H.M (Edn) in the fair copy of the notice and to forward it to the Secretary, Madras Legislative Assembly.

DMK
19/1/48 KRR 19/1/48

SECRETARY, EDN. AND P. H. DEPT. 19 JAN 1948 GOVERNMENT OF MADRAS

SECRETARY, EDN. AND P. H. DEPT. 21 JAN 1948 GOVERNMENT OF MADRAS

The file may be sent to H.M (Edn) for favour of signature in the fair copy of the notice.

JSM
19/1/48 S

M. (Edn.)

TSA
21.1.48

Edn. w.o.
603 1 c1/48-5
19.1.48

D 605

ASSISTANT SECRETARY 19 JAN 1948 LEGAL DEPARTMENT

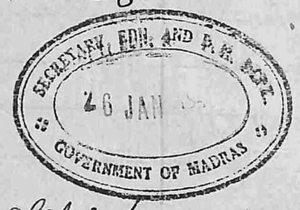
WS
19/1/48

Legal wo.
605-1
19/1/48

This is an important matter involving many educational institutions and large amounts of property and I think it better to refer it to a Select Committee. The reference may be to a Joint Select Committee of both the Houses. A draft notice, signed by me, is sent herewith, for sending it to the Secretary of the Assembly.

The notice may be sent. + the file returned

TSA
26.1-48



The notice has been despatched to the Madras Legislature. This may be circulated to H.M (Edn.)

MJP 27/1/48

MJP
27/1/48

The file may be sent on the 16th as it is likely to come up before the Assembly when it meets on the 17th.

TSA
2-2-48



The following have been appointed as members of the Joint Select Committee:

Assembly.

1. Sri D.V.Ramaswami
2. Sri S.Chidambara Ayyar
3. Sri L.S.Karayalar
4. Mr. N.Muhammad Anwar Sahib
5. Mr. M.V.Hydross Sahib
6. Sri A.S.Sahajananda
7. SriA.Aaron Rao
8. The Mover.

Council.

1. Hon'ble Sri K.Madhava Menon.
2. Dr. A.Lakshmanaswamy Mudaliar
3. Mrs. M.Hensman
4. Mr.Uppi Sahib



The file may be sent to me on 2nd March.

TSA
24-2-48

(55) 55 99

-17-

The Select Committee which was appointed to consider the Bill met to-day. The Select Committee would be glad to have the conditions under which lands have been alienated for educational or other institutions till now, by the Government. If the conditions are varied, the various conditions under which they have been alienated also may be noted, and sent up.

The next meeting of the Select Committee is on the 25th. I shall be glad to have it in a couple of weeks, i.e., by the 22nd of this month.

The file may be sent back on the 22nd.

TSA
8-3-48



E & P.H. G2.

Please see the minutes of H.M. (Edn.) above.

The proposed Bill is intended to prohibit cases of transfers by managers of educational, medical and other institutions in this Province, of lands and buildings acquired

(a) with the aid of Government grants; or

(b) from the Government.

It is presumed that the Bill applies only to private aided institutions & not to institutions maintained by local bodies.

Para 578 (iv) of the Land Rev. Code / Instructions Board's Mo. -p254.

Item (a) above: So far as medical institutions are concerned, the Government pay grants to private bodies for medical buildings usually to the extent of one half of the total cost of the works approved by them. Grants sanctioned to the private bodies for lands and medical buildings are subject to the following conditions:-

(a) that the lands and the buildings, when completed shall be used solely for the purposes for which they were originally intended;

(b) that the authorities of the institutions receiving the grant shall refund the grant, or a portion of it as

specified below, if the lands or buildings in respect of which the grant was made cease to be used for medical purposes approved by Govt. within a period of thirty years from the date of payment of the grant where the grant does not exceed fifty thousand Rupees, 50 years from the date of payment of the grant where the grant exceeds fifty thousand rupees but does not exceed one lakh, and 99 years from the date of payment of the grant where the grant exceeds one lakh of rupees. The amount to be refunded shall bear the same proportion to the total grant as the unxpired portion of the period for which the buildings or lands are secured against diversion bears to the total period. If the authorities fail to make such refund, the Govt. may recover the amount by such means as they may think fit;

(c) that they execute duly stamped and registered memoranda of the deposit of title-deeds relating to the buildings or lands embodying the above conditions.

Item (b) on page 17 above:- A copy of the general conditions subject to which usually lands (including buildings are) alienated to private bodies is put up at flag (X). Rev. who are concerned with the alienation of lands may see for detailed information, if necessary.

18/3/48
18.3.48

Educational Institutions aided under the Grant-in-Aid Code

Under Rule 54(1) of the Grant-in-Aid Code, When Govt sanction a grant for buildings, building sites and playgrounds the management is required to execute a deed of mortgage of the property concerned or a deed of acceptance is respect of the grant payable in any one of the appropriate forms of deed prescribed for the purpose. Under Rule 56 the manager of any institution receiving a grant should refund the grant or portion of it if the building or land in respect of which the grant was made ceases to be used for educational purposes approved by Govt within a period of thirty years from the date of payment of the grant where the grant doesnot exceed fifty thousand rupees; fifty years from the date of payment of the grant where the grant exceeds fifty thousand rupees but does not exceed one lakh: and 99 years from the date of payment of the grant where the grant exceeds one lakh of rupees. The amount to be refunded shall bear the same proportion to the the total grants as the unexpired proportion of the period for which the building or land is secured against diversion bears to the total period. If the management fails to make such refund the Government may recover the amount by such means as they think fit.

The general conditions subject to which lands are alienated to private bodies will be found at (X) no other conditions are imposed besides those specified in the Grant-in-Aid Code.

26/3/48

Aided Elementary Schools.

When a grant is sanctioned by the Govt. or the D.P.I. for buildings, building-sites and playgrounds, the management concerned is required to execute a deed of mortgage of the property in question or a deed of acceptance in respect of the grant payable in any of the appropriate forms of deed prescribed in Appendices 17, 18, 19, 20 and 21 of the rules relating to elementary schools. under rule 7 of in chapter III of the rules relating to grants for actual the grant of recognition and aid to elementary schools, the manager of any institution receiving a grant should refund such portion of the grant as may be determined by the D.P.I., if a building for the acquisition, construction, extension or alteration, of which a grant has been drawn, or if land for the acquisition of which a grant has been drawn, has, prior to the expiration of forty years when the grant exceeds Rs. 1000 or twenty years when the grant is Rs. 1000 or less, been diverted to purposes other than educational approved by the Director. The period of forty or twenty years

as the case may be, shall be held to commence as from the date of payment of the grant. If the manager fails to make such refund, the District may recover the amount by such means as he may think fit.

2). The general and special conditions which are applicable to cases of alienation concerning schools are put up at (5).

RM 28/3/48 S

In 1945, the Govt. sanctioned a/g grant of Rs. 2 lakh not exceeding Rs. 2.50 lakhs to the authorities of the Missionary Medical college for women, Vellore, which is a private institution towards the cost of completing their building schemes subject to the following among other conditions:-

That the authorities of the Institution shall refund the grant or a portion of it if the buildings in respect of which the grant is made, ceases to be used for medical purposes approved by the Govt. within a period of 30 years from the date of payment of grant. The amount to be refunded shall bear the same ratio to the total grant as the unexpired portion of the period of 30 years for which the buildings are secured against diversion bears to the period of 30 years.

If the authorities fail to make such refund the Govt. may recover the amount as if it were an arrear of land revenue and by such means as they consider suitable

(with copy of Rules)

D2 20 plus

Govt. 9898 12446 not put up

24 MAR 1948 GOVERNMENT OF MADRAS

22/3/48 S

Mr (Sec.)

Select Committee proposed to be appointed on 28-3-48 this 24th April, 1948

23-3-48

The Select Committee is finished. This may be put up on the day in which the Bill is put up before the Assembly.

ISA 14-4-48

14 APR 1948 SECRETARY, EDN. AND P. H. DEPT. GOVERNMENT OF MADRAS

The Bill has been passed in the Legislative Assembly. Notice may be given to introduce it in the Council. As I am leaving for Bombay, I am leaving the Bill in charge of H.M. Agriculture. I have spoken to him about it already. Necessary steps to introduce it in the Council may be taken immediately and the papers sent to him.

ISA 21.4.48

Notice has already been given. The file may be circd. to H (Agric)

RM 22/4/48 S

24/4/48 Mr (Agric.)

The bill has been passed by the Council.

RM 23/4

24 APR 1948 SECRETARY, EDN. AND P. H. DEPT. GOVERNMENT OF MADRAS

The file may be circulated H H M (Edn) for perusal.

RM 24/4/48 S

Mr (Edn.)

Legal dept.

D.S.

Legal Ms 4981-9 18.6.48 (Prohibition of Transfers of Property) Act, 1948 has been published in English at pp. 121-124 of Part IV-B of Fort St. George Gazette dated 15.6.48 (extra 2.6)

The above Bill for the reasons stated in the Statement of Objects and Reasons may now be returned to Exp H

17/6/48

18/6/48

18 JUN 1948 4308 ASST. SECRETARY TO GOVERNMENT EDUCATION AND PUBLIC HEALTH DEPTS.

22

106

The papers may now be recorded after perusal by H.M. (Edn) Action to frame rules under section 8 of the Act, will be taken in consultation with the D.P.S. and the S.Gr.

S
6/7/48

18/7/48

9/7/48

9/7/48 H.M. (Edn.)

18-7-48

The papers may be recorded.

S
15/7/48

22/7

22/7/48

Order 1818 Edn. 21.7.48

Act - Madras Aided Institutions (Prohibition of Transfer of Property) Act, 1948 - Papers recorded.

SECRETARY, EDN. AND P.H. DEPT. 15 JUL 1948 GOVERNMENT OF MADRAS

(S8)

56

105

Education and Public Health Department.

NOTE FOR THE INFORMAL MEETING OF THE HON'BLE MINISTERS.

.....

Sub: Legislation - Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intra vires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Education) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules ~~which~~ the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home.) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam)
13-11-1947.

On behalf of H.M. (Home)
O.P.R(amaswamy Reddy)
20-11-47

The note is now circulated for consideration at the informal meeting for orders whether the draft bill may be proceeded with.

M.V. Subramaniam
Secretary to Government

ANNEXURE.

106

59

57

62

transferred without the permission of the Government under sub-section (2); nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion-

(i) the transfer is made in ~~furtherance~~ furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section(1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order--

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by ~~the~~ Government for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land ~~on~~ on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their

108

(60) 58/18

Public (Special) Department.

ROUTINE.

The E.& P.H. Deptt. have informed that the following subject ~~is~~ may be included for discussion at the Cabinet Meeting on 17-12-1947:-

"Legislation - Draft Bill to prohibit transfers of lands and buildings of educational institutions".

The Edn. and Public Health Department have sent the concerned file to this Department, but it does not contain any spare copies of the note. ~~for the meeting~~. As spare copies would be necessary for the use of such of those Hon'ble Ministers who would have forgotten to bring the notes to the meeting, the E. & P.H. Deptt. were asked for a few spare copies of the note. That Department have stated that none are available. ~~Orders whether~~ The E. & P.H. Deptt. may be asked to take at least 6 copies of the note and send them to this Department by 5.P.M. to-day.

16/12/47

(usually 6 spare copies of the note are sent with the file to all Depts).

16/12/47.

2

Ed.H.D.

Please see the Public note on p1 ante c1

Six copies of the note referred to overleaf are placed below. May be sent to Public Special n.o.

16/12/47

D.S.M. 16/12/47 Public(Spl)

Edn. n.o. 60316-A1(4)45
16.12.47

DEPUTY SECRETARY
16 DEC 1947
PUBLIC DEPARTMENT

(61)

59/111

Education and P.H.Department.

NOTE FOR THE CABINET.

Sub: Legislation Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intravires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Edn.) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam) 13-11-47
On behalf of H.M.(Home)
O.P.R(amaswamy Reddy)
20-11-47.

A note was circulated for consideration at the informal meeting for orders whether the draft bill might be proceeded with. Subsequently H.M.(Education) has minuted that he has had a talk with the Hon'ble Premier and that this may be included in the Agenda for the next meeting of the Cabinet to be held on the 17th. The point for orders is whether the draft bill annexed may be proceeded with.

M.V. Subramaniam,
Secretary to Government -9-12-47

ANNEXURE.

A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

Whereas it is expedient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; it is hereby enacted as follows:-

Short title, extent and commencement.

1(1). This Act may be called the Madras Educational Institutions(Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.
(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context.--

(1) " Government" means ... vincial Government as defined in section 3, clause (43 a), of the General ... ses Act, 1897. | Central Act X of 1897.

nance of Ma

...hool, patasala,
...institution in the

(3) "manager" me... ...ager, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Govt:

3.(1) Where before or after the commencement of this Act--

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2): nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion-

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Govt. of such portion as the Govt. may deem proper in the circumstances of the case, of the grant referred to in sub-section(1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

...equences of ...ch of provisions ...section.

(4). If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order--

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Govt. and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land(together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Govt. for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Govt. or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Govt. shall recoup to the manager

any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6(1) Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or building, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for educational purposes.

Sums due under Act to be recovered as arrears of land revenue.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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STATEMENT OF OBJECTS AND REASONS

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionalbe practice should be put an end to at once, and that, as in the English School Grants Act. 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits(except with Government Permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, either to direct the manager to repay the entire grant or the entire market value of the property grant or to claim possession and ownership of the property. Where, however, the

second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to recoup to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

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Secretary, E. & P.H.

The Cabinet passed the other day the bill that we have proposed to introduce with reference to the restrictions on transfer of buildings for which capital grant has been given by Government. That file may be sent to me on the 23rd so that the amendment suggested by the Cabinet may be carried out.

15A
23.12.47

U.M. Education.

Home file is sent.

22/12/47

ASST. SECRETARY TO GOVERNMENT
09 DEC 1947
EDUCATION AND PUBLIC HEALTH DEPTT.
SECRETT. TO GOVT. EDN. AND P.H. DEPT.
22 DEC 1947
GOVERNMENT OF MADRAS

Madras Legis. I-8—704—12-9-47.

SECRETARIAT OF THE MADRAS LEGISLATURE,

Fort St. George *Chepauk, dated the* 20th February 1948.

13202

The decision of the Legislative Assembly on the following resolution / bill / motion of Mr. Hon. Sri T.S.Avinashilingam Chettiar is communicated to the E.&.P.H. and Legal Department.s and Private Secretary to H.E. the Governor.

Resolution/Bill/Motion.

(The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948)

" That under rule 111 of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of twelve members to consider the Bill, eight members from the Assembly and four members from the Council".

Decision of the Assembly.

The motion was put and carried in the Assembly on 19th February 1948.

No. 1164/48-1 LL
21-2-48.

T.Hanumanthappa,
For *Secretary, Madras Legislative Assembly.*

To

The Secretary to Government,
The E.&.P.H. Department.
The Legal Department
The Private Secretary to H.E. the Governor

p.t.o.

-2-

Forwarded/By Order

pss.21.2.

Superintendent.

Letter No. E.&.P.H. DEPARTMENT.

From

The Hon'ble T.S.Avinashilingam Chettiyar,
Education Minister.

To

The Secretary,

Madras Legislative Council.

Dated 20th February 1948.

Sir,

I have the honour to give you notice of my intention to move the motion mentioned in the Annexure at the meeting of the Legislative Council commencing on the 21st February 1948.

Your obedient servant,

MINISTER.

ANNEXURE.

That this House concurs in setting up a Joint Select Committee of the two Houses consisting of 12 members (8 members from the Assembly and 4 members from the Council) to consider the Madras Aidéd Institutions (Prohibition of Transfers of Property) Bill, 1948, and that the following members of this House be nominated to the said Joint Select Committee.

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(18) 46/25

No.S.134-F.
Educational Department,
Bombay Castle, 29th March 1947.

From

M. D. Bhansali, Esquire, I.C.S.,
The Secretary to the Government of Bombay,
Educational Department.

To

The Minister for Education,
Fort St. George, Madras.

Subject:- Miscellaneous Matters.

Information required in the Government of Madras regarding rules governing Government grants in Capital Accounts.

Sir,

I am directed to refer your Demi-official letter, dated the 27th January 1947, on the above subject, addressed to the Honourable Prime Minister and to forward herewith the following rules:-

1) Rules for Building grants and grants for sites (vide Schedule D to the Bombay Primary Education Rules,1924). Attention is particularly invited to rules 11 and 12 which supply the information asked for by you in regard to building grants for Primary Schools).

ii) Grant-in-aid Code for Schools and Colleges in this Province.

Your attention is particularly invited to Chapter X of the Code on the subject of Building grants and grants for sites.

Your obedient servant,

for Secretary to the Government of Bombay, Educational Department.

1/6/47
NS/10.

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SCHEDULE 'D'.

Rules for Building grants and grants for sites(vide Rule 116).

1. In the case of non-recurring expenditure on schools maintained or approved by local authorities under the provisions of the Bombay Primary Education Act,1923,and the rules thereunder, a grant of money, hereinafter referred to as a building grant, may be given to local authorities in aid of erecting,purchasing,enlarging,rebuilding or improving school buildings.

2. (i) Applications for non-recurring grants will be considered according to the priority of their receipt. Government reserve to themselves the fullest discretion in disposing of them according to the funds available.

(ii) Applications for building grants must be submitted in the following form,within one year of the date of the completion of the work to the Director of Public Instruction,who will dispose of them in accordance with the provisions of the Bombay Primary Education Act,1923, and the rules thereunder and the means at his disposal.-

Form of Application for Building Grant.

(1) Locality.

(2) Name of the Institution.

(3) Whether the school is a Local Authority District Local Board, Local Authority Municipal,non-Local Authority Municipal,or an Approved School. If an approved School,whether it falls under class A or class B.

(4) The specific purpose for which the grant is claimed,i.e.whether the grant is required for the construction or for the purchase of a school building,for making additions and alterations to an old one,for effecting special repairs to an existing building resulting in an increase in the orginalx value of the building or for the purpose of purchasing a site.

(5) The total cost as detailed below and the proportion which the bears to it:-

(a)Value of the work as certified by the Government Executive Engineer of the division.

(b)Establishment and tools and plant charges,and the rate per cent.

(6) (a) Total area of the class room accommodation,and (b)the number of pupils for whom the building is intended.

(7) Amount of grant.

(8) Whether the Institution has previously received a building grant from Government;if so,how much,when and under what orders.

(9) If a trust deed has been executed, the number and date of the last Government Resolution or of the letter of the Director of Public Instruction in the matter.

(10) How the site(described below)has been acquired. If it has been granted by Government, under what orders and terms;-

(a) The site measures --

Feet.

from North(on the eastern side
to South (on the western side

and

from East (on the northern side
to West (on the southern side

(b) The site is bounded --

on the North by
on the South by
on the East by

and
on the West by

(c) Area of the site --

(11) Whether the title of the managers to the site mentioned above is good. If it has previously been declared to be good and in order the Director of Public Instruction's number and date(if any) in the matter. Whether the entire site mentioned above has been covered by the trust deed referred to in item No.(9) above.

(12) Whether the plans(including the site plan)and estimates have been approved, and if so, by whomp a copy of the certificate given by such approving officers being furnished with the applicati on in case the plans and estimates are not countersigned by them, in token of approval.

(13) The agency by which the work was carried out.

(14) The date of the commencement of the work.

(15) The date of the completion of the work.

(16) Whether the ~~xm~~ managers are willing to get the building insured, if the opinion of the Executive Engineer the insurance is necessary.

(17) Whether the manangers are willing to execute a trust-dded or agreement in case the grant is given.

(18) Actual expenditure incurred on the work.

(19) Particulars regarding item (number)in the pertinent Audit Note on the accounts of the School Board against which the actual expenditure mentioned above stands;

(a) Year of the Audit Note.
(b) Page (number).

(c)...

(c) Appendix.

(d)Serial or Item(number)

(e)Aggregate amount, if any, in which the actual expenditure has been included.

(20) Whether the actual expenditure mentioned against item No.18 above has actually been excluded from the expenditure on which recurring grants to the Local Authority for Primary Education were based.

(21) Whether any public contributions for the purpose mentioned in Item No.(4)above were ~~received~~, and if so, what amount and in what year?

(22) Whether quarters for teachers have been provided on the premises of the school, and if so, whether any, and what amount of expenditure was incurred on the quarters in this case, and whether it has been included in the expenditure mentioned in item (18)above.

Certified that the Local Authority has received no grant from Government ~~from~~ for the work described in this application.

Dated

President (Chief Officer)
Vice-President.

Chairman.

School Board,
Local Authority.
District Local Board.
Municipality.

Local Authority.
District Local Board.
Municipality.

3. Grants made under rules 114,115 and 120 of the Bombay Primary Education Rules,1924, shall not exceed---

(a) The limit per pupil as laid down by Government from time to time.

(b) Two-thirds of the approved expenditure, if the local authority is a District Local Board, and one-half of the approved expenditure, if the local authority is a Municipality, and

(c) The net cost to the local authority after taking into account the amount or value of the popular contributions received by the local authority in respect of the building, etc.

Explanation.1- In calculating the total expenditure, the cost of the building materials or labour may be taken into calculation at such valuation as Government may be pleased to fix.

Explanation 2.- In the case of school buildings, etc., which have been constructed by local authorities with the aid of public contributions either in cash or in kind, the grant shall be calculated on the gross expenditure incurred on the buildings, etc. at two-thirds, ~~fi~~ if the

local..

local authority is a District LocalBoard, or one-half,if the local authority is a Municipality.

Nothing in this rule shall be deemed to compel Government to give the maximum of the grant under the rule 115 or 120 of the-Bombay Primary Education Rules,1924. The payment of the grant under the said rules will depend on the ~~r~~circumstances of each case and upon the financial condition of Government.

4. Before a building grant is sanctioned Government must be satisfied --

(i) that the means relied upon have actually been raised and are available,a declaration to this effect is appended to the application;

(ii)that the building is intended for and will be devoted to educational purposes, and in part to secular education,and it is suited ~~xin~~ as to site and character for the requirements of the locality where it is designed to build it;

(iii)that the plans,estimates and specifications are satisfactory for which purpose a certified copy of them must be forwarded with the application to be submitted thereafter for the report of the Public Works Department,in which Department it will be finally recorded;

(iv)that the title of the managers to the site on which the building is to be erected is good and in order.

(a)In order to show the title of the managers,the following documents and information should,as far as possible,be furnished:-

(i)Documents of title under which the managers acquired the property.

(ii)Documents of title and other evidence showing the undisturbed possession of the vendor or donor or other person from whom the managers acquired the property,or of the predecessors-in-title, for a period of at least 12 years prior to the date of the acquisition of the property by the managers.

(iii)Duly certified copies of all registered documents which cannot ~~be~~ for sufficient reason be produced.

(iv) Evidence that those who on the documents produced dealt ~~with~~ with the property were adult and competent to confer a title, e.g.as a sole owner,or as a manager of a Hindu joint family,or as a Hindu widow,alienating for a specific purpose allowed by law.

(v). ..

(v) Evidence that there are no encumbrances on the property,and a statement that the village record-of-rights and the indexes of the village Registrars',Sub-Registrars'and District Registrars' records relative to the property in question have been examined for 12 years prior to the acquisition by the manager.

(vi)A certified copy of any relevant entries in the Cantonment, Municipal or village records,or in the village record-of-rights of ~~Mmk~~ Register of Mutations,relating to the land.

(vii)Original receipts for any assessments or taxes paid in respect of the property.

(viii)A correct description of the property,its survey numbers and boundaries and a map showing it and the adjoining properties and the position of any buildings on it.On the site plan the dimensions,boundaries and the north point of the site should be marked and the area of the site mentioned. The site plan should be signed by a responsible officer of Government in token of its verification.

(ix)If the site has been granted by Government,the sanad granted by the Collector and if it has been acquired under the Land Acquisition Act,the Award Statement from the Land Acquisition Officer should be furnished.

If a Manager professes to be acting for an association, corporation,society or other body of persons,the ~~xx~~ following will also be required:-

(x)A copy of the memorandum and articles of association or rules and regulations of the body on whose behalf he professes to be acting,so far as they relate to holding and dealing with immpvable property,the receipt of grants-in-aid and the execution of deeds,or any other documents authorising him to acquire the property on its behalf.

(xi)His authority(if any to receive the grant and execute the trust deed on its behalf.

(xii)Information whether the association etc.is registered and,if so,when,where and under what Act.

(xiii)The title-deed vesting the property in the association etc In any complicated case,or where there may be a doubt as to the

validity of the title of the managers, the latter are recommended to avail themselves of adequate legalx assistance in placing their title properly before the Law Officers of Government and, if necessary, rectifying their title.

Note.- All documents of title shall, if the grant is sanctioned, be retained by Government, who shall be entitled to the possession thereof.

(a) In cases where the Managers have no documentary evidence to prove the title to the sites on which the School Buildings owned by them stand, an undertaking should be taken from them that they shall refund to Government the whole amount of the building grant if they are at any time declared by a Civil Court or by the Collector under sub-section (2) of section 37 of the Bombay Land Revenue Code, 1879, to be not in lawful occupation of the said sites.

6. A building for which an application for a grant is to be made is not to be commenced until the plans (including the site plan) and estimates have been approved in writing by (1) the President of the local authority, (2) the Chairman of the School Board, (3) the Engineer of the local authority or the Executive Engineer of the district, (4) *the Health Officer of the local authority of the Assistant Director of Public Health, and (5) *the Superintending Engineer, Public Health, Bombay, and until the expenditure has been approved as required by Rule 92, 114 and or 120 of the Bombay Primary Education Rules, 1924.

7. The construction of buildings by private agency shall be permitted upto any amount subject to the following conditions:-

(1) That the plans andx estimates are approved by the Public Works Department, the local authority and Sanitary authorities;

Note.- The permission of the Executive Engineer concerned should be obtained if the cost does not exceed Rs.10,000 and that of the Chief or Superintending Engineer concerned if the cost exceeds Rs.10,000 but does not exceed the limit of his powers. In all other cases the sanction of Government is necessary.

(2) That no deviations in the sanctioned plans are made without the previous permission, in writing, of the Executive Engineer; and

(3) That the Public Works Department authorities who approve the plans are satisfied as to the competency of the private agency

of a school, unless and until they execute or agree to execute a trust deed or an agreement, as the case may be, in accordance with the requirements of the next following rule. If, however, the building is erected on a site already covered by a trustx deed, a receipt may be sufficient.

11. If the cost of the Primary school building does not exceed Rs.2,500 or if the total amount of the building grant does not exceed Rs.1,000 and the building is in the opinion of the Director of Public Instruction of such a description that it is not worth while requiring the execution of a trust deed, he may xx accept from the managers a written agreement engaging---

(a) to maintain the building in proper repair;

(b) to manage the school in accordance with the rules and regulations of the Educational Department;

(c) to subject the school to inspection by that Department;

(d) to use the building as a school to be devoted wholly to education and in part to secular education; and

(e) to keep the building insured in the names of the managers and the Secretary of State jointly if this is considered if necessary by the Executive Engineer;

(f) in the event of default being made by the managers in any of the preceding conditions to replay on demand by the Director of Public Instruction the aggregate amount of all building grants made by Government in respect of the school.

In every other case the managers shall execute a trust
such form as shall fromxtimx from time to time be appr
Government, either generally or specially in this beha
embodying conditions regarding --

building grant shall be paid;

(j) the management and inspection of the school; and

(k) such other matters as Government think necessary.

Provision shall also be made in every such trust deed that in the event of default being made by the managers in the performance of any of the conditions thereof--

(l) the building grant, or so much of the same as shall not yet have been paid, shall lapse;

(m) the aggregate amount of the building grant or grants from time to time advanced by Government for the school shall be repayable to Government; and

(except

by which the work is to be carried out.

Note.- As regards buildings in which reinforced concrete is used, they shall not be entrusted to private agency except in places where there are contractors specialized in this kind of work.

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*This * The approval of the Health Officer of the local authority or the Assistant Director of Public Health in the case of the site plans and that of the Superintending Engineer, Public Health Bombay, in the case of the work plans are required, and should be obtained.

Provided that from an engineering point of view the approval of a Superintending Engineer or of Government in the Public Works Department shall not be necessary in the following cases:--

(a) Where the plans and estimates are prepared or approved by a Government Executive Engineer and the estimates do not exceed Rs.10,000;

(b) Where the plans and estimates are prepared or approved by the Engineer of a District Local Board, who has been appointed with the approval of Government and the estimates do not exceed Rs.10,000;

(c) Where the plans and estimates are prepared or approved by Engineer of a District Local Board; who has not been appointed with the approval of Government or by the Engineer of a local authority municipality and the estimates do not exceed Rs.5000.

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8. If the Local Authority has applied for a grant-in-aid from Government on account of a school building a certificate must be obtained from the Government Executive Engineer of the district that the building is in accordance with the sanctioned site and other plans that the work has been satisfactorily carried out, and is in good condition and that the value thereof, is to the best of his knowledge and belief, not less than the amount on which the local authority is claiming a grant-in-aid.

Note.--A The certificate required under this rule must be obtained by the local authority in all cases from the Government Executive Engineer concerned who shall grant it free of charge.

9. A grant of money may be made for the purchase of a site in the same proportions as for building grants in rule 3 above. Provided that, subject to such additions and alterations as Government may direct the conditions specified in this Schedule for building grants shall apply mutatis mutandis to grants for the purchase of sites. If a site required for building belongs to Government, it may be granted free or else its estimated value may be recovered from the grantee, less the amount of a money grant calculated as above.

10. No portion of a building grant shall be paid to the managers of

(except in cases where the site is granted by a private person on condition that it should revert to him in the event of the site ceasing to be used for a school or an any other condition which precludes a transfer to the Secretary of the State).

(n) for the purpose of recovering any moneys so due, Government may enter upon and take possession of and sell the building; and

(o) the building site, if granted by Government, may be resumed by them, and the building, if any, standing thereon may be entered upon and taken possession of by Government and may be used or disposed of by Government at their discretion for educational purposes or, if it shall appear expedient to Government, for any other purposes.

*Every such trust deed shall be prepared at the expense of the managers by the Law Officers of Government.

Note.- With reference to (f) and (m) above, if Government are satisfied that the school was closed through no default of the managers, account may be taken of any depreciation in the value of the building after expert revaluation which will take account of the state in which the building has been maintained by the managers and a proportionate reduction may be made in the amount to be claimed for the managers. In the case of a Primary school building for which an agreement has been accepted in lieu of a trust deed by the Director of Public Instruction the depreciation shall be calculated at a uniform rate of 4 percent per annum. If the Government gr extends to the acquisition of a site, account may be taken afte expert revaluation, of any enhancement in the value of the site and the proportionate share in such enhancement may operate as a set-off, either total or partial, against the reduction to be made in the refund due in respect of the grant for building

12. Buildings in respect of which a building grant has been given must be insured irrespective of their value, for a sum representing the value of all work above plinth level, including flooring, in the names of the school managers and th Secretary of State jointly, provided that it shall not necessar to insure a school building if the Executive Engineer has

issued

issued a certificate that in his opinion the risk of fire is not sufficiently great as to render insurance desirable and so long as such certificate has not been cancelled by the Executive Engineer in writing.

13. In addition to building grants as aforesaid Government will consider applications for grants-in-aid of building offices, boarding houses, gymnasia or of providing play-grounds, provided that the expenditure has previously been approved by the local authority and by the Government and that funds are available, and subject to such of the foregoing conditions as may be declared applicable by the Educational Department or to any others that may be imposed. Grants made under this rule are exceptional and Government are not pledged to give any fixed proportion but will deal with each case on its merits and subject to financial considerations.

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NSN9/4.
3.00.

EDUCATIONAL DEPARTMENT.

Bombay Castle, 13th April 1939.

No. 6100/E.—In supersession of Government Notification, Educational Department, No. 261, dated the 11th February 1911, and subsequent notifications amending it, the following revised Grant-in-aid Code for Schools and Colleges in the Province of Bombay is approved by the Provincial Government and published for general information. It will come into force from the current academic year and is liable to revision from time to time as the Provincial Government may consider necessary.

2. The question of the revision of the courses for the Secondary (English) and other Secondary schools is also under the consideration of the Provincial Government and the revised courses may be introduced from June 1940.

The Grant-in-aid Code for Schools and Colleges in the Province of Bombay (1939).

INTRODUCTORY NOTE.

The grant-in-aid system was first introduced in the year 1859. The despatch of 1859 says " The introduction of this (grant-in-aid) system was authorised from a regard to the impossibility of Government alone doing all that must be done in order to provide adequate means for the education of the natives of India and it was expected that the plan of thus drawing support from local sources, in addition to contributions from the state would result in a far more rapid progress of education than would follow a mere increase of expenditure by Government, while it possesses the additional advantage of fostering a spirit of reliance upon local exertion and combination for local purposes which is of itself of no mean importance ". Even after all these years Government finds it difficult to shoulder the entire burden of educating the people. This system, therefore, is continued with the same objective, viz., to share the burden of education of the people with such agencies as are prepared to shoulder the responsibility with a hope that such arrangement will result in a far more rapid progress of education than would otherwise be. It is, therefore, with this objective that sums of money are annually set apart from Provincial Revenues to be expended under this Code as grants-in-aid to Educational Institutions for the purpose of extending and improving secular education and of encouraging private enterprise in education. Such grants are given only for purposes connected with secular education, without reference to any religious instruction, to all educational institutions which impart secular instruction subject to the conditions specified in the Code and with due consideration of the requirements of each locality and of each institution and of the funds available. It is an important element in the grant-in-aid system that part of the expenses of the aided institution should be provided by its managers from resources of their own.

CHAPTER I.

GENERAL RULES OF RECOGNITION.

Rule 1.—Recognition of educational institutions.

Educational Institutions may be admitted to recognition by the Department of Public Instruction (or the Department of Industries in the case of Technical and Industrial schools for boys) hereinafter called the Department provided they conform to the rules set forth in this Code. : Such recognition entitles the managers (1) to present their pupils at all public examinations, (2) to present pupils as candidates for scholarships and to admit scholarship holders and (3) to apply for grant-in-aid from public funds.

Rule 2.—Classification of Educational Institutions.

Educational Institutions which apply for recognition will be classified as Colleges, Secondary Schools, Schools for Europeans and Anglo-Indians, Primary schools, or Special institutions, such as Industrial Schools, Training Institutions, Schools for Defectives, Schools for Adults, etc.

Secondary and Primary Departments of the same school will be recognised as separate schools :—

(*a*) A College is an institution affiliated to a Statutory University and in which students read a course prescribed by the University for a degree in Arts, Science, Law, Medicine, Teaching, Agriculture, Commerce, Engineering or any other branch of technical training.

(*b*) Secondary schools are those whose main object is to afford a higher general education.

They include Secondary Schools such as Anglo-Marathi, Anglo-Gujarati, Anglo-Kannada or Anglo-Urdu Secondary Schools.

They also include Secondary (English) Schools in which the proportion of pupils of European descent is not sufficient to constitute them as schools for Europeans and Anglo-Indians, and in which the medium of instruction is English.

(*c*) A school for Europeans and Anglo-Indians is one in which at least seven-tenths of the pupils are of European or Indo-European descent. These schools are governed by a separate Code of Regulations for such schools.

(*d*) Primary schools are those in which instruction is given wholly in the regional language and which teach the whole or part of the course leading to the Primary School Leaving Certificate examination and which are governed by the Primary Education Act and the rules thereunder.

(*e*) Special institutions are those which are not included among those defined above, and in which pupils receive whole or part-time instruction in the theory or practice of an art, trade or profession, or in which only a language is studied.

Rule 3.—Application for recognition.

Applications for the recognition of educational institutions other than colleges must be made to the Educational Inspector concerned (or to the Director of Industries in the case of Technical and Industrial schools for boys) at least three months before the commencement (April 1st) of the official year for which recognition is sought and must be accompanied by a statement in the form of Appendix 2.

Those institutions, however, of which the permanent character is established may be recognised once for all. All Colleges being expected to be affiliated to a Statutory University will be treated as recognised institutions without formal application.

Rule 4.—Requirements of recognition.

In disposing of applications for recognition the following circumstances will be taken into consideration:—

(i) Whether the management of the institution is in the hands of a competent and reliable person or body.

(ii) Whether the teaching staff is competent and adequate.

(iii) How far the schools own resources exclusive of fees, are adequate to meet necessary expenditure.*

(iv) Whether the fees† charged and percentage‡ of free-studentships are reasonable and are such as to involve no unhealthy competition with any existing institutions of the same class in the neighbourhood.

Rule 5.—Conditions of recognition.

In granting recognition for the first time, and thereafter in allowing it to continue, the Educational Inspector or the Director of Industries, as the case may be, shall consider (due regard being had to the special circumstances of each institution and locality) whether—

(i) the conditions on which the institution was recognised and the attendance are duly maintained;

(ii) the institution premises are sufficiently healthy, well lighted and ventilated, and contain sufficient accommodation, furniture and appliances for the instruction and recreation of the pupils attending them;

(iii) the arrangements for registering the admission, attendance and age of pupils, for management, and for keeping accounts of income and expenditure, are effective;

* "It is an important element in the Grant-in-aid System that part of the expense of the aided institution should be provided by its managers from resources of their own" (*vide* page 417 of the Report of the Education Commission of 1882).

† The general principle laid down by the Department as regards the fees is that in recognised Secondary schools the minimum rates should not be less than two-thirds of the rates charged in Government schools of the same class in the same locality or District.

The minimum rate of fee for a Secondary (English) School will be fixed by the Director of Public Instruction upon a report from the Inspector, and after due consideration of the circumstances of each locality.

‡ Except with the Special sanction of the Educational Inspector the total number of free-studentships in Secondary schools shall not exceed 15 per cent. of the total number on the rolls exclusive of free-studentships granted to Backward class pupils. In calculating the percentage of free-studentships the reduction in fees made, if any, shall be taken into account.

(iv) the teaching staff is adequate and well qualified and that it is not changed too often;

(v) the pay and other conditions of service are clearly laid down and communicated to the teachers concerned and to the Educational Inspector or the Director of Industries as the case may be, and in the case of Secondary Schools the school agrees to institute a provident Fund for teachers as required by the Provincial Government. In case of Secondary Schools and Colleges conditions of service, salary, etc., will be such as will ensure security of service;

(vi) the education given is sufficient in range and quality;

(vii) the discipline and behaviour of the pupils, especially their manners, regularity of attendance and honesty under examination, are satisfactory;

(viii) the records are properly maintained and all statistical returns and formal certificates given by the teachers or managers are trustworthy.

The condition of the institution shall, under each of the above heads, be tested by thorough inspection. As regards the quality of education given, the inspecting officer will test the classes according to the standards under which they are presented.

N.B.—No recognised Secondary school may employ a teacher who is under 18 years of age.

Rule 6.—Channel of Correspondence.

Each recognised institution must have a person who has been authorised by the managing body of the institution to act as a correspondent with the Department and whose name and address must be registered in the office of the Director of Public Instruction or of the Director of Industries as the case may be. Any change in the name or address of the correspondent must be reported to the same office and in communicating with the Department the correspondent should invariably address the Educational Inspector if the institution is not a college. If no other person is authorised by the managing body of the institution to be the correspondent the head of the institution shall be regarded as its authorised correspondent.

Rule 7.

All recognised institutions shall be required to adhere to the rules laid down in Chapter II for regulating the admission or withdrawal of pupils so far as they are applicable.

Rule 8.—Inspection of recognised institutions.

All recognised institutions and hostels maintained or controlled by them directly or indirectly shall be open to inspection by the officers of the Department at all times; and the managers or head teachers shall punctually supply the Department with such returns and information as may be from time to time required.

Rule 9.—Records to be maintained.

Every recognised school shall maintain—

(i) a printed General Register in the form prescribed in Appendix 3;

(ii) a record of attendance in the form prescribed in Appendix 4;

(iii) a systematic record of the progress and conduct of each pupil embodying the results of periodical examinations including the annual examination;

(iv) progress books for individual pupils which shall be shown from time to time to the parent or guardian concerned.

Rule 10.—Opening of higher standards.

(*a*) No recognised school shall teach a standard or standards higher than those for which it has been recognised, without the previous permission of the Department. Application for the recognition of higher standard or standards must be submitted to the Educational Inspector not less than three months before the beginning of the school year in which it is proposed to open the higher standard or standards.

(*b*) No recognised school shall open a new division of a standard without the previous permission of the Department.

Explanation.—The object of this rule is to keep down the number of pupils in a school so as to prevent schools from becoming too unwieldy or prevent them from admitting pupils when there is not sufficient accommodation, or prevent them from entering into unhealthy competition with neighbouring schools. Previous permission, therefore, will not be necessary in cases where the sole object of dividing a class will be for better internal management. The school authorities, however, must inform the Educational Inspector of any such division made.

Rule 11.—Use of sanctioned Text-books.

Except with the special sanction of the Educational Inspector no recognised school shall use text-books other than those sanctioned by the Department.

Rule 12.—Principles of discipline.

The Manager of every recognised educational institution is required to enforce the principles of discipline laid down by the Provincial Government from time to time (*vide* Appendix 1 to the Code).

Rule 13.—Curriculum.

All recognised schools shall adopt the standards laid down, which will, with the addition of the heads for optional subjects and of needle-work in Girls' Schools, remain as a guide to Managers, but Managers will be allowed to adopt variations of the curriculum provided that such modifications are previously brought to the notice of the Educational Inspector and are duly approved.

It is expected that Managers of Secondary schools will make due provision for suitable instruction in such subjects as Object lessons, Drill and Gymnastics, Class Singing, Drawing, Manual Training, Elementary Science, Commercial Instruction, Music and Domestic Economy (for girls). It is not intended that a school should teach all these subjects, but it is expected that every Secondary school will make provision for the teaching of at least one optional subject in the middle stage and two optional subjects in the high stage. Managers will be given the greatest freedom possible in planning and carrying out courses of instruction comprising these subjects.

Rule 14.—Religious Instruction.

(A) No recognition will be given to any school or college maintained by a particular religious community which—

(*a*) being the only school or college of its class in the locality, and

(*b*) admitting pupils of other religious communities, makes attendance at instruction in its own religion a condition of the admission of such pupils.

(B) Religious instruction in schools or colleges is allowed under the following conditions :—

(*a*) School and College premises may be used for religious teaching or simple prayers if well constituted outside bodies offer to make provision for such teaching or prayers either just before or just after school hours provided that (i) there is no local objection, (2) the teachers appointed are acceptable to Government or the Local Body concerned, and (3) no ceremonial observances are included. A slightly greater latitude may be allowed in the case of hostels in regard to the last proviso;

(*b*) The services of a teacher in the service of Government or a local body should not, however, be utilised for imparting religious instruction;

(*c*) The time spent by any student on religious teaching or observance should not be deducted from the prescribed period of the curriculum which should be fixed on educational considerations alone.

CHAPTER II.

Admissions and Withdrawals.

Rule 15.—Application for admission.

Every application for admission should be made to the Head of the institution by the parent or guardian of the candidate either in person or by letter.

Rule 16.—Admission of pupils from certain objectionable schools.

Except with the express permission of the Director given in writing, no pupil shall be admitted to any recognised school from a school the teaching in which is pronounced by the Provincial Government from time to time to be of a pernicious character.

Rule 17.—Production of a Leaving Certificate.

No pupil who has previously attended a recognised school shall be admitted to any recognised school without a leaving certificate in the prescribed form—(Appendix 5)—from the last recognised school attended by him, and all such certificates must be filed on the school records.

If no leaving certificate from a recognised school is produced on the ground that the pupil has not previously attended such a school, a certificate to that effect should be obtained from the parent or guardian and filed.

Rule 18.

If an applicant states that a leaving certificate from the last school attended has been refused to him, the Head Master of the new school shall intimate to the authorities of the former school that the pupil seeks admission and, if within a week he receives no satisfactory explanation of the omission to give a leaving certificate, he shall be entitled to admit the pupil, but must report the circumstances immediately to the Educational Inspector, who shall inquire into the case.

Rule 19.—Migration period.

In the case of schools of the same class, situated in the same locality, admission from one school to another shall take place only at the beginning of the school term which the Educational Inspector shall have power to fix.

(*a*) Admission from schools of the same class situated in the same locality shall be permitted only within the first fourteen days of each school term, or within such an extended period as the Educational Inspector may previously have allowed.

Note.—Pupils must not be allowed to evade the rule by temporarily joining a school elsewhere, and afterwards returning to a school in the same town.

(*b*) As a general rule pupils should not be admitted after the first fourteen days of the first or second term. In cases of special difficulty, e.g., sickness, bereavement, transfer of parent or guardian, late declaration of examination results, the period may be extended to a maximum of one month. The Educational Inspector shall have power to extend this period still further in exceptional circumstances.

(*c*) When the parent or guardian with whom a pupil is living removes from one locality to another, or the pupil is compelled on medical grounds to change his residence, admission from a school of the same class may be made at any time during a term.

Rule 20.—Admission of pupils from other Provinces.

Admission of pupils from other Provinces should be made only if the leaving certificate of the pupils is countersigned by the Inspector of Schools concerned in that Province.

Rule 21.—Entry in the General Register.

A pupil's name should not be entered on the general register until the fees due are paid and he is formally admitted.

Rule 22.—Entry of Birth-date.

The date of birth of the pupil according to the Christian era shall be entered in the general register from the date given in the leaving certificate. In the case of the school first attended or of pupils who have attended no recognised school the application for admission must be accompanied by a certificate of age signed by the parent or guardian. The date of birth given in this certificate should be entered in the school register. No alteration of the date is permitted without the permission of the Educational Inspector.

Rule 23.—Scrutiny of Leaving Certificate.

If in a leaving certificate the headmaster suspects any unauthorised additions or alterations before or after a pupil is admitted, the fact should be immediately reported to the Educational Inspector, and if the pupil is not already admitted, he should not be admitted until the reply of the Educational Inspector is received.

Rule 24.—Statement of conditions of admission for the information of the guardians.

On first admitting a pupil to the school the Manager or Head Teacher should hand to the parent or guardian a paper, for which he will take a receipt, stating the rules of discipline mentioned in Appendix I, the rules about the payment of fees charged and also pointing out that parents have no right to dictate to the Managers, but that the Managers of schools have a right to say on what conditions they will admit or retain a pupil in their school.

Rule 25.—Admission of pupils to higher standards.

Except with the special sanction of the Educational Inspector, no pupil shall be placed in a standard higher than that for which his leaving certificate shows him to be qualified.

(*a*) Pupils who have studied privately or who have come from upper Primary schools to which no English classes are attached shall be placed by the Head of the school in the Standard for which they are fit but such cases should be brought to the notice of the Educational Inspector at the time of inspection.

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(*b*) Pupils who are qualified for admission to a Secondary school, but have not attended any school for 12 months and seek admission to standards higher than those for which their leaving certificates show them to be qualified may be examined by the Head teacher provided that he is satisfied that the claim is worth consideration and placed provisionally in the standards for which they are found fit, but such cases should be brought to the notice of the Inspector at the time of inspection.

Rule 26.—Admission of pupils from unrecognised schools.

Admission shall not be made on the strength of leaving certificates from unrecognised schools. Applicants for admission from unrecognised schools, who have not previously attended a recognised secondary school, should be carefully examined and placed provisionally in the Standard for which they are found fit. If an applicant from an unrecognised school has previously attended a recognised school, he should produce a leaving certificate from the last recognised school attended and should be placed either in the standard in which he is entitled to be placed by that leaving certificate or carefully examined and placed provisionally in the standard for which he is found fit. Such cases should be brought to the notice of the Educational Inspector at the time of inspection.

Rule 27.—Production of Primary Standard IV Certificate.

Except in special cases, children who speak a recognised regional language of the Province of Bombay, and have not attended a Secondary school will not be admitted to a secondary school, unless they produce a Certificate from the Head of the Secondary School to which they seek admission, or an Inspecting Officer of the Department, or the Administrative Officer of the School Board of a Local Authority showing that they have passed Primary Standard IV, provided that instruction in such regional language is available in the locality in which the school is situated.

N.B. (*1*).—In the case of children able to acquire education through the medium of a recognised regional language of the Province admission to a Secondary (English) school shall not be made into classes above Standard I unless the pupil shows special cause and a level of attainment in English and other class subjects which would fit him for admission without disadvantage to the school.

N.B. (*2*).—No new pupils may be admitted to a Secondary (English) School when his age is substantially above the normal average age of the class, based on a calculation assuming regular progress in the school from age of entry as an infant.

Rule 28.

The following shall be the maximum number of pupils to be admitted in each class of Secondary Schools :—

Standards I—III		36
Standards IV—VII of Secondary Schools		40
or		
Standards V—VIII of Secondary (English) Schools ...		

These limits will be subject to the following provisos :—

(*a*) that the room in which a class is held shall provide the requisite accommodation for the number of pupils actually admitted at the rate of not less than 10 square feet per pupil on the rolls;

(*b*) that in addition to the number allowed above for the top class of Secondary Schools the Head Master may admit not more than 10 pupils who rejoin the school after failure at the final examination;

(*c*) that there will be no objection to schools admitting in the beginning of the school year before the expiry of the migratory period prescribed in Rule 19, four pupils in Standards I—III of Secondary Schools in excess of the above limits provided that there is adequate accommodation for the number of pupils actually admitted and provided further that fresh admissions are not made to fill the vacancies above the limits.

Rule 29.—Duration of school instruction.

For the purposes of calculating attendance a day of attendance, except in the hot weather when the school may be held in the morning, shall mean not less than four hours of secular instruction given in the same day provided that once a week instruction for two hours a day will be accepted as a day of attendance. In special circumstances this period may be reduced with the permission of the Educational Inspector.

Rule 30.—Number of holidays in Secondary schools.

The maximum number of holidays, including vacations, to be enjoyed during a year in all recognised Secondary Schools should in no case exceed 105 days. This number does not include half holidays and Sundays.

Rule 31.—Application for Leaving Certificate.

Every application for a leaving certificate should be made by the parent or guardian, either in person or by letter.

Rule 32.—Issue of Leaving Certificate.

Applications for leaving certificates must be complied with without unnecessary delay.

Rule 33.—Fee to be charged for a Leaving Certificate.

No fee shall in any circumstances be charged for leaving certificates if asked for within two years from the date of leaving the school or from the date of the result of the Matriculation Examination in the case of students who have appeared for the Matriculation Examination. After this period a fee of Re. 1 may be charged. A fee of Re. 1 may also be charged for the duplicate copy of a leaving certificate or a certificate of birthdate or an extract from School Register.

Rule 34.—Refusal to issue a Leaving Certificate.

The only ground on which a certificate may be refused is (i) non-payment of fees due, or (ii) expulsion or rustication by the Director. In the case of rustication no leaving certificate may be issued until the expiry of the period for which the Director has debarred the pupil from admission to a recognised school.

Rule 35.—Entry of examination results in the Leaving Certificate.

If a pupil leaves the school after having failed at the examination of his standard, a note to that effect shall be entered in the remarks column of the leaving certificate granted to him by the Headmaster.

Rule 36.—Entry of birthdate in Leaving Certificate.

Entries regarding the date of birth according to the Christian era and the standard in which studying in columns 4 and 10 of the form of leaving certificate (Appendix 5) should be made both in words and figures. These entries shall be in manuscript and not type-written.

CHAPTER III.

General Rules of Grants-in-aid.

Rule 37.—Allotment for grants-in-aid.

Moneys annually granted from public funds for aiding secular education in the Province of Bombay are administered under the control of the Director of Public Instruction (or the Director of Industries so far as technical and industrial schools for boys are concerned) in accordance with the conditions set forth in these rules.

Rule 38.—Application for registration for grant-in-aid.

Applications for the registration of educational institutions for grants-in-aid must be made (in the form of Appendix 2) to the Director of Public Instruction in the case of colleges and to the Educational Inspector or the Director of Industries, as the case may be, in the case of schools at least six months before the commencement (April 1st) of the official year in which the institution is to receive the grant. Those institutions, however, of which the permanent character is recognised, may be registered once for all. While only recognised institutions will be eligible for grant the following circumstances will be taken into consideration in disposing of the applications for grant :—

(i) Whether the institution supplies a want in the locality;

(ii) Whether the teaching staff is competent and adequate and whether it enjoys reasonable security of tenure and adequate retirement provision;

(iii) How far the institution's own resources, exclusive of fees, are adequate to meet its necessary expenditure;

(iv) Whether the fees charged and the percentage of free students are reasonable; and

(v) Whether the money at the disposal of the Department can meet the application.

Rule 39.—Requirements of registration.

Educational Institutions will be registered for grant for the first time and will continue to be so registered thereafter provided they conform to the rules of recognition so far as those rules may be applicable to them.

Rule 40.—Grants subject to vote of Legislature.

The payment of Provincial grants to aided institutions shall be subject to the proviso that the requisite budget grants are sanctioned by the Provincial Legislature. Notice of the probable reduction in any year will be given as soon as possible after the budget grants are passed and such reduction will continue in force until the notice is modified or cancelled.

Rule 41.—Conditions for the payment of maximum grant.

The rates of maximum grants admissible to different classes of institutions are those laid down in this Code. The maximum grant thus admissible will be paid to those institutions only which satisfy in all respects the conditions enumerated in the rules laid down in this Code. Failure to satisfy the Department in regard to any of these conditions will entail a proportionate reduction of the maximum grants. The Director's decision as to whether the conditions are fulfilled in any case is final.

Rule 42.—Assessment of grants.

Grants will be assessed in accordance with the instructions issued from time to time by Government or by the Director as regards the admissibility of certain items of receipts and expenditure.

Rule 43.—Disposal of surplus receipts.

If the receipts from all sources exceed the total expenditure, the saving shall be fully expended in the following year, or placed in a Reserve Fund; otherwise the grant will be liable to be reduced.

Rule 44.—Salaries admissible for grant.

No salary in excess of what is considered to be adequate by the Director or what is actually received by a teacher or manager, whichever is less, and no part of salary which is refunded either directly or indirectly to the funds of a school, shall, without the previous sanction of the Director, be allowed to be included in the admissible expenditure on which the grant is claimed.

Rule 45.—Grants subject to capitation limit.

The grant may also be reduced if the average grant per pupil would otherwise exceed an amount to be fixed from time to time by Government for educational institutions of each class.

Rule 46.—Payment of grant in the first year.

Normally the grant paid in any year is the grant for that year, and is calculated upon the receipts and expenditure of the preceding year. But if a school has been established to meet an urgent demand or under peculiar difficulties temporary grants may be awarded and assessed upon the expenditure of the current year. Such grants shall not exceed one-half of the actual cost of the teaching staff, and shall be payable monthly, quarterly, or half-yearly, as may be required. As soon as the permanent character of the school is established to the satisfaction of the Educational Inspector it shall be made subject to the ordinary rules.

Rule 47.—Reassessment or reduction of grant.

The grant assessed will ordinarily be continued to a school from year to year, provided that the aforesaid conditions are maintained. (Re-assessment of the grant is admissible on the application of the managers, provided that the Director recognizes that the existing grant is inadequate, and has funds available to meet the application. Applications for re-assessment must reach the Inspector not later than September 1st in the year previous to that in which re-assessment is sought). Similarly the grant will be reduced by the Director after due warning given to the managers, if it is found that the provisions of the rules laid down in this Code are not duly maintained and that the school has deteriorated in general efficiency.

Rule 48.—Payment of grant in special cases.

If it can be proved that the attendance or efficiency of any school has through misadventure, for which the managers are not to blame, fallen greatly below the average of previous years, a sum not exceeding the grant earned in the preceding year or the average grant of the three last preceding years, whichever is less, may, with the sanction of the Director, be paid to the managers.

Rule 49.—Enforcement of rules of discipline.

The managers of all registered institutions are required to enforce the principles of discipline laid down in Appendix I to the Code. If these principles are not observed satisfactorily and the standard of discipline or efficiency of the institution has been impaired the grant-in-aid is liable to be reduced or withdrawn.

Rule 50.—Inspection of all aided schools.

Aided schools will be inspected periodically and if necessary every year. The Inspecting Officer will satisfy himself that the condition of the school is satisfactory in respect of the points enumerated in the rules laid down in this Code. The Educational Inspector will then intimate to the Manager the amount of grant sanctioned and the Manager will forward to the Inspector a bill for that amount. Grants will be liable to lapse if not claimed within one month of the date of the Inspector's intimation and before 31st March of the year for which the grant is sanctioned.

Rule 51.—Payment of Advance grant.

When a school is permanently registered for aid, the ordinary grant may, in special cases, be paid in two instalments at the discretion of the Educational Inspector.

An advance grant equal to one-half of the previous year's grant may be given as soon as possible after the end of June each year to permanently registered schools of which the standard of efficiency is not in doubt. As a safeguard against an institution closing after it has received the first instalment of grant the Management should be required to sign an agreement to refund the amount if the school is closed before the end of the year.

Rule 52.—Special grants for furniture, equipment, etc.

Besides grants on recurring admissible expenditure or building grants admissible under the Code, applications for special non-recurring grants on account of expenditure incurred on educational furniture and appliances, libraries, scientific and other apparatus for laboratories, workshops, or gymnasia will be dealt with on their merits, and according to the funds at the disposal of the Department. Such grants will in no case exceed—

(i) one-fourth of the admitted expenditure in the case of Colleges;

(ii) one-third of the admitted expenditure in the case of Secondary schools;

and shall be given subject to such conditions as the Department may impose. The Educational Inspectors and the Inspector of European Schools have power to sanction grants under this rule up to a maximum of Rs. 1,000 according to the means at their disposal.

In the case of an Industrial or Vocational School the Director may raise the one-third limit to one-half of the actual expenditure.

Rule 53.—Drawing grants.

Special grants for Drawing will be given according to the rules printed in Schedule I to the Code.

CHAPTER IV.

Grant-in-aid of Secondary Schools.

Rule 54.—Maximum rate of ordinary recurring grant.

The ordinary Government grant shall in no case exceed one-half of the local assets or one-third of the total admitted expenditure of the school during the previous official year.

Rule 55.—Minimum attendance for grant.

No grant will be paid for any Secondary School standard with less than an average daily attendance of 15 pupils, except in cases in which, in the opinion of the Director, a school is necessary.

Rule 56.—Payment of Supplementary grants.

In addition to the grant mentioned in Rule 54, a supplementary grant may be made on the recommendation of the Inspector, to any Secondary school for the efficient maintenance of which the ordinary grant is not sufficient. In considering the assignment of supplementary grants regard will be had to the improvement of the quality and pay of the teaching staff. It shall be a condition of such grants that they shall not be applied to the reduction of fees or subscriptions. Such supplementary grants shall in no case exceed

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one-third of the ordinary grant earned under Rule 54 and shall be exempt from the limitation imposed by it. Not less than two-thirds of the supplementary grants shall be spent on improving the salaries of teachers, but the remaining one-third may be spent on other special wants of the school. In the case of poor but deserving schools the Director may, on the recommendation of the Educational Inspector, raise this maximum to half the ordinary grant with the special object of improving the salaries and equipment in the above ratio. Such special grants may, at the discretion of the Director, and on the recommendation of the Inspector, be fixed for a period of three years.

In addition to the grants mentioned in Rule 54 and in this rule a supplementary grant not exceeding 5 per cent. of the ordinary grant may be given to a girls' school for expenditure on books, slates, etc., for girls attending it and for money or other rewards for regular and punctual attendance. This grant is free of all conditions but the managers should keep a statement showing how it has been expended and should produce it before the Inspector when required.

Rule 57.—Grants-in-aid of English classes attached to Primary schools.

English classes attached to Primary schools shall be treated as " Secondary " for purposes of grant-in-aid, and the expenditure on them should be shown separately by Local Authorities in their accounts.

Rule 58.

No English class attached to a Primary school will be registered unless there are 20 pupils on the roll.

Rule 59.

Grants to those English classes attached to Primary schools which were formerly maintained by Government, and which have been handed over to Local Authorities, shall be equal to the net expenditure incurred by Government on these classes in the year immediately preceding the year of the transfer of control or one-third of the admitted expenditure in the year previous to that in which grant is paid, whichever is greater, provided (1) that an adequate and competent staff is maintained, (2) that the range and quality of instruction are satisfactory and (3) that if a grant equal to net expenditure in the year prescribed in each case is claimed the Local Authority derives no pecuniary advantage therefrom.

Rule 60.

Grants to English classes opened by Local Authorities or private bodies will be paid at the rate of one-half of local assets or one-third of the admitted expenditure for the previous year as in the case of Secondary schools, regard being had to funds available. No grant should, however, be given unless the teacher engaged is qualified, has a knowledge of the direct method of teaching English, and is satisfactorily reported upon by the Educational Inspector.

Rule 61.

No grant shall be paid towards expenditure incurred on account of an English class attached to a Primary school, whether opened before or after the transfer of Primary education to the local authority concerned, if the class is self-supporting or its total receipts exceed its expenditure.

CHAPTER V.

Grants-in-aid of Vocational Schools.

Rule 62.—Vocational schools eligible for grant.

Applications for grants to Vocational schools for boys and girls will be entertained from—

(i) Technical schools proper, that is, those which give combined instruction in theory and practice without any instruction in purely literary subjects.

(ii) Schools which give practical instruction with little or no theory of the trade, industry or profession they teach, and which do not include any literary subject in the course of instruction.

(iii) Schools and classes which combine literary education as an adjunct or complement of the manual or practical instruction in trade or industry taught.

(iv) Schools and classes which add manual training as a complement to the literary education imparted.

(v) Girls' schools which teach an industry or industries approved by the Department to pupils who have either completed an approved course of instruction or are attending such a course in the same or some other recognised school.

Rule 63.—Rate of grant to Vocational schools

In addition to any general grants due under the preceding Chapters or if the school is a Primary School, under the Primary Education Act and the rules thereunder, the managers of a vocational school registered under this Chapter may claim a grant not exceeding Rs. 20 for each boy or girl above the age of ten years certified to have been in regular attendance for nine months since the previous annual inspection, and to have received instruction in the workshop for not less than two hours a day. But no grant shall be paid on account of any boy or girl with whose general progress the inspecting officer is not satisfied.

In place of the above grant, on the recommendation of the Committee of Direction for Technical Education or of the Educational Inspector, as the case may be, the Director of Industries or the Director of Public Instruction respectively may allow a grant not exceeding one-half of the fixed salaries actually paid during the previous official year for the teaching of vocational subjects and for the supervision of the classes in which such subjects are taught.

CHAPTER VI.

Grant-in-aid to Training Institutions.

Rule 64.—Definition of a Training Institution.

A Training institution is a separate College, school or class for training students who intend to become certificated teachers. It must include a practising school in which the students practise the art of teaching.

Rule 65.

At the time of inspection the manager of a Training Institution will be expected to satisfy the inspecting officer that a reasonable proportion of the students who passed in the final course of the previous years are actually engaged in the profession of teaching.

Rule 66

A Training Institution will be admitted to aid at the discretion of the Director after the consideration of the educational wants of the locality in which it is established.

Rule 67.

No Training Institution will be registered for a grant unless it contains at least 30 students regularly studying a fixed course which has been approved by the Director, and which must include the subjects of teaching and school management. In special cases the condition as to the minimum attendance may be relaxed by the Director.

Rule 68.

The annual grant to a Training Institution will be calculated at the rate of one-half of the recurring admissible expenditure in the previous year, subject to a maximum of Rs. 120 per pupil in average attendance during that year.

CHAPTER VII.

Grant-in-aid of other Special Institutions.

Rule 69.—Rate of grant.

Applications for grant-in-aid will be received from Special schools, and each case will be treated on its own merits, due regard being had to the funds available and to the general rules laid down in this Code so far as these may be applicable.

Rule 70.—Grants to schools for Defectives.

The grant paid to these schools may not exceed two-thirds of the admitted expenditure provided also that the grant shall not exceed (1) the difference between the admitted expenditure and the local assets, (2) the amount of grant arrived at on the basis of Rs. 120 for each pupil in average attendance up to 30 pupils, and at Rs. 100 for each additional pupil. For purposes of local assets subscriptions collected during the year are not taken into account.

Except with the sanction of Government no grant shall be given to schools for defectives with an average attendance of less than 25 pupils.

CHAPTER VIII.

Grant-in-aid of Night Schools.

Rule 71.—Definition of a Night School.

A night school is one in which secular instruction is given to pupils who are prevented by their daily avocations from attending day-schools.

Night schools will be classified and aided according to the nature of the instruction given as Primary, Secondary or special schools provided they conform to the rules in this Code so far as these rules may be applicable to them.

Rule 72.—Conditions of grants to Night Schools.

A night school may be registered for a grant-in-aid, provided—

(i) it can show an average attendance of at least 30 pupils throughout the year;

(ii) it keeps an attendance register in the prescribed form, and submits such simple returns as the Department may call for;

(iii) it gives instruction for not less than two hours a day during five days in the week (holidays excepted);

(iv) it submits to an annual inspection by the Department;

(v) it admits no pupil who attends a day-school also;

(vi) it admits no pupils below 12 years of age.

CHAPTER IX.

Grant-in-aid of Colleges.

Rule 73.

Colleges which have been affiliated to the University of Bombay and to the registration of which the sanction of Government has been obtained, will be admitted to aid under these rules in this Code so far as they may be applicable.

Rule 74.

The maximum grant admissible to any college will be equal to one-third of the local assets or one-fourth of the approved expenditure, whichever is less.

In place of the grant at the above rate, Government may pay a fixed grant according to funds at its disposal for a period of years.

Rule 75.

In deciding the question of general efficiency, the Director of Public Instruction will take into consideration the composition of the staff, the sufficiency of the accommodation for the classes and for resident students, and the success of the pupils in the University examinations.

CHAPTER X.

Building grants and grants for sites.

Rule 76.—Building grants.

In addition to the annual grant for aiding schools a grant of money, hereinafter described as a building grant, may be given to managers of schools in aid of erecting, purchasing, enlarging or rebuilding school buildings.

Rule 77.—Allotment for building grants.

The sum to be allotted annually for building grants to schools will be fixed provisionally from time to time for terms of five years. The amount will be notified by Government to the Department. It will not in ordinary circumstances be reduced during the term except in case of great financial pressure, though it may be increased, provided that funds are available for any year during the term. The allotment of the sum between the different classes of schools will be fixed for each year by the Director of Public Instruction with the sanction of Government. Applications in each class of schools will be considered according to priority of receipt, but the Department reserves to itself the fullest discretion in disposing of them according to the funds available.

Rule 78.—Application for building grants.

Applications for building grants must be made in the prescribed form to the Director of Public Instruction, who will dispose of them in accordance with the provisions of this Code and the means at his disposal:—

Form of application for building grant.

(1) Locality ... ...

(2) Name of the Institution ...

(3) Class of the Institution under the Grant-in-aid Code (Chapter I, Rule 2).

(4) The purpose for which the grant is claimed.

(5) Amount of grant ... ...

(6) The total cost and the proportion which the grant bears to it.

(7) Whether the Institution has received a building grant before; if so, how much, and under what orders.

(8) If a deed has been executed, the last Government Resolution in the matter.

(9) Whether the site has been granted by Government; if so, under what orders and terms.

(10) Whether the title of the managers to the site is good.

(11) Whether the plans and estimates have been approved, and, if so, by whom.

(12) The agency by which the work is to be carried out.

(13) Whether the managers are willing to execute a trust deed or agreement in case the grant is given.

Rule 79.—Rate of building grant.

A grant of money may be made not exceeding one-fourth of the total expenditure in the case of secondary schools or one-half of the total expenditure in the case of technical schools (including hostels and work-shops in connection with them). It is not to be assumed that maximum grants will always be given. Each case will be reviewed on merits in the light of the circumstances existing in the case.

In calculating the total expenditure building materials or labour may be taken into calculation at such a valuation as Government may be pleased to fix.

Rule 80.—Limit of maximum cost.

The following maximum limits of costs per pupil intended to be accommodated and likely to be secured have been fixed for the purposes of building grants to secondary schools:—

	Maximum limit of cost per pupil.
	Rs.
(*a*) For each pupil in Standard I to Standard V of Secondary schools or Standards V and VI of Secondary (English) schools.	100
(*b*) For each pupil in the two upper standards of schools teaching full secondary course	150

N.B.—It should be noted that the above limits refer to the cost of building only and do not cover the cost of land.

L Bk H 150—4

Rule 81.—Requirements of building grants.

Before a building grant is sanctioned, Government must be satisfied—

(i) that the means relied upon have actually been raised and are available, a declaration to this effect being appended to the application;

(ii) that the building is intended for, and will be devoted to educational purposes, and in part to secular education, and that it is suited as to site and character for the requirements of the locality where it is designed to build it;

(iii) that the plans, estimates, and specifications are satisfactory, for which purpose a certified copy of them must be forwarded with the application, to be submitted thereafter for the report of the Public Works Department, in which Department it will be finally recorded;

(iv) that the title of the managers to the site on which the building is to be erected is good and in order; and

(v) that the building will be constructed within a fixed time if the grant is given.

Rule 82.—Production of documents of title.

In order to show the title of the managers the following documents and information should, as far as possible, be furnished:—

(i) Documents of title under which the managers acquired the property.

(ii) Documents of title and other evidence showing the undisturbed possession of the vendor or donor or other person from whom the managers acquired the property, or of the predecessors in title, for a period of at least 12 years prior to the date of the acquisition of the property by the managers.

(iii) Duly certified copies of all registered documents which cannot for sufficient reason be produced.

(iv) Evidence that those who on the documents produced dealt with the property were adult and competent to confer a title, e.g., as a sole owner, or as a manager of a Hindu joint family, or as a Hindu widow, alienating for a specific purpose allowed by law.

(v) Evidence that there are no encumbrances on the property, and a statement that the village record-of-rights and the indexes of the Village Registrars', Sub-Registrars', and District Registrars' records relative to the property in question have been examined for 12 years prior to the acquisition by the manager.

(vi) A certified copy of any relevant entries in the Cantonment, Municipal or village records, or in the village record-of-rights or Register of Mutations, relating to the land.

(vii) Original receipts for any assessments or taxes paid in respect of the property.

(viii) A correct description of the property, its survey numbers and boundaries, and a map showing it and the adjoining properties and the position of any buildings on it.

If a manager professes to be acting for an association, corporation, society or other body of persons, the following will also be required:—

(ix) A copy of the memorandum and articles of association or rules and regulations of the body on whose behalf he professes to be acting, so far as they relate to holding and dealing with immoveable property, the receipt of grants-in-aid and the execution of deeds, or any other documents authorizing him to acquire the property on its behalf.

(x) His authority (if any) to receive the grant and execute the trust deed on its behalf.

(xi) Information whether the association, etc., is registered and, if so, when, where, and under what Act.

(xii) The title-deed vesting the property in the association, etc. In any complicated case, or where there may be a doubt as to the validity of the title of the managers, the latter are recommended to avail themselves of adequate legal assistance in placing their title properly before the Law Officers of Government, and, if necessary, rectifying their title.

Note.—All documents of title shall, if the grant is sanctioned, be retained by Government who shall be entitled to the possession thereof.

Rule 83.—Commencement of building construction.

A building, for which an application for a grant is to be made, is not to be commenced until the plans (including site plan) and estimates have been approved in writing by the Educational, Sanitary and Public Works Department authorities.

Rule 84.—Agency for the construction of buildings.

The construction of buildings by private agency shall be permitted up to any amount subject to the following conditions:—

(1) That the plans and estimates are approved by the Public Works Department, Educational and Sanitary authorities;

Note.—The permission of the Executive Engineer concerned should be obtained if the cost does not exceed Rs. 10,000, and that of the Chief or Superintending Engineer concerned if the cost exceeds Rs. 10,000 but does not exceed the limit of his powers. In all other cases the sanction of Government is necessary.

(2) That no deviations in the sanctioned plans are made without the previous permission, in writing, of the Executive Engineer; and

(3) That the Public Works Department authorities who approve the plans are satisfied as to the competency of the private agency by which the work is to be carried out.

Note.—As regards buildings in which reinforced concrete is used, they shall not be entrusted to private agency except in places where there are contractors who specialize in this kind of work.

Rule 85.—Production of a valuation certificate.

A grant shall not be paid unless, the Executive Engineer, certifies that the work for which it is claimed is in accordance with the approved plans, is in good condition and is, to the best of his knowledge and belief, of a certain value, the amount of grant actually to be given depending on the value of the building as estimated by him.

Rule 86.—Grants for sites.

A grant of money may be made for the purchase of a site in the same proportions as for building grants in rule 79, provided that, subject to such additions and alterations as the Educational Department may direct the conditions specified in this Chapter for building grants shall apply *mutatis mutandis* to grants for the purchase of sites. If a site required for building belongs to Government it may be granted free or else its estimated value may be recovered from the grantee, less the amount of a money grant calculated as above.

Rule 87.—Execution of Trust Deed.

No portion of a building grant shall be paid to the managers of a school, unless and until they execute or agree to execute a trust deed or an agreement, as the case may be, in accordance with the requirements of the next following rule. If, however, the building is erected on a site already covered by a trust deed, a receipt may be sufficient.

Rule 88.—Execution of an agreement.

If the total amount of the building grant does not exceed Rs. 1,000 and the building is in the opinion of the Director of such a description that it is not worth while requiring the executing of a trust deed, the Director may accept from the managers a written agreement engaging—

(*a*) to maintain the building in proper repair;

(*b*) to manage the school in accordance with the rules and regulations of the Educational Department;

(*c*) to subject the school to inspection by that Department;

(*d*) to use the building as a school to be devoted wholly to education and in part to secular education;

and

(*e*) to keep the building insured in the names of the managers and the Governor of Bombay jointly, subject to the provisions of rule 89;

(*f*) in the event of default being made by the managers in any of the preceding conditions to repay on demand by the Director the aggregate amount of all building grants made by Government in respect of the school;

In every other case the manager shall execute a trust deed in such form as shall from time to time be approved by Government, either generally or specially in this behalf embodying conditions regarding—

(*g*) the construction and maintenance of the building;

(*h*) the insurance of the building, subject to the provisions of rule 89;

(*i*) the times at which and the instalments in which the building grant shall be paid;

(*j*) the management and inspection of the school; and

(*k*) such other matters as Government thinks necessary.

Provision shall also be made in every such trust deed that in the event of default being made by the managers in the performance of any of the conditions thereof—

(*l*) the building grant, or so much of the same as shall not yet have been paid, shall lapse;

(*m*) the aggregate amount of the building grant or grants from time to time advanced by Government for the school shall be repayable to Government; and (except in cases where the site is granted by a private person on condition that it should revert to him in the event of the site ceasing to be used for a school or on any other condition which precludes a transfer to the Governor of Bombay);

(*n*) for the purpose of recovering any moneys so due, Government may enter upon and take possession of and sell the building; and

(*o*) the building-site, if granted by Government, may be resumed by it, and the building, if any, standing thereon may be entered upon and taken possession of by Government and may be used or disposed of by Government at its discretion, for educational purposes, or, if it shall appear expedient to Government, for any other purpose.

Every such trust deed shall be prepared at the charge of the managers by the Law Officers of Government.

Note.—With reference to (*f*) and (*m*) above, if Government is satisfied that the school was closed through no default of the managers, account may be taken of any depreciation in the value of the building after expert revaluation which will take account of the state in which the building has been maintained by the managers and a proportionate reduction may be made in the amount to be claimed from the managers. If the Government grant extends to the acquisition of a site account may be taken after expert revaluation, of any enhancement in the value of the site and the proportionate share in such enhancement may operate as a set-off, either total or partial, against the reduction to be made in the refund due in respect of the grant for buildings.

Rule 89.—Insurance of buildings.

Buildings in respect of which a building grant has been given must be insured, irrespective of their value, for a sum representing the value of all work above plinth level, including flooring, in the name of the school managers and the Governor of Bombay, jointly, provided that it shall not be necessary to insure a school building if the Executive Engineer certifies that in his opinion the risk of fire is not sufficiently great as to render insurance desirable.

Rule 90.—Other building grants.

In addition to building grants as aforesaid Government will consider applications for grants-in-aid of building colleges, boarding-houses, laboratories, libraries, observatories, school workshops, or gymnasia, or for providing play-grounds, provided that funds are available, and subject to such of the foregoing conditions as may be declared applicable by the Department, or to any others that may be imposed. Grants made under this rule are exceptional, and Government are not pledged to give any fixed proportion, but will deal with each case on its merits and subject to financial considerations.

APPENDIX 1.

Rules of discipline in Educational Institutions.

The Managers of recognised Educational Institutions are required to enforce the following principles of discipline:—

(1) Strict regularity and implicit obedience must be exacted in class;

(2) Any reported or observed objectionable conduct out of institution should be punished;

(3) Parents must be given to understand that they cannot dictate to managers, but that the managers have a right to say on what conditions they will admit or retain pupils in their institutions;

(4) Politeness and courtesy of speech and conduct should be inculcated, as well as cleanliness of dress and person;

(5) No child suffering from a contagious or infectious disease shall be permitted to attend any recognised institution.

(6) Persons at study who are over sixteen (16) are free to attend all public meetings. Persons at study who are under that age may with the consent of their guardians be prevented by the heads of their schools or colleges from attending any particular meeting which the heads of the schools or colleges consider objectionable.

(7) Persons at study who are over eighteen (18) are free to become members of organisations other than those whose policy or programme involves the dissemination of ideas of violence or the use of violence.

(8) Persons at study may take part in the activities of all educational, social and religious associations.

(9) Such persons may not, however, become members of the executive or managing committees of any political or religious organisation or organisations likely to result in communal antagonism or take an active part in furthering their activities.

(10) The head of the institution will be the final judge whether a particular meeting, organisation or activity falls under any of the aforesaid heads. The final approval of the Provincial Government will be necessary only as regards the character or types of public meetings or organisations with which persons at study desire to associate themselves.

(11) School masters and teachers who are Government servants are at liberty to attend all public meetings, but shall play no part in such meetings which might suggest that they favour a particular party.

(12) School masters and teachers who are the employees of local bodies like municipalities and local boards, etc., are at liberty to attend all public meetings subject to the rules (if any) regarding their conduct and discipline which may be prescribed by Government or by the local bodies themselves under the powers vesting in them by law.

(13) School masters and teachers in aided or unaided but recognised educational institutions are at liberty to attend all public meetings and become members of organisations other than those whose policy or programme involves the dissemination of ideas of violence or the use of violence. The head of the institution will have final authority so far as his assistants are concerned to decide whether a particular organisation can be said to disseminate ideas of violence or the use of violence. If he feels any doubt as to whether he himself should or should not join any particular organisation, he should refer the matter to the Director of Public Instruction whose orders will be final.

L Bk H 150—5

APPENDIX 2.

Form of Application for recognition of Schools or for their registration for grant (see Chapter I, rule 3 and Chapter III, rule 38).

Locality and description of School.	Class of School.	Name of proprietor, society or other controlling body.	Date of establishment.	Names, ages and places of education of the Headmaster and Assistant masters, with University standing (if any) and Departmental Certificate and pay.	Other employment (if any) of teachers.	Rate or rates of fees.	Amount of fees received during the 12 months preceding the application.	Average annual income from all sources exclusive of fees.	Average annual expenditure.	Number of pupils in each standard during the year for which a grant/recognition is requested.	Name and residence of parties to whom reference may be made.	Name and postal address of Secretary or correspondent who will be responsible for correspondence with the Department.
1	2	3	4	5	6	7	8	9	10	11	12	13

APPENDIX 3.

Form of General Register [see Chapter I, rule 9 (*i*)].

Register No.	Name in full.	Caste with sub-caste.	Place of birth.	Date of birth, month and year according to the Christian era.	Attestation of parent or guardian.	Last School attended.	Date of admission.	Paying or free.	Standard and class into which admitted.	Progress.	Conduct.	Date of leaving.	Standard and class from which left.	Remarks (Reason for leaving, fees paid or unpaid, etc.).
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

APPENDIX 4.

Form of Attendance Register [see Chapter I, rule 9 (*ii*)].

School or Institution.

ATTENDANCE ROLL OF CLASS STANDARD FOR THE MONTH OF 19 .

Master/Mr.

Certificate by the Head or Manager of the School.

I hereby certify that this Attendance Roll has been made up daily by the master in Charge of the Class; that every pupil has received not less than a full day's instruction, as prescribed by the rule, on each day on which he has been marked present; and that the average attendance* of the class for the month is

* To find the average attendance of a Class for the month :—Add together the daily totals of boys marked present and divide the sum by the number of times the School has met during the month; the quotient is the average number in attendance.

N.B.—No erasures of any kind are permissible in this return; corrections should be made in red ink and initialled.

No.	Name of pupil.	Attendance for the month.					Number of Attendance.
		1	2	3	4	5 and so on.	
1							
2							
3							
etc.							

N.B.—Boys present to be marked P; boys absent without leave A; boys absent from sickness S and boys absent with leave L.

APPENDIX 5.

Leaving Certificate (see rule 17 in Chapter II).

Register No. of the Pupil.

Name of School—

Name of pupil in full.	Race and caste (with sub-caste).	Place of birth.	Date of birth, month and year, according to Christian era.	Last School attended.	Date of admission.	Progress.	Conduct.	Date of leaving School.	Standard in which studying and since when.	Reason of leaving School.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12

Certified that the above information is in accordance with the School Register.

Dated 19 .

Class Master.

Head Master.

By order of the Governor of Bombay,

W. GRIEVE,

Joint Secretary to Government.

T Bk H 150—6

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

D.O. No. 1573-XXI 33

Nagpur. 8 3

17th April 1947. (85)

Dear Mr. Avinashilingam,

With reference to your demi-official letter of the 4th April 1947, I enclose herewith a copy of relevant rules (Articles 117 to 127 of the Education Manual of the Central Provinces and Berar) on the subject of capital grants to schools. They are applicable to colleges as well. The particulars asked for by you are contained in the rules and in the form of trust-deed, a copy of which is also appended.

Yours sincerely,

S Mokhale

Hon'ble Sri. T.S.Avinashilingam,
Minister for Education,
Fort St. George, Madras.

Copy of Articles 117 to 127 of Education Manual, C.Ps. and Berar.

34 (26) 84

Building grants.

117. Grants may be given to managers of recognized schools in aid of erecting, purchasing, enlarging or rebuilding school buildings, premises and hostels, or for the provision of play gounds, gymnasia, workshops and laboratories. Applications for such grants will, as a rule, be considered according to priority of receipt, but the Department reserves the full right of disposing of them according to financial or other exigencies. The maximum building grant shall be one-third of the total expenditure and no grant shall be less than Rs.100. It is not to be assumed that the maximum grant will invariably be given. No grant shall be given towards repairs of buildings unless such repairs involve structural alterations equivalent to rebuilding.

118. All applications for building grants shall be made in the prescribed form (Appendix XIII) to the Inspector and must invariably be accompanied by full plans and estimates which must be signed by the person who has drawn them up and by the correspondent of the school.

119. When the amount of the grant applied for does not exceed Rs.5000, the Inspector shall forward the application with his recommendation to the Director through the Deputy Commissioner, The Director is empowered to sanction such grants on his own authority.

120. When the amount exceeds Rs.5,000 the Inspector shall forward the application to the Director through the Deputy Commissioner and the Commissioner of the Division, and the Director shall apply for the sanction of the Local Administration, The sanctioned grant shall be paid on the authority of the Director after the conditions prescribed by these rules and the conditions prescribed in any special case by the Local Administration have been fulfilled.

In the case of buildings undertaken by local bodies when the cost of work is Rs.25,000 or less, the Commissioner or the Deputy Commissioner as the case may be, when forwarding the application shall definitely say whether the work has his administrative approval or not. In the case of works costing over Rs. 25,000 where the administrative approval of the Local Self Government Department is required under the District Fund or Municipal Fund Account Rules the Commissioner, in forwarding the application to the Director of Public Instruction shall definitely state whether he thinks the work should be administratively sanctioned.

In the case of works estimated to cost over Rs.25,000 no grant shall be sanctioned by the Education Department unless Administrative sanction has been accorded to the works by the Local Self Government Department.

The grants sanctioned in behalf of Local Bodies for Anglo vernacular Schools may be paid in advance on a date to be stated in the sanctioning order by the sanctioning authority. The refund of part or whole of the grant thus paid may be enforced by the Department subject to the general conditions of such grants.

121. The sanctioning authority shall, if it appears expedient refer the plans and estimates to the Public Works Department for scrutiny, and the managers shall carry out such alterations in them as that Department may consider necessary before sanction is accorded to a grant.

122. The sanctioning authority shall prescribe a day by which the work towards which the grant is sanctioned shall be completed.

(82) 85 85

123. Before a building grant is sanctioned the managers must satisfy the sanctioning authority (1) of their ability to defray the share of the expenditure falling on them (2) that the building is intended for and will be devoted to educational purposes and in part to secular education and (3) that their title to the site on which the building is to be erected is in good order.

124. No steps shall be taken to carry out the work for which grant is requested without the sanction of the Department.

125. Where either Government or a Local Authority grants a building site, it shall be competent for the sanctioning authority to reckon the value of the site either as part of the grant or as additional to it.

126. Before payment of the grant or any portion thereof it shall be certified by the Executive Engineer or other competent officer of the Public Works Department that the work on which the amount is claimed has been completed in accordance with the sanctioned plan and that its value is at least three times the amount of the grant. In cases where the work has been carried out under the charge of a District Engineer, the certificate of that officer will be accepted if the total cost of the work does not exceed Rs.10,000. For works costing over Rs.10,000 the certificate of the District Engineer shall be countersigned by the Superintending Engineer. Local Authorities may submit the documents after payment of the grant but before a date to be prescribed by the Director in each case when the grant is paid. Failing this, the Local Authority shall refund part or whole of the grant received by them as the Director may decide.

127. Before payment of the grant or any portion thereof the managers may be required to execute a trust -deed in the prescribed form (Appendix XVII) . Under serial No.7 of separate Revenue Department Notification No.822-470-VIII, dated the 16th September 1941, all indentures by way of mortgage executed by managers of aided institutions in consideration of building grants received from Government are exempt from payment of stamp duties. The indentures are also exempt from payment of registration fees under Registration Dept. Notification No. 258-60-IX dated the 20th April,1943.
If, in any case, the sanctioning authority does not require the managers to execute a trust-deed in respect of the grant, the following condition shall be applicable to such a grant viz that if the building or land for which a grant has been paid has been diverted to other than educational purposes approved by the sanctioning authority, the managers of the school shall be liable to refund the whole amount of the grant or such portion thereof as may be determined by the sanctioning authority. If they fail to make such refund, the Government may recover the amount as an arrear of land revenue or by such other means as it may think fit to adopt.

.....

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14.4.47.

APPENDIX XV.

(23) 86 88

Indenture- Art. 127.

THIS INDENTURE made the day of 19 between Managers of the School at of the one part and the Secretary of State for India in Council acting through the Director of Public Instruction, Central Provinces, of the other part:

Whereas the said have applied for a Government grant-in aid of Rs. for a house and premises situated at and bounded on the north by etc. etc. (here give full description so as to identify the house and premises) to be used for the said school and which amount the said Secretary of State acting through the said Director has agreed to give subject to the Government grant-in-aid rules and conditions.

NOW THIS INDENTURE WITNESSETH that in consideration of the said sum of Rs. duly received by the said for the said purpose, the said for themselves and their successors and ~~representatives~~ representatives in office of title agree and bind themselves as follows:-

(a) That the said grant has been made and accepted subject to all the conditions of the Government grant-in-aid rules now in force or which may hereafter be brought into force in substitution or modification thereof:

(b) That if the aforesaid house and premises shall at any time hereafter be diverted to any purpose other than that of the school for which the grant was sanctioned or if the said school shall cease to be open to inspection by Educational Officers of Government or to be maintained in a state of efficiency adjudged reasonable by the Director of Public Instruction, Central Provinces, or if the conduct of the school regarding political matters be considered by the Director of public Instruction to be such as to be prejudicial to the interests of the students attending it the Secretary of State shall have the absolute right in preference to any other intending purchaser of purchasing if he so desires the said house and premises at a valuation to be fixed by arbitration as hereinafter provided after deducting x from it such proportion of the grant hereby made as shall equal the proportion which such valuation may bear to the original cost of the said house and premises.

Thetax one arbitrator shall be appointed by Government and anothner by the said and the arbitrators shall if they disagree appoint an umpire and that their decision or of the umpire as to the valuation shall be final and binding upon both parties.

And it is further agreed that as security for the said sum of Rs. the said house and premises shall remain mort gaged by way of simple mortgage with the said Secretary of State and in the event of the said Secretary of State deciding not to purchase the said house and premises in pursuance of clause (b) aforesaid he shall on the happening of any of the events therein specified have the right in the event of the said or their successors and representatives in office or title for the time being failing to pay back on demand by the Director of Public Instruction, Centra, Provinces the said sum of Rs. to cause the said house and premises hereby mortgaged to be sold and the proceeds applied so far as may be in payment of the said sum of Rs. in accordance with the provisions of the Transfer of Property Act 1882.

In the witness whereof affix their hands.
witnesses.

1._____

2._____

Note. ~~Note~~ The document must be attested by at least two witnesses and they must see all the executants put their signatures to the document. Every one of them must be made to add a note after their attestation that this has been done thus " Signed in my presence by who are personally known to me.

Note for Registering Officers:-
All indentures by way of mortgage executed by managers of aided institutions in consideration of building grants received from Government are ~~exm~~ exempt from stamp duty and registration fees under Separate Revenue and Registration Departments Notifications Nos. 822-470-VIII dated the 16th September 1941, and 258-60-IX dated the 20th April,1943,respectively.

....

APPENDIX XVI.

THIS SUPPLEMENTARY INDENTURE made the dayof 19 between Managers of the school at of the one part and Secretary of State for India in Council acting through the Director of Public Instruction, Central Provinces, of the other part.

WHEREAS by an indenture (hereinafter called the Principal Indenture) made the day of 19 between the parties above set forth the said Managers have received a sum of Rs. from the said Secretary of State acting through~~m~~ the Director of Public Instruction, Central Provinces, as a Government grant-in-aid for a house and premises situate at more particularly described in the said Principal Indenture subject to the Government grant-in-aid rules and conditions:

AND WHEREAS the said Managers have now applied for further grant-in-aid of Rs. to meet the unforeseen extra expenditure which had to be incurred over the original estimate for the buildings referred to in the said Principal Indenture and the said Secretary of State acting through the Director of Public Instruction, Central Provinces, has agreed to give the said sum of Rs. subject to the Government grant in-aid rules and conditions;

NOW THIS INDENTURE WITNESSETH that in consideration of the said sum of Rs. the receipt whereof the said managers do hereby acknowledge in addition to the grant-in-aid previously received by them under the said principal Indenture the said Managers for themselves their successors and representatives in office or title agree and bind themselves as per covenants and provisions contained in the said Principal Indenture and further declare that the house and premises described in the said Principal Indenture shall likewise be a security for the sum of Rs. receipt whereof is hereinabout acknowledged by the said Managers.

In witness whereof affix their hands.
Witnesses.

1._____
2._____

Note:- As in Principal Indenture

Copied.
SK.A.
14-4-47.

APPENDIX XIII

Form of Application for Building Grant Art. (118).
Name of institution-----
Governing Body-----
Object of the Grant

Source and amount of the proposed or actual expenditure.

Source	Amount	Building grants previously drawn by the institution.		
1.Endowments	Rs. A p.	Year	Amount	No. and date of sanctioning order.
2. Subscriptions				
3.Other sources				
4. Grant now applied for				
Total				

Certified:-

(1) The title to the site is good and the managers are prepared to execute a trust-deed in accordance with article 127 of the Education Manual.

(2) The Governing Body is able to defray the share of the above expenditure for which the managers are responsible.

(3) The plans, estimates and specifications are sent herewith.

Station.

Date. ..... Correspondent.

MINISTER OF EDUCATION & INFORMATION * BIHAR *

39 (91) 89

PATNA.

D.O.No. 1220 E. The 28th. April 1947.

My dear Sri Avinashilingamji,

Will you please refer to your letter of the 4th April 1947, in which you ask for certain information in regard to capital grants to schools and colleges in this province.

Rules for capital grants to schools and colleges are laid down in sections III & IV of Chapter X of the Bihar Education Code, copies of which are herewith enclosed. I hope they will serve your purpose.

Yours sincerely,

Rajendra Prasad

The Hon'ble Sri T.S. Avinashilingam,
Minister for Education, Madras.

Paragraph 25, page 60 of the Land Acquisition Manual.

declaration to the Revenue Department for the publication of the declaration and for the issue of orders for the acquisition of the land provided the necessary funds are available. The amount of the estimate should be subsequently incorporated in the estimate for the project. If, however, the acquisition of the site selected by the site committee has already been administratively approved along with the building project, the Executive Engineer will submit the land plan and estimate together with the draft declaration to the Superintending Engineer for transmission to Government in the Public Works Department, who will, after according sanction to the estimate, forward the plan and estimate in original together with the draft declaration to the Revenue Department for the publication of the declaration and for the issue of orders for the acquisition of the land, provided the necessary funds are available. The declaration will then in all cases be published by the Revenue Department and all subsequent proceedings for the acquisition of the land will be taken in that department.

Paragraph 106, page 90 of the Land Acquisition Manual.

630. When it is desired to withdraw from the acquisition of land in respect of which a declaration has been published in the *Bihar and Orissa Gazette*, the officer concerned must report whether possession has actually been taken of any part of the land, and whether any compensation is to be paid for any damages sustained by the owner and any reasonable costs incurred by him in connection with the acquisition proceedings.

Section II.—Buildings financed wholly or partly by local bodies.

631. The rules relating to these buildings will be found among the rules framed under the Local Self-Government Act and other Acts (vide Chapter II).

Section III.—Rules relating to grants of land and money for College sites and buildings.

Government Notification No. 199-E., dated the 19th April 1919.

Officers mainly concerned.

632. The immediate conduct of proceedings in connection with grants rests with the Director in consultation with the Divisional Commissioner. Commissioners are specially concerned in all questions affecting land.

Ditto.

Purpose of the rules.

633. The object of the rules in this section is to ensure that grants are made for suitable objects; that they are utilized to the best advantage; that they are not wasted by reason of buildings being allowed to fall into disrepair, and that the colleges which benefit by them are well managed.

Ditto.

Scope of the rules.

634. The grants to be considered are in general (*a*) grants of land on lease, and (*b*) money grants for the acquisition of land, for the preparation of sites, or for the erection, extension, or purchase of buildings. Grants may, in exceptional cases, be made for paying off debts incurred for college sites and buildings.

NOTE.—The word "college" in these rules includes the word "hostel," unless the contrary appears from the context.

Ditto.

Amount of grants.

635. Grants will not ordinarily exceed double the sum subscribed locally or allotted from the balance in hand of the college.

Ditto.

Outline of procedure.

636. The general procedure is divided into the following stages :—

(*a*) Submission of the application for approval;

(*b*) Settlement of the terms of the grant;

(*c*) Submission of the terms of the grant for sanction;

(*d*) Submission for sanction of (*i*) plans and estimates of buildings, and (*ii*) proposals for grants of land or for land acquisition proceedings;

(*e*) Completion of preliminary conditions; and

(*f*) Final operations.

Ditto.

Submission of applications.

637. The following rules are to be observed in the submission of applications :—

(1) A formal written application must be made to the Director in all cases, even though the negotiations commence informally or verbally. The application must state with sufficient precision what is required, but need not be in any particular form.

(2) In considering the application the Director should, in the first place, satisfy himself that the negotiations are conducted with persons who are legally the owners of the college. Provision is made below for a reference on this point to the Government Pleader, but negotiations need not be delayed for the final decision of legal questions. The cases will fall under four main heads according as the negotiator is—(*i*) a donor or a small group of donors; (*ii*) a body of trustees; (*iii*) a body of subscribers; and (*iv*) the Governing Body of an existing college. In cases (*i*) and (*ii*) the transaction should be conducted with the donor or trustees in person and in case (*iii*) with representatives empowered at a general meeting of the subscribers, in which case a copy of the proceedings of this meeting should be attached to the application. In case (*iv*) the Governing Body may be independent or subject to the authority of a body of subscribers; in either event documentary evidence of its constitution and authority should be attached to the application. If the Governing Body is subject to a body of subscribers, it must be empowered to conduct the transaction with the educational authorities by a general meeting of the subscribers, the proceedings of which should be attached to the application.

The person or body of persons with whom the transaction is conducted is called the college authority.

NOTE.—Where the legal owners of the college are a registered company or corporation, as Missionary Societies and Charitable Societies often are, the contract should be made with the company or corporation, and may be executed on its behalf by any person acting under its authority, *e.g.*, by a person holding a power-of-attorney empowering him in that regard. This, however, need not prevent earlier negotiations from being carried on with the local representatives of the company or corporation.

(3) The Director should next procure the information necessary for a decision on the merits of the proposal.

(*a*) Where additional or improved accommodation is wanted for an existing college, the following particulars should be set forth :—(*i*) general particulars of the college, its site and buildings; (*ii*) the aid, if any, which it already receives, (*iii*) the existing accommodation; (*iv*) the number of classes and the average strength of each; (*v*) the precise character of the addition or improvement proposed, and (*vi*) the nature of the title of the college authority or the Governing Body to the land or building, for an extension of which the grant is sought, and their power to sell, mortgage or otherwise dispose of the same.

(*b*) Description of the existing Governing Body of the college. The arrangements for filling vacancies and the names of the existing members should be stated.

(*c*) Where it is proposed to make a grant of Government land the character of the land (*khas mahal*, etc.) should be given. The nature and locality of the site should be explained, and the area and value should be stated.

(*d*) If it is proposed to acquire land under the Land Acquisition Act or to purchase land this should be stated, and full particulars of the land should be given as above.

(*e*) If it is proposed to erect buildings, the agency it is desired to employ (whether Public Works Department or otherwise) should be stated.

(*f*) The financial aspect of the proposals should be explained. In particular, the total estimated cost, the amount Government is asked to contribute, how much has been promised locally, how much has been collected, and when the balance of the subscription is likely to be paid.

(4) When the information is ready the Director should acquaint the Commissioner with the above particulars and any other details of importance, and invite his opinion. In particular the Commissioner should be asked to state whether he approves of the proposals which relate to sites, the acquisition of land, or the grant or lease of Government land. If the Commissioner and the Director both approve of the project, the Director will inform the Governing Body that the proposal may be entertained, and the next stage of the procedure will begin. If neither the Commissioner nor the Director considers that the application should be entertained, the Director will inform the Governing Body of their decision. If the Director differs from the Commissioner, the matter will be referred to Government for orders.

Government Notification No. 199-E., dated the 19th April 1919.

638. Great delay and difficulty arise if there is any misapprehension as to the conditions on which the proposed grant is to made. As soon, therefore, as the application is approved the terms should be placed in a clear form before the college authority, and it should be asked whether it accepts them. The statement of the terms should be divided into four parts; the first should recite the preliminaries, the second should state the general conditions, the third should specify the result following on violation of the terms of agreement and the fourth should indicate the character of the legal document which the college authority must execute in order to make the terms binding. The following rules are for guidance in drawing up the statement of terms :— Terms of agreement.

(1) The following particulars should be given in the statement of preliminaries :—

(*a*) Description of the college authority;
(*b*) Precise object for which the grant is required;
(*c*) Property or funds held by the college authority, or funds to be collected;
(*d*) Nature of the assistance asked for from Government.

(2) The following are the general conditions on which Government are prepared to make grants :—

(*a*) Save as the Local Government may permit, no building towards the erection, purchase, improvement or repair of which a grant has been made by Government, shall be used for any other than educational purposes, prior to the lapse of a period of twenty years from the date on which the grant is paid.
(*b*) The College shall be under a regular Governing Body, the constitution of which shall be approved by Government
(*c*) The buildings shall be erected in accordance with plans and estimates to be approved by the Director and shall be completed to the satisfaction of the Engineer appointed in that behalf within a specified period. The previous approval of the Superintending Engineer should be obtained to any contract into which it is proposed to enter in respect of the buildings.
(*d*) The college authority shall pay rent of Rs. per annum in the case of a lease.
(*e*) The buildings shall be maintained in good repair.
(*f*) The property shall yield no pecuniary return to the college authority, save for the purposes of the college.
(*g*) The college shall be open to inspection by the officers of Government.
(*h*) The college shall be managed as regards control, maintenance, staff, fees, free-studentships, curriculum, discipline, residential arrangements, and in all other respects in accordance with the grants-in-aid rules and to the satisfaction of the Local Government. The college shall be and remain recognized by the University.

In the case of a hostel the terms under this head should run as follows :—The hostel shall be used solely by students of colleges recognized by the University and shall be managed as regards control, maintenance, discipline, and in all other respects in accordance with the rules prescribed from time to time by the Local Government for the management of recog nized hostels and to the satisfaction of the Local Government.

(*i*) The grant shall be given out, or the land shall be made over, in accordance with the rules laid down from time to time by the Local Government.

(3) Government reserve to themselves the power, in the event of a breach of the above conditions either to have the defect remedied or, in the last resort, to resume the land and recoup themselves for the grant of money. In the event of a dispute as to whether there has been a breach of the conditions or as to whether the defect has been remedied, the decision of the Local Government shall be final. If it is necessary to re sume the land, compensation may have to be paid to the college authority. After resumption, Government will either carry on the college under different management or otherwise dispose of the property as they think fit. If the grant is one of money only, and if the college authority fails to repay the amount, then Government will, at their option, either take over the property on payment of compensation (including the value of the site if the land does not belong to Government), or cause the property to be sold and recoup themselves from the proceeds. Whenever a condition involves the payment of compensation for buildings or land, provision should be made for the appointment of two arbitrators, one to be nominated by the Director and the other by the college authority. If the arbitrators fail to agree, they will appoint an umpire, whose decision shall be final. If the college authority fails to nominate an arbitrator, the decision will rest with the Director.

(4) When a grant of land is made, whether Government land or land acquired for the purpose, and with or without a grant of money, the land will be leased by Government to the college authority at a nominal rent and the college authority will execute an agreement in the form given in Appendix III. When the grant is one of money to extend the existing buildings or to build on land already belonging to an educational institution, the agreement, if the college authority is competent to execute a mortgage, should be in the form given in Appendix IV. If the college authority is not competent, it will rest with the sanctioning authority to decide whether the form given in Appendix V will suffice.

Government Notification No. 199-E., dated the 19th April 1919.

Sanction to the grant.

639. Draft terms of agreement in each particular case should be drawn up by the Director in consultation with the college authority and the Commissioner. Any special stipulation required should be inserted and explained. The draft agreement, when completed, should be formally accepted by the college authority, so that there may be no possibility of misapprehension. The accepted draft should then be forwarded to Government for sanction with the application for the grant. The sanction of Government will be provisional only, and subject to the fulfilment of the preliminary conditions.

Ditto.

Plans and estimates.

640. While the consideration of the terms is in progress, questions relating to the site, plans and estimates may be settled. If it has been decided that the buildings will be erected by the Public Works Department, the Director will request that Department to prepare rough plans and estimates. When these are completed they should be countersigned by the college authority to show that it agrees. If the work is to be carried out by the college authority itself, the rough plans and estimates will be prepared by it and the Director in consultation. In this case also, they should be signed by the college authority. If the proposed site is on Government land in charge of the Public Works Department the plans and estimates should be referred to that Department, even though they are not required to undertake the work.

Ditto.

Plans and estimates.

641. The plans and estimates to be prepared as above should include a site plan, ground plans of all premises, including outhouses, latrines, etc , e tion plans, and in addition the following :—

For both college and hostel buildings.

(1) A rough sketch of the compound showing the drainage arrangements, position of latrines, wells, servants' quarters, kitchens, urinals and other buildings;

(2) A plan of the latrines and urinals to be erected;

(3) A statement showing :—

(*i*) The number of scholars for which each room is intended and the measurements of each room.

(*ii*) The number of doors and windows and their measurements.

(*iii*) The number of latrine seats.

(*iv*) The number of urinal seats.

(4) Answers to the following queries :—

(*i*) What arrangements have been made for the supply of drinking water inside the building?

(*ii*) Is there any hospital, infirmary, slaughter-house or other undesirable building within 100 yards of the boundaries of the proposed site?

(*iii*) Is the building designed for Europeans, Anglo-Indians or Indians?

(*iv*) Is the institution designed for boys or girls; or for both?

NOTE.—The maximum and minimum ages of the inmates should be stated, and these should be given separately for boys and girls.

Additional information for college buildings only.

(*v*) Is the building designed for day-students or boarders or both? The number of students for which the building is designed should be stated in each case and if the institution contains both boarders and day-scholars, the number of boarders and day-scholars should be given separately.

Additional information for hostels only.

(*vi*) What is the number which each sleeping-room is designed to accommodate?

(*vii*) Are there any sanitary conveniences within the hostel precincts for night use? Give details.

(*viii*) What are the bathing arrangements and are they separate from the drinking water-supply?

(*ix*) Are the cook-houses pucca and fly-proof?

(*x*) What is the extent and situation of the servants quarters?

Government Notification No. 199-E., dated the 19th April 1919.

642. In no case should detailed estimates be prepared until the rough plans and estimates have received the administrative approval of the authority competent to sanction the grant.

Ditto.

643. On receipt of the plans and estimates the Director will forward them to the Superintending

Engineer concerned for professional opinion, approval and return. If the cost of the scheme is beyond the powers of sanction of the Superintending Engineer, he will send them to the Chief Engineer for approval. In the event of the scheme being drawn up by an Architect approved by the Chief Engineer, no reference will be made to the Public Works Department, and payments from the money grant will be made on certificates given by the Architect. The Director will obtain the opinion of the Director of Public Health in all cases.

Grant of Government land.

644. A grant of Government land should ordinarily be made in form of a lease for a nominal rent such as Re. 1 a year. Formal application for the grant may be made after the terms have been settled as prescribed above. It should be made by the Commissioner and should contain the following particulars :—

(*a*) Statement of the object of the grant.

(*b*) Full details relating to the land, such as situation, boundaries, area and value. It should also be stated whether the land is *khas mahal* or in what other manner it is held by Government. A plan of the land should be appended.

(*c*) A reference to the accepted conditions, a copy of which should be attached to the application.

The application should be complete as to objects, terms, and details of the proposed transfer from the point of view of the Revenue Department, so that if Government approve generally of the proposals, they may be referred to the Board of Revenue, which will be able to give its opinion on the materials already supplied without any further reference to the local authority. The application should ask for sanction, subject to the conditions referred to above and to the execution of the lease referred to. The application should be submitted to Government through the Director. Government will make such reference to the Board of Revenue as may be necessary, and will then pass orders on the application.

G. O. No. 199-E., dated the 19th April 1919.

Land Acquisition proceedings.

645. Land acquired by Government for a college site should ordinarily be handed over to the college authority on lease at a nominal rate of rent. Formal

proceedings for the acquisition may be initiated after the terms of agreement have been sanctioned by Government. They should commence with a formal application to the District Officer from the Director, who should ask for a draft declaration under section 6 of the Land Acquisition Act. The application should be accompanied by plans and estimates for the land which it is proposed to acquire, and in the preparation of these the District Officer will give the local educational authorities all assistance in his power. Unless there are valid objections to the acquisition of the land, the District Officer will return the preliminary plans and estimates after examination, together with a draft declaration through the usual channel, to the Director for submission to Government in the Education Department. If the proposal is approved the Revenue Department will publish the draft declaration and issue the orders for the acquisition of the land. In cases where the land is to be acquired for buildings to be erected by or from funds to be provided by the Public Works Department that department will move the Revenue Department to publish the declaration and issue the necessary orders for acquisition.

NOTE.—Under the Land Acquisition (Amendment) Act, 1923, a preliminary notification under section 4 of Act I of 1894 is necessary in every case, so that objections may be heard before it is decided to issue a declaration under section 6.

G. O. No. 199-E., dated the 19th April 1919.

646. If the grant of money is required to extend existing buildings or construct buildings on land belonging to an educational institution, Government will before passing orders, examine the title of the Governing Body to the land or buildings and their powers to mortgage, sell or otherwise dispose of them. Where such powers do not exist Government will consider the case on its own merits. **Grant of money.**

Government Notification No. 199-E., dated the 19th April 1919.

647. If the grant is a simple money grant, further action will ordinarily be taken by the Director; if a grant of land or land acquisition proceedings are involved, the Commissioner will be responsible. Before the final step is reached it is necessary (1) that the private funds promised shall be made available; (2) that the legal position of the college authority and its title to the property involved shall be ascertained; and (3) that the legal documents enforcing the conditions shall be executed. **Completion of preliminary conditions.**

(1) The Director or the Commissioner, as the case may be, must be satisfied that the subscriptions promised as a condition of the Government grant have been realized, or that the donor or donors have paid their contribution. If land is to be acquired, or if buildings are to be erected by the Public Works Department, the private funds must be paid into the treasury. If the work is to be undertaken by the college authority, the private funds promised must be in its hands, and the college authority must submit a written guarantee that its funds, when added to the grant, will be sufficient to meet all claims and to close the account. If the strict enforcement of this rule would cause great delay, and if there is no reasonable doubt that the full amount promised will be paid, the condition may be relaxed under the special orders of the Director, if the amount does not exceed Rs. 500. In other cases a reference must be made to Government and in any event at least one-half of the amount due must be paid before final operations commence, and the balance must be paid (either in instalments or in a lump sum) before their termination.

(2) It is provided above that the applicant shall be called on to furnish documents of title. These, together with any documents or other relevant information regarding the college authority, should be made over to the Government Pleader, who should be asked to certify (*a*) that the college authority is legally competent to negotiate with Government and to execute the requisite legal documents, and (*b*) that its title to the property to be mortgaged is sound. This investigation should be held as soon as possible, but it is not necessary to delay operations for its completion until the final stage is reached.

(3) The statement of conditions and the type form applicable to the particular case should be made over to the Government Pleader who should prepare the requisite legal document from them. The type form should be adhered to, except in so far as special conditions exist, or as special stipulations have been made in the terms of the agreement. This document should be forwarded to the Director. It need not be submitted to Government unless the stipulations have been so modified as substantially to alter the type form. When the document has been approved the Director must cause it to be duly executed and (if the deed is in the form given in Appendix III) registered, and it should be forwarded to the Inspector-General of Registration for custody.

Government Notification No. 199-E., dated the 19th April 1919.

648. The preliminary conditions having now been fulfilled, the final operations may be carried out. That is to say— Final stage of proceedings.

(1) The Collector may hand over the land.

(2) When the work is to be carried out through the agency of the Public Works Department, that Department may commence building. The Public Works Department Code rules regarding contribution works will be observed when the works are to be carried out through the agency of that Department. The charges ordinarily made by the Department (24 per cent. on the estimated amount) for establishment, tools and plant and audit will be realized unless remitted by express orders of Government.

P. W. D. letter No. 2607-E., dated the 23rd July 1923.

(3) When the work is to be executed by the college authority, the money grant may be given out. In the case of building grants, an instalment of one-half the total amount may be paid at once. The remaining half may be paid under the following rules :—

(*a*) The Director shall inform the Superintending Engineer that the grant has been sanctioned and shall ask him to arrange for its supervision.

(*b*) The college authority shall be required to give 15 days' notice in writing to the Superintending Engineer prior to the commencement of the work.

(*c*) During the progress of the work access thereto and every reasonable opportunity to inspect and examine materials and to take measurements shall be afforded by the college authority to the officers appointed by the Superintending Engineer in this behalf.

(*d*) When approximately half the work is completed one-quarter of the entire sum sanctioned shall be paid on the requisition of the college authority, signed by an officer deputed by the Superintending Engineer.

(*e*) Before the remaining quarter of the grant is paid it shall be certified in the prescribed form, by the officer deputed by the Superintending Engineer that the work has been completed in accordance with the approved plans and estimates, and that the building is worth the amount on which the grant is claimed.

(*f*) Should the amount of the undertaking fall short of the estimate, the grant be curtailed by the amount by which it falls short.

Each portion of the grant must be drawn in the prescribed form.

Government Notification No. 199-E., dated the 19th April 1919.

(4) When the work is to be undertaken by a District Board on behalf of the college authority, the amount of the grant sanctioned shall be placed by Government to the credit of the District Board and the college authority shall at the same time place to the credit of the Board a sum equal to the difference between the total cost involved and the amount of the sanctioned grant. In calculating the total cost involved provision shall be included for the fees payable to the Board according to the scale prescribed by the rules laid down in article 618 of this Chapter.

Ditto.

649. Grants for the preparation of sites should be given out in the same way as building grants. In the case of grants for the purchase of land or buildings, the money should be paid out at the time of transfer of the property. Payment of grants.

Ditto.

650. No new building shall be constructed for an aided college until the plan and estimates have been approved by the Director. New buildings.

Section IV.—Rules relating to grants of land and money for school sites and buildings.

Government Notification No. 200-E., dated the 19th April 1919.

651. The immediate conduct of proceedings in connection with grants rests with the Inspector in consultation with the District Officer. District Officers are specially concerned in all questions affecting land. Officers mainly concerned.

Ditto.

652. The object of the rules in this section is to ensure that grants are made for suitable objects, that they are utilized to the best advantage, that they are not wasted by reason of buildings being allowed to fall into disrepair and that the institutions which benefit by them are well managed. Purpose of the rules.

Ditto.

653. The grants to be considered are in general (*a*) grants of land on lease, and (*b*) money grants for the acquisition of land, for the preparation of sites, or for the erection, extension, or purchase of buildings. Scope of the rules.

Grants may be made for paying off debts incurred for school sites and buildings only in exceptional cases and with the sanction of Government.

NOTE.—The word "school" in these rules includes the word "hostel," unless the contrary appears from the context.

Government Notification No. 200-E., dated the 19th April 1919.

654. Grants may not, save under general or special sanction of Government, exceed double the sum subscribed locally or allotted from the balance in hand of the school. Amount of grants.

Ditto.

655. The general procedure is divided into the following stages :— Outline of procedure.

(*a*) submission of the application for approval;

(*b*) settlement of the terms of the grant;

(*c*) submission of the terms of the grant for sanction;

(*d*) submission for sanction of (*i*) plans and estimates of buildings, and (*ii*) proposals for grants of land or for land acquisition proceedings;

(*e*) completion of preliminary conditions; and

(*f*) final operations.

Ditto.

656. The following rules are to be observed in the submission of applications :— Submission of applications.

(1) A formal written application must be made to the Inspector in all cases, even though the negotiations commence informally or verbally. The application must state with sufficient precision what is required, but need not be in any particular form.

(2) Before considering the application the Inspector must satisfy himself that the negotiations are conducted with persons who are legally the owners of the existing or future school. Provision is made below for a reference on this point to the Government Pleader, but negotiations need not be delayed for the final decision of legal questions. The cases will fall under four main heads, according as the negotiator is :—(*i*) a donor or a small group of donors, (*ii*) a body of trustees, (*iii*) a body of subscribers, and (*iv*) the managing committee of an existing school. In cases (*i*) and (*ii*) the transaction should be conducted with the donor or trustees in person; in case (*iii*) with representatives empowered at a general meeting of the subscribers, in which case a copy of the proceedings of this meeting should be attached by the Inspector to the application. In case (*iv*) the managing committee may be independent or subject to the authority of a body of subscribers; in either

event documentary evidence of the constitution and authority of the committee should be attached to the application. If the committee is subject to a body of subscribers, it must be empowered to conduct the transaction with the educational authorities by a general meeting of the subscribers, the proceedings of which should be attached to the application.

The person or body of persons with whom the transaction is conducted is called in these rules the school authority.

NOTE.—Where the legal owners of the school are a registered company or corporation, as Missionary Societies and Charitable Societies often are, the contract should be made with the company or corporation, and may be executed on its behalf by any person acting under its authority, *e.g.*, by a person holding a power-of-attorney empowering him in that regard. This, however, need not prevent earlier negotiations from being carried on with the local representatives of the company or corporation.

(3) The Inspector must next procure the information necessary for a decision on the merits of the proposal :—

(*a*) Where additional or improved accommodation is wanted for an existing school, the following particulars should be set forth :—(*i*) general description of the school, its site and buildings; (*ii*) the aid, if any, which it already receives; (*iii*) the existing accommodation; (*iv*) the number of classes and the average strength of each; (*v*) the precise character of the addition or improvement proposed; and (*vi*) the nature of the title of the school authority or committee to the land and building to add to which the grant is sought, and their power to sell, mortgage or otherwise dispose of them.

(*b*) Description of the existing managing committee of the school. The arrangements for filling vacancies and the names of the existing members should be stated.

(*c*) Where it is proposed to make a grant of Government land, the character of the land (*khas mahal*, etc.) should be given. The nature and locality of the site should be explained, and the area and value should be stated.

(*d*) If it is proposed to acquire land under the Land Acquisition Act or to purchase land, this should be stated, and full particulars of the land should be given as above.

(*e*) If it is proposed to erect buildings, the agency it is desired to employ (whether Public Works Department or otherwise) should be stated.

(*f*) The financial aspect of the proposals should be explained. In particular, the total estimated cost, the amount Government is asked to contribute, how much has been promised locally, how much has been collected and when the balance of the subscriptions is likely to be paid.

(4) When the information is ready, the Inspector should submit a report dealing with the above particulars and any other details of importance, and make his recommendations. The report should be submitted to the Director through the District Officer and the Commissioner. These officers should make their comments. In particular they should state whether they approve of the proposals which relate to sites, the acquisition of land or the grant or lease of Government land. If the Director approves, he will inform the Inspector that the proposal may be entertained, and the next stage of the procedure will begin. If the Director considers that the application should not be entertained, he will inform the Inspector, who will communicate the decision to the applicant.

(5) In the case of a grant of a sum of money not exceeding Rs. 500 the Inspector is the final sanctioning authority, provided that he is able to meet the expenditure from the allotment for grants-in-aid placed at his disposal by the Director. He should therefore take into consideration the points mentioned in sub-section (3) of this article and in the three following articles. He should also consult the District Officer.

Government Notification No. 200-E., dated the 19th April 1919.

657. Great delay and difficulty arise if there is any misapprehension as to the conditions on which the proposed grant is to be made. As soon, therefore, as the application is approved, the terms should be placed in a clear form before the school authority, and it should be asked whether it accepts them. The statement of the terms should be divided into four parts: the first should recite the preliminaries, the second should state the general conditions, the third should specify the result following on violation of the terms of agreement, and the fourth should indicate the character of the legal document which the school authority must execute in order to make the terms binding. The following rules are for guidance in drawing up the statement of terms:—

Terms of agreement.

(1) The following particulars should be given in the statement of preliminaries:—

(*a*) Description of the school authority.

(*b*) Precise object for which the grant is required,

(*c*) Property or funds held by the school authority, or funds to be collected.

(*d*) The nature of the assistance asked for from Government.

(2) The following are the general conditions on which Government are prepared to make grants:—

(*a*) Save as the Local Government may permit, no building towards the erection, purchase, improvement or repair of which a grant has been made by Government, shall be used for any other than educational purposes, prior to the lapse of a period of 20 years from the date on which the grant is paid.

(*b*) The school shall be under a regular managing committee, the constitution of which shall be approved by the Director and in accordance with the grant-in-aid rules.

(*c*) The buildings shall be erected in accordance with plans and estimates to be approved by the Director and shall be completed to the satisfaction of the Engineer appointed in that behalf within a specified period. The previous approval of the Superintending Engineer should be obtained to any contract into which it is proposed to enter in respect of the buildings

(*d*) The school authority shall pay rent of Rs. per annum in the case of a lease.

(*e*) The buildings shall be maintained in good repair.

(*f*) The property shall yield no pecuniary return to the school authority save for the purposes of the school.

(*g*) The school shall be open to inspection by the officers of Government.

(*h*) The school shall be managed as regards control, maintenance, staff, fees, free-studentships, curriculum, discipline, residential arrangements, and in all other respects, in accordance with the grant-in-aid rules and to the satisfaction of the Local Government. The school, if a High school, shall be recognized as such by the Local Government.

In the case of a hostel the terms under this head should run as follows:—The hostel shall be used solely by students of schools recognized by the Local Government and shall be managed as regards control, maintenance, discipline and in all other respects, in accordance with the rules prescribed from time to time by the Local Government for the management of recognized hostels and to the satisfaction of the Local Government,

(*i*) The grant shall be given out, or the land shall be made over, in accordance with the rules laid down from time to time by the Local Government.

(3) Government reserve to themselves the power, in the event of a breach of the above conditions, either to have the defect remedied or, in the last resort, to resume the land and recoup themselves for the grant of money. In the event of a dispute as to whether there has been a breach of the conditions, or as to whether the defect has been remedied, the decision of the Local Government shall be final. If it is necessary to resume the land, compensation may have to be paid to the school authority. After resumption, Government will either carry on the school under different management, or otherwise dispose of the property as they think fit. If the grant is one of money only, and if the school authority fails to repay the amount, then Government will, at their option, either take over the property on payment of compensation (including the value of the site if the land does not belong to Government), or cause the property to be sold and recoup themselves from the proceeds. Whenever a condition involves the payment of compensation for buildings or land, provision should be made for the appointment of two arbitrators, one to be nominated by the Director and the other by the school authority. If the arbitrators fail to agree, they will appoint an umpire, whose decision will be final. If the school authority fails to nominate an arbitrator, the decision will rest with the Director.

(4) When a grant is made, whether of Government land or of land acquired for the purpose, and with or without a grant of money, the land will be leased by Government to the school authority at a nominal rent and the school authority must execute an agreement in the form given in Appendix III. When the grant is one of money to extend existing buildings or to build on land already belonging to an educational institution, the agreement, if the school authority is competent to execute a mortgage, should be in form given in Appendix IV. If the school authority is not competent, it will rest with the sanctioning authority to decide whether the form given in Appendix V will suffice.

Sanction to the grant.

Government Notification No. 200-E., dated the 19th April 1919.

658. Draft terms of agreement in each particular case should be drawn up by the Inspector or his subordinates in consultation with the school authority. Any special stipulation required should be inserted and explained. The draft agreement when completed should be formally accepted by the school authority, so that there may be no possibility of misapprehension.

The accepted draft should then be forwarded to the Director, through the District Magistrate and the Commissioner, for sanction to the grant. The sanction of the Director suffices except in the following cases :—

(*a*) If the terms proposed differ in any very important particular from those laid down in the preceding article.

(*b*) If the amount of the grant exceeds Rs. 10,000.

(*c*) If the grant will cause excess expenditure over the budget allotment for grants-in-aid.

(*d*) If the terms include the grant of Government land.*

(*e*) If land acquisition proceedings are involved.

In cases (*a*), (*b*) and (*c*) the Director should apply for sanction, submitting the terms of agreement with his own comments and those of the local officers. The procedure in cases (*d*) and (*e*) is explained below. The sanction of Government or the Director will be provisional only, and subject to the fulfilment of the preliminary conditions. The above rules will govern, in so far as they are applicable, the grant of sanction by an Inspector to a grant not exceeding Rs. 500.

Plans and estimates.

Government Notification No. 200-E., dated the 19th April 1919.

659. Whilst the consideration of the terms is in progress, questions relating to the site, plans and estimates may be settled. If it has been decided that the buildings will be erected by the Public Works Department, the Director will request that department to prepare rough plans and estimates in consultation with the Inspector. When these are completed, they should be countersigned by the school authority to show that it agrees. If the work is to be carried out by the school authority itself, then the rough plans and estimates will be prepared by it and the Inspector in consultation. In this case also they should be signed by the school authority. If the proposed site is on Government land in charge of the Public Works Department, the plans and estimates should be referred to that Department, even though they are not required to undertake the work.

* The sanction of the Government of India is required if the value of the land exceeds Rs. 3,000.

660. The plans and estimates to be prepared as above should include a site plan, ground plans of all premises including outhouses, latrines, etc., elevation plans, and in addition the following :—

For both school and hostel buildings.

(1) A rough sketch of the compound showing the drainage arrangements, position of latrines, wells, servants' quarters, kitchens, urinals and other buildings;

(2) A plan of the latrines and urinals to be erected;

(3) A statement showing :—

(*i*) the number of scholars for which each room is intended and the measurements of each room;

(*ii*) the number of doors and windows and their measurements;

(*iii*) the number of latrine seats;

(*iv*) the number of urinal seats.

(4) Answers to the following queries :—

(*i*) What arrangements have been made for the supply of drinking water inside the building?

(*ii*) Is there any hospital, infirmary, slaughter-house or other undesirable building within 100 yards of the boundaries of the proposed site?

(*iii*) Is the building designed for Europeans, Anglo-Indians or Indians?

(*iv*) Is the institution designed for boys or girls, or for both?

NOTE.—The maximum and minimum ages of the inmates should be stated and these should be given separately for boys and girls.

Additional information for school buildings only.

(*v*) Is the building designed for day-students or boarders or both? The number of students for which the building is designed should be stated in each case and if the institution contains both boarders and day-scholars, the number of boarders and day-scholars should be given separately.

Additional information for hostels only.

(*vi*) What is the number which each sleeping-room is designed to accommodate?

(*vii*) Are there any sanitary conveniences within the hostel precincts for night use?

(*viii*) What are the bathing arrangements and are they separate from the drinking water-supply?

(*ix*) Are the cook-houses pucca and fly-proof?

(*x*) What is the extent and situation of the servants' quarters?

661. In preparing plans and estimates the prescribed type-plans should be followed in so far as they are applicable and deviations from them should be explained. The rules regarding the space to be allotted should be observed in all cases. The following minimum scale is prescribed :—

For class rooms in primary schools 8—10 superficial feet per pupil, 80—100 cubic feet per pupil.

For class rooms in secondary schools 10—12 superficial feet per pupil, 100—120 cubic feet per pupil.

For hostels of all classes of schools 60 superficial feet per pupil, 750 cubic feet per pupil. Where large dormitories are provided, these figures may be reduced by one-third (*vide* article 689).

Government Notification No. 200-E., dated the 19th April 1919.

662. In no case should detailed estimates be prepared until the rough plans and estimates have received the administrative approval of the authority competent to sanction the grant.

Ditto.

663. On receipt of the plans and estimates the Director will forward them to the Superintending Engineer concerned for professional opinion, approval, and return. If the cost of the scheme is beyond the powers of sanction of the Superintending Engineer, he will send them to the Chief Engineer for approval. In the event of the scheme being drawn up by an Architect approved by the Chief Engineer, no reference will be made to the Public Works Department and payments from the money grant will be made on

certificates given by the Architect. The Director will obtain the opinion of the Director of Public Health in all cases

NOTE.—If the grant applied for does not exceed Rs. 500, it will be sufficient for the authority competent to sanction the grant to obtain the opinion of the Executive Engineer and the Civil Surgeon.

Government Notification No. 200-E., dated the 19th April 1919.

664. A grant of Government land should ordinarily be made in the form of a lease for a nominal rent such as Re. 1 a year. Formal application for the grant may be made after the terms have been settled as prescribed above. It should be made by the District Officer and should contain the following particulars :— Grant of Government land.

(*a*) Statement of the object of the grant.

(*b*) Full details relating to the land, such as situation, boundaries, area and value. It should also be stated whether the land is *khas mahal* or in what other manner it is held by Government. A plan of the land should be appended.

(*c*) A reference to the accepted conditions, a copy of which should be attached to the application.

The application should be complete as to the object, terms, and details of the proposed transfer from the point of view of the Revenue Department, so that if Government approve generally of the proposals, they may be referred to the Board of Revenue which will be able to give its opinion on the materials already supplied without any further reference to the local authority. The application should ask for sanction, subject to the conditions referred to above and to the execution of the lease referred to. The application should be submitted to Government through the Commissioner and Director. Government will make such reference to the Board of Revenue as may be necessary, and will then pass orders on the application.

Ditto.

665. Land acquired by Government for a school site should ordinarily be handed over to the school authority on a lease at a nominal rate of rent. Formal proceedings for the acquisition may be initiated after the terms of agreement have been sanctioned by the Director. They should commence with a formal application to the District Officer from the Director, who should ask for a draft declaration under section 6 of the Land Acquisition Act. The application should be Land acquisition proceedings.

accompanied by plans and estimates for the land which it is proposed to acquire and in the preparation of these the District Officer will give the local educational authorities all assistance in his power. Unless there are valid objections to the acquisition of the land the District Officer will return the preliminary plans and estimates, after examination, together with a draft declaration, through the usual channel, to the Director for submission to Government in the Education Department. If the proposal is approved the Revenue Department will publish the draft declaration and issue orders for the acquisition of the land. In cases where the land is to be acquired for buildings to be erected, or from funds to be provided, by the Public Works Department, that department will move the Revenue Department to publish the declaration and issue the necessary orders for acquisition.

NOTE.—Under the Land Acquisition (Amendment) Act, 1923, a preliminary notification under section 4 of Act I of 1894 is necessary in every case, so that objections may be heard before it is decided to issue a declaration under section 6.

Government Notification No. 200-E., dated the 19th April 1919.

666. If the grant of money is required for the extension of existing buildings or the construction of buildings on land belonging to an educational institution and exceeds Rs. 10,000, Government before passing orders will consider the title of the committee to the land or buildings and their powers to mortgage, sell or otherwise dispose of them, and will determine the type of agreement to be executed. If the grant does not exceed Rs. 10,000 the case will be disposed of by the Director in the same manner. Grant of money.

Ditto.

667. If the grant is a simple money grant further action will ordinarily be taken by the Inspector: if a grant of land or land acquisition proceedings are involved, the District Officer will be responsible. Before the final step is reached it is necessary (1) that the private funds promised shall be made available: (2) that the legal position of the school authority and its title to the property involved shall be ascertained; and (3) that the legal documents enforcing the conditions shall be executed. Completion of preliminary conditions.

(1) The Inspector or the District Officer, as the case may be, must be satisfied that the subscriptions promised as

a condition of the Government grant have been realized, or that the donor or donors have paid their contribution. If land is to be acquired, or if buildings are to be erected by the Public Works Department, the private funds must be paid into the treasury. If the work is to be undertaken by the school authority, the private funds promised must be in its hands, and the school authority must submit a written guarantee that its funds will, when added to the grant, be sufficient to meet all claims and to close the account. If the strict enforcement of this rule would cause great delay, and if there is no reasonable doubt that the full amount promised will be paid, the condition may be relaxed under the special orders of the Director, if the amount does not exceed Rs. 500. In other cases a reference must be made to Government, and in any event at least one-half of the amount due must be paid before final operations commence, and the balance must be paid (either in instalments or in a lump sum) before their termination.

(2) It is provided above that the applicant shall be called on to furnish documents of title. These, together with any documents or other relevant information regarding the school authority, should be made over to the Government Pleader, who should be asked to certify (*a*) that the school authority is legally competent to negotiate with Government and to execute the requisite legal documents, and (*b*) that its title to the property to be mortgaged is sound. This investigation should be held as soon as possible, but it is not necessary to delay operations for its completion until the final stage is reached.

(3) The statement of conditions and the type form applicable to the particular case should be made over to the Government Pleader who should prepare the requisite legal document from them. The type form should be adhered to, except in so far as special conditions exist, or as special stipulations have been made in the terms of the agreement. The document should be forwarded to the Inspector or the District Officer, as the case may be. It need not be submitted to higher authority unless the stipulations have been so modified as substantially to alter the type form. In that case the Director should intimate, at the time that he sanctions the conditions, that he desires to see the document; and he should always call for it in cases where the conditions have been submitted to Government for sanction. When the document has been approved the District Officer or the Inspector should cause it to be duly executed and (if the deed is in the form given in Appendix III) registered, and it should be forwarded to the Inspector-General of Registration for custody. The Inspector should report to the Director when these transactions are completed.

Government Notification No. 200-E., dated the 19th April 1919.

P. W. D. letter No. 2607-E., dated the 23rd July 1923.

668. The preliminary conditions having now all been fulfilled, the final operations may be carried out. That is to say— Final stage of proceedings.

(1) The Collector may hand over the land.

(2) When the work is to be carried out through the agency of the Public Works Department, that Department may commence building. The Public Works Department Code rules regarding contribution works will be observed when the works are to be carried out through the agency of that Department. The charges ordinarily made by the Department (24 per cent. on the estimated amount) for establishment, tools and plant and audit will be realized unless remitted by express orders of Government.

(3) When the work is to be executed by the school authority, the money grant may be given out. In the case of building grants, an instalment of one-half the total amount may be paid at once. The remaining half may be paid under the following rules :—

(*a*) The Director shall inform the Superintending Engineer that the grant has been sanctioned and shall ask him to arrange for its supervision.

(*b*) The school authority shall be required to give 15 days' notice in writing to the Superintending Engineer prior to the commencement of the work.

(*c*) During the progress of the work access thereto and every reasonable opportunity to inspect and examine materials and to take measurements shall be afforded by the school authority to the officers appointed by the Superintending Engineer in this behalf.

(*d*) When approximately half the work is completed, one-quarter of the entire sum sanctioned shall be paid on the requisition of the school authority, signed by an officer deputed by the Superintending Engineer.

(*e*) Before the remaining quarter of the grant is paid it shall be certified in the prescribed form, by the officer deputed by the Superintending Engineer, that the work has been completed in accordance with the approved plans and estimates, and that the building is worth the amount on which the grant is claimed.

(f) Should the amount of the undertaking fall short of the estimate, the grant may be curtailed by the amount by which it falls short.

Each portion of the grant must be drawn in the prescribed form.

NOTE.—Where the grant sanctioned does not exceed Rs. 500 the sanctioning authority shall inform the Executive Engineer instead of the Superintending Engineer and that officer will take the place of the Superintending Engineer for the purpose of the above rule.

(4) When the work is to be undertaken by a District Board on behalf of the school authority, the amount of the grant sanctioned shall be placed by Government to the credit of the District Board and the school authority shall at the same time place to the credit of the Board a sum equal to the difference between the total cost involved and the amount of the sanctioned grant. In calculating the total cost involved provision shall be included for the fees payable to the Board according to the scale prescribed by the rules laid down in article 618 of this chapter.

Payment of grants.

Government Notification No. 200-E., dated the 19th April 1919.

669. Grants for the preparation of sites should be given out in the same way as building grants. In the case of grants for the purchase of buildings, the money should be paid out at the time of transfer of the property.

Section V.—Miscellaneous.

(a).—Educational Officers entitled to free quarters.

670. The conditions for the grant of free quarters to Government officers are contained in Fundamental Rule 45 (*e*). The rules previously in force were as follows :—

Free quarters.

G. of I. Resolution Nos. 319-331, dated the 16th May 1906. (R. & O., page 558).

(i) The following are the rules relating to the grant of free quarters to the Principals and professors of Government colleges :—

(*a*) When a substantial proportion of the students of a Government college are resident in hostels adjoining or near to the college building, the Local Government may, without the sanction of the Government of India, provide free quarters for not more than the Principal and one professor, on the condition that definite duties are assigned to the officers thus privileged in connection with the supervision and physical welfare of the students;

SECRETARY, EDN. AND P. H. DEPT.
5 MAY 1943
GOVERNMENT OF MADRAS

Secretary, E.& P.H.

Please see herewith a letter from Sri Sampurnanand, Minister for Education, United Provinces and the Education Code of the United Provinces with reference to capital grants. They is may put up in that file. The file has already been sent to you.

16-5-43

H.M. Education.

MINISTER OF EDUCATION & FINANCE.
UNITED PROVINCES.

Lucknow, May 1947

Dear Sri Avinashilingam,

Your D.O. letter dated April 4, 1947.

I enclose herewith copies of paragraphs 361-368* of the Educational Code of these provinces which govern capital grants to aided educational institutions in these provinces. A copy of paragraph 358* of the Code containing general rules regarding grant-in-aid to aided educational institutions is also enclosed. These rules contain all the information you require. If any further information is required, please let me know and I shall be glad to furnish it.

With kind regards,

Yours sincerely,
Sampurnanand
(SAMPURNANAND).

The Hon'ble Sri T.S. Avinashiiingam,
Minister for Education,
Madras

* A copy of the Educational Code containing the paras is attached.

DEWAN OF TRAVANCORE

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BHAKTIVILAS
TRIVANDRUM.
20th May 1947.

My dear Mr. Avanashilingom,

With reference to your letter dated the 4th April 1947, I write to inform you that the award of capital grants to private schools is governed by the provisions of the Education Code. The grant is given subject to the terms of a twenty years agreement to be executed by the Manager of the school concerned. If the Manager violates the conditions before the expiry of that period he will have to repay the grant according to rule 149 (a) and appendix B (b) of the Travancore Education Code, copies of which are enclosed for your information.

In regard to the award of capital grants for Colleges and hostels the Travancore University still follows the rules on the subject framed by the Education Department when the Colleges were under the administrative control of that Department. The question of framing separate rules for the University is

DEWAN OF TRAVANCORE

BHAKTIVILAS
TRIVANDRUM.

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under consideration. The grant is disbursed subject to the terms of an agreement and if the terms are violated, the amount paid as grant or so much of that amount as may be determined by the University will have to be repaid to the University. Copies of the rules and the model agreement to be entered into by the Managements with the University are enclosed.

With kind regards,

I am,

Yours sincerely,

C P Ramaswami Aiyar

149 (a) (i) grants under rule 146 (d) and (e) shall ordinarily amount to, but shall not be greater than one-third of the cost of the buildings or extensions; but in the case of buildings and extensions constructed and used exclusively for the teaching of scientific subjects the grant shall ordinarily amount to, but shall in no case be greater than, one-half of the cost. They can only be sanctioned for work considered by the sanctioning authority to be necessary, the plans and estimates for which have been approved and grant applied for before it has been commenced, which is completed to the satisfaction of, and whose cost is certified to, by officers of the Public Works Department. No grant shall be given if the building or extension is intended for any purpose other than purposes of education.

NOTE. The policy of Government is to conform to plain designs for educational buildings. While deciding the amount of grant under this rule, the expenditure for ornamentation and other luxuries should be excluded. It is open to the P.W.Department, when the plans and estimates are scrutinised, to suggest any alteration (in the plan) which will reduce the cost but will not detract from the convenience of the institution concerned and also the adoption of any approved cheaper design which will serve the purpose equally well.

(ii) Grants under this rule shall not be allowed in respect of buildings put up in pursuance of conditions of recognition.

(iii) The order sanctioning a grant under this rule shall state a date before which the building must be completed. The grant shall lapse if the building is not completed by that date. The amount finally disbursed shall ordinarily be one-third or one-half, as the case may be, of the actual cost of the completed works as certified to by an Officer of the Public Works Department and shall in no case exceed one-third (or one-half) of the cost according to the originally approved estimates. The Manager shall, before disbursement of the grant, furnish a statement of expenditure on the work, with the necessary vouchers. All reasonable facilities shall, during the progress of the work, be afforded to the Officers of the Public Works Department, deputed for the purpose to examine the materials used and the work done,

(iv) Managers drawing a grant under this rule shall be required, before the disbursement of the grant, to execute an agreement with the Government in the form given in Appendix B (b) embodying the conditions on which the grant has been given.

Grants under rule 146 (d) and (e) and grants towards the construction or extension of gymanasium and lay out of play grounds under rule 146 (i) shall only be disbursed on receipt of a certificate from the Public Works Department stating that the work has been completed in accordance

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with the plans and estimates originally approved and also stating the amount of savings, if any, on the original estimate. Vouchers for all expenditure incurred in connection with the work must also be forwarded. The certificate and vouchers must be forwarded within the period allotted for the completion of the work, otherwise the grant lapses.

(b) Grant under rule 146 (i) shall ordinarily amount to, but shall in no case be greater than, one-third of the cost of construction or extension of the gymnasium or the cost of the land for and lay out of play grounds. The provisions of rule 149 (a) relating to grants under rule 146 (d), and (e) shall mutatis mutandis apply to grants relating to construction or extension of gymnasium and lay out of play grounds.

In the case of purchase of land for play ground, the amount of grant shall ordinarily amount to, but shall in no case be greater than, one-third of the cost of the land as certified to by the Land Revenue authorities. Also, approval of the Director in cases where the cost of the land does not exceed Rs.1,500 and approval of the Government in cases where the cost of the land exceeds Rs.1,500 should be obtained before the purchase is made. Managers shall also be required before the disbursement of the grant to execute an agreement with Government as per form given in Appendix B (b) embodying the conditions on which the grant has been given.

APPENDIX B (b)

Agreement under Rule 149 (a).

This Indenture made the.....day of One thousand Nine Hundred and between

(hereinafter called the party of the first part) of the one part and Dewan of Travancore, acting for and on behalf of the Government of His Highness the Maharaja of Travancore (hereinafter called the party of the second part) of the other part Whereas the party of the first part is/are well and truly entitled to and possessed of the piece of parcel of land particularly described in the schedule hereunder written and has erected and built a school house and other buildings thereon at an actual cost of.....rupees. Whereas the party of the first part has/have in accordance with the provision of the Travancore Education Code now in the State of Travancore applied to the Director of Public Instruction,Travancore for a grant-in-aid of the sum of.....Rupees being part of the said sum of .....Rupees and has/have submitted to the said Director of Public Instruction, the vouchers and certificates referred to in rules one hundred and forty nine and one hundred and fifty three of the said Travancore Education Code as to the cost and completion of such buildings and Whereas the party of the second part hath consented and agreed to make the said grant in the manner provided in Chapter XV of the said Travancore Education Code upon the party of the first part entering into the covenants on his/their part and giving security herein after contained. Now this Indenture witnesseth that in pursuance of the said agreement and in consideration of the sum of Rupees.....paid by the party of the second part to the party of the first part (the receipt and satisfaction whereof the party of the first part doth/do hereby acknowledge) he/they the party of the first part doth/do hereby for himself/themselves his/their respective heirs, executors, administrators and legal representatives covenant with party of the second part its successors and assigns that/he they the party of the first part of his/their, heirs, executors, administrators or legal representatives will from time to time and at all times so long as the said buildings shall be used for the purposes of the said school conduct and manage such school or cause such school to be conducted and managed by the person for the time being in charge of same in accordance with the rules and regulations for the time being in force in the Travancore Education Department so far as the same respectively are applicable to the said school and will not prior to the lapse of twenty years from the date hereof divert or allow to be diverted the said buildings to other than educational purposes approved by the Director of Public Instruction and will during such period keep such buildings in good and substantial order and repair so that the same may be always efficient for use for the purpose of the said school and will in the event of the said building at any

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time prior to the lapse of the said period ceasing to be required for the purposes of the said school or being diverted to other than educational purposes approved by the said Director of Public Instruction forthwith repay to the party of the second part its successors or assigns the said sum of Rupees..... os so much thereof as shall be determined by the said Director of Public InstructionAnd will further in the event of such repayment not being made within one month from the determination of the amount of same if so required to do by the party of the said part its successors or assigns sell to the party of the second part its successors or assigns the said piece or parcel of land with the school and buildings thereon at a valuation to be determined by the said Director of Public Instruction who in making his award shall deduct from the price thereof such portion of the said grant as may seem to him equitable provided always that nothing in the last preceding clause contained shall release the part of the first part his/their, executors, administrators or legal representatives from the repayment of the said amount to be fixed by the said Director of Public Instruction as aforesaid in the event of the party of the second part not being desirous of purchasing the said piece or parcel of land and buildings And this Indenture further witnesseth that in further pursuance of the said agreement and in consideration of the said grant in aid so paid as aforesaid the party of the first part doth/do and each of them doth hereby grant convey and assign unto the party of the second part, its successors and assigns all that piece or parcel of land particularly described in the schedule hereunder written together with all and singular the buildings and erections now being or which, hereafter be thereon And all rights easements and appurtenances whatsoever usually held or connected therewith or reputed to belong or be appurtenant thereof And also all furniture fixtures fittings maps and other school apparatus,school books and chattels for the time being in and belonging to or used or to be used for the said school and all theestate, right title or interest, claim and demand of the party of the first part into and upon the said hereditaments and premises To Have and To Hold the said piece or parcel of land hereditaments, chattels and effects and all other the premises expressed to be assured unto the party of the second part its successors and assigns according to the nature and tenure thereof respectively upon Trust to permit the same hereditaments and premises to be used by the party of the first part his/their heirs, executors, administrators or legal representatives of his or their nominees as a school

And with power in case there shall be a breach of any of the covenants hereinbefore contained and on the part of the party of the first part his/their heirs, executors, administrators or legal representatives to be observed and performed or any breach of the person or persons for the time being in charge of the said school of the said rules and regulations of the Travancore Education Department and if the party of the first part his/their heirs, executors, administrators or legal representatives shall

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fail to pay on demand the said sum of Rupees.....
other the amount so to be fixed by the Director of Public Instruction in manner hereinbefore provided with the period hereinbefore mentioned or to sell the said premises to the party of the second part as also hereinbefore provided as the case may be then and in any of such cases to forthwith sell and absolutely dispose of the said hereditaments and premises and apply the proceeds of such sale after payment thereout of all costs and expenses attending the same in or towards recouping or reimbursing to the party of second part its successors or assigns the said grant in aid or sum of Rupees.....
or other the amount so to be fixed by the Director of Public Instruction as aforesaid and to pay the surplus if any to the party of the first part his/their heirs, executors, administrators or legal representatives or assigns Provided always and it is hereby agreed and declared that at the expiration of the said period of Twenty years hereinbefore referred to the party of the second part or it successors or assigns, as the case may be, shall in the event of the covenants hereinbefore contained on the part of the party of the first part his/their heirs executors, administrators or legal representatives having been in the mean time duly performed and observed reconvey and reassign unto the party of the first part his/their heirs, executors, administrators or legal representatives or as he or they may direct all and singular the piece or parcel of land, hereditaments, chattels, goods or other premises expressed to be hereby granted, conveyed or assigned.

In Witness Whereof the said parties hereto of the first and second part have hereunto set their respective hands and seals the day and year first above written.

Schedule to which the above written Indenture refers:

All that piece or parcel of land situated at .....in the district of and taluk of .....
..... and in the Sub Registration District of.....
..... and Registration District of
.....bounded on the north side thereof by.....on the south side thereof by
.....on the west side thereof by
.....on the east side thereof by and containing together in the whole by admeasurement .....(be the same little more or less) and which said piece or parcel of land was formerly in the occupation of

and now in the occupation of

Signed and sealed by the
abovenamed in the presence of

1.
2.

Signed and sealed by the
abovenamed in the presence of

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The following general conditions shall apply to all grants-in-aid:-

a) All grants shall be given impartially and on principles of strict religious neutrality.

b) No grant shall be given on consideration of any particular religious instruction which may be given or not given.

c) No grant shall be sanctioned to or in connection with any institution which is not recognised by the University.

d) Grants shall ordinarily be withdrawn when the conditions of recognition have been violated or cease to be fulfilled.

e) The Manager of an institution applying for aid should make a declaration in his application that all conditions relating to recognition are being and will continue to be fulfilled.

f) No part of the income of any institution in receipt of aid may be utilised for purposes other than educational purposes connected with the institution.

g) The Manager of an institution in receipt of aid, and the teachers employed by him shall not engage in political agitation directed against the authority of Government or the University, or in any agitation or movement which is or may be accompanied by or result in ill-feeling between different sections of the community, or give expression in any way to opinions which may excite feelings of political disloyality or disaffection among the students.

h) The University reserves to itself the right to refuse or to withdraw any grant at its entire discretion.

i) Grants sanctioned to Managers are not debts due to them from the University, and they should not therefore be assigned in the name of any nominee of theirs. Until the grant is actually drawn from the Treasury and paid to the management, it does not become the Manager's property.

j) Every grant shall be given solely on the consideration of the merits of the particular institution as tested by the conditions of recognition prescribed by the laws of the University.

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Building Grant.

Grants sanctioned in aid of erection or extension of educational buildings and hostels i.e. under rule 2d & e shall ordinarily amount to, but shall not be greater than one-third of the cost of the buildings or extensions but in the case of buildings and extensions constructed and used exclusively for the teaching of scientific subjects, the grant shall ordinarily amount to but shall in no case be greater than one-half of the cost. They will only be sanctioned for work considered by the sanctioning authority to be necessary, the plans and estimates for which have been approved and grant applied for before it has been commenced, which is completed to the satisfaction of, and whose cost is certified to by officers of the Public Works Department. No grant shall be given if the building or extension is intended for any purpose other than educational.

Note:- The policy of the University is to conform to plain designs for educational buildings. While deciding the amount of grant under this rule, the expenditure for ornamentation and other luxuries will be excluded. It is open to the P.W. Department when the plans and estimates are scrutinised, to suggest any alteration (in the plan) which will reduce the cost but will not detract from the convenience of the institution concerned, and also the adoption of any approved cheaper design which will serve the purpose equally well.

The order sanctioning a grant under this rule shall specify a date before which the building must be completed. The grant shall lapse if the building is not completed by that date. The amount finally disbursed shall ordinarily be one-third or one-half as the case may be of the actual cost of the completed works as certified to by an Officer of the Public Works Department and shall in no case exceed one-third (or one-half) of the cost according to the originally approved estimates. The Management shall, before the grant is disbursed, furnish a statement of expenditure on the work, with the necessary vouchers. All reasonable facilities shall, during the progress of the work, be afforded to the officers of the Public Works Department deputed for the purpose to examine the materials used and the work done.

Managers drawing a grant under this rule shall be required, before the disbursement of the grant, to execute an agreement with the University in the form given in Appendix E embodying the conditions on which the grant has been given.

Grants sanctioned on account of erection or extension of educational buildings or hostels (under rule 2.d and e) and grants towards the construction or extension of gymnasium and lay out of play grounds under rule 2.f. shall only be disbursed on receipt of a certificate from the Public Works Department stating that the work has been completed in accordance with the plans and estimates originally approved and also stating the amount of savings, if any, on the original estimate. Vouchers for all items of expenditure incurred in connection with the work must also be furnished. The certificate and vouchers must be forwarded within the period allotted for the completion of the work; otherwise the grant will lapse.

Grant sanctioned towards the erection or extension of gymnasiums and the purchase of land for and the lay-out of play-grounds under rule 2 f. shall ordinarily amount to, but shall in no case be greater than, one-third of the cost of construction or extension of the gymnasium or the cost of the cost of the land for and lay-out of play grounds. The provisions of rules 23 to 25 relating to erection or extension of educational buildings, or hostels shall mutatus mutandis apply to grants relating to construction or extension of gymnasium and lay-out of play-grounds.

Note:- In the case of purchase of land for play-grounds, the amount of grant shall ordinarily amount to, but shall in no case be greater than, one third of the cost of the land as certified to by the Land Revenue authorities. Also, approval of the University should be obtained before the purchase is made. Managements shall be required before the disbursement of the grant to execute an agreement with the University in the form given in Appendix E embodying the conditions on which the grant has been given.

Applications for grants on account of erection or extension of educational buildings or hostels under rule 2 d & e and for grants towards the construction or extension of gymnasium under rule 2 f may be made at any time in the form given in Appendix F and must be accompanied by plans and estimates of the proposed building or extension. Applications for grants for laying out of play-grounds should be accompanied by site plans showing contour levels (or levels showing longitudinal and cross sections of the site). Plans should be prepared by a competent Draftsman in such manner as will permit of their being scrutinised in every detail. Estimates must be drawn up in the same manner as detailed estimates for buildings constructed by the Public Works Department and copies of contracts which it is proposed to enter into for the work must accompany the application. The Manager must

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also fix a definite time after the date of receipt of sanction, within which he is prepared to complete the work. No grant shall be sanctioned on any work which cannot be completed within two years from the date of receipt of sanction.

P. Narayanaswami
Registrar.

APPENDIX E

Agreement for Building grant.

This Indenture made the day of
One thousand nine hundred and between

(herein after called the party of the first part) of the one part and Registrar, University of Travancore, acting for and on behalf of the University of Travancore (herein after called the party of the second part) of the other part. Whereas the party of the first part is/are well and truly entitled to and possessed of the piece or parcel of land particularly described in the schedule hereunder written and has erected and built a College house and other buildings thereon at an actual cost of Rupees. Whereas the party of the first part has/have in accordance with the provision of the Travancore University Grant-in-aid Rules applied to the University of Travancore for a grant-in-aid of the sum of Rupees being part of the said sum of Rupees and has/have submitted to the said University of Travancore the vouchers and certificates referred to in rule 24 of the said University Grant-in-aid Rules as to the cost and completion of such buildings and where as the party of the second part hath consented and agreed to make the said grant in the manner provided in the University Grant-in-aid rules upon the party of the first part entering into the covenants on his/their part and giving security hereinafter contained. Now this indenture witnesseth that in pursuance of the said agreement and in consideration of the sum of Rupees paid by the party of the second part to the party of the first part (the receipt and satisfaction whereof the party of the first part doth/do hereby acknowledge) he/they the party of the first part doth/dohereby for himself or themselves his/their respective heirs executors administrators and legal representatives covenant with party of the second part, its successors and assigns that he/they the party of the first of his/their heirs, executors administrators or legal representatives will from time to time and at all times so long as the said buildings shall be used for the purposes of the said College conduct and manage such college or cause such college to be conducted and managed by the person for the time being in charge of same in accordance with the rules and regulations for the time being in force in the Travancore University so far as the same respectively are applicable to the said College and will not prior to the lapse of 20 years from the date here of divert or allow to be diverted the said buildings to other than educational purposes approved by the University of Travancore and will during such period keep such buildings in good and substantial order and repair so that the same may be always efficient for use for the purpose of the said College and will in the event of the said building at any time prior to the lapse of the said period ceasing to be required for the purposes of the said college or being diverted to other than educational purposes approved by the said University of Travancore forthwith repay

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to the party of the second part its successors or assign
the said sum of Rs. or so much
thereof as shall be determined by the University of Travancore
and will further in the event of such repayments not being
made within one month from the determination of the amount
of same if so required to do by the party of the second part
its successors or assigns sell to the party of the second part
its successors or assigns the said piece or parcel of land
with the college and buildings thereon at a valuation to be
determined by the said University of Travancore who in making
their award shall deduct from the price thereof such portion
of the said grant as may seem to them equitable provided always
that nothing in the last preceeding clause contained shall
release the party of the first part his/their executors,
administrators, or legal representatives from the repayment of
the said amount to be fixed by the said University of Travancore,
as aforesaid in the event of the party of the second part not
being desirous of purchasing the said piece or parcels of land
and buildings and this indenture further witnesseth that in
further pursuance of the said agreement and in consideration
of the said grant-in-aid so paid as aforesaid the party of the
first part doth/do and each of them doth hereby grant convey and
assign unto the party of the second part, its successors and
assigns all thatpiece or parcel of land particularly described
in the schedule hereunder written together with all and
singular the buildings and erections now being or which here-
after be thereon and all rights easements and appurtenances
whatsoever usually held or connected therewith or reputed to
belong or be appurtenant thereto and also all furniture
fixtures fittings maps and other College apparatus, College
books and chattels for the time being in and belonging to or
used or to be used for the said college and all the estate,
right, title or interest claim and demand of the party of the
first part into and upon the said hereditaments and premises
to have and to hold the said piece or parcel of land
hereditaments, chattels and effects and all other the premises
expressed to be assured unto the party of the second part its
successors and assigns according to the nature and tenure
thereof respectively upon trust to permit the same hereditaments
and premises to be used by the party of the first part his/their
heirs, executors, administrators or legal representatives of
his or their nominees as a College.
And with power in case there shall be a breach of any of the
covenants herein before contained and on the part of the party
of the first part his or their heirs, executors, administrators
of legal representatives to be observed and performed or any
breach of the person or persons for the time being in charge
of the said College of the said rules and regulations of the
Travancore University and if the party of the first part his
or their heirs, executors, administrators or legal represent-
atives shall fail to pay on demand the said sum of rupees,
other the amount so to be fixed by the
University of Travancore in manner hereinbefore provided with
the period hereinbefore mentioned or to sell the said premises
to the party of the second part as also hereinbefore provided

as the case may be then and in any of such cases to forthwith
sell and absolutely dispose of the said hereditaments and
premises and apply the proceeds of such sale after payment
thereout of all costs and expenses attending the same in or
towards recouping or reimbursing to the party of second part
its successors or assigns the said grant-in-aid or sum
of rupees
or other the amount so to be fixed by the University of
Travancore as aforesaid and to pay the surplus if any to the
party of the first part his or their heirs, executors,
administrators or legal representatives or assigns provided
always and it is hereby agreed and declared that at the
expiration of the said period of twenty years hereinbefore
referred to the party of the second part or its successors
or assigns, as the case may be, shall in the event of the
covenants hereinbefore contained on the part of the party of
the first part his or their heirs executors, administrators
or legal representatives having been in the mean time duly
performed and observed reconvey and re-assign unto the party
of the first part his or their heirs, executors, administrators
or legal representatives or as he or they may direct all and
singular the piece or parcel of land, hereditaments,
chattels, goods or other premises expressed to be hereby
granted conveyed or assigned.

In witness whereof the said parties hereto of the first
and second part have hereunto set their respective hands and
seals the day and year first above written.

Schedule to which the above written indenture refers:-

All that piece or parcel of land situated at
in the district of and taluk of and in
the sub-registration district of and registration
District of bounded on the north side
thereof by on the south side
thereof by on the east side thereof by
and west side thereof by
and containing together in the whole by
(be the same
admeasurement
little more or less) and all which said piece or parcel of
land was formerly in the occupation of
and now in the occupation of

Signed and sealed by the above name in the presence of
1.
2.
Signed and sealed by the above named in the presence of
1.
2.

Secretary, E. & P.H.

This is to be put in the file relating to the rules governing grants to Colleges in other provinces and to be tabulated.

27-5-47

H.M. Education.

ASST. SECRETARY TO GOVERNMENT
29 MAY 1947
EDUCATION AND PUBLIC HEALTH DEPT.

GOVERNMENT OF THE N.W. FRONTIER PROVINCE

CIVIL SECRETARIAT,
N.-W. F. PROVINCE.

D.O.No. 22055/HE 9/5 (119) 87

Dated Peshawar the 19th May 1947 116

My dear friend,

Please refer to your D.O.letter dated the 4th April 1947. Grants-in-aid to Colleges and schools in this Province are given in accordance with the rules laid down in Chapter V (Article 123-162) of the Frontier Education Code (copies enclosed). No conditions on admission etc. are imposed except that the Colleges must be affliated to the punjab University under Section 21-24 and its regulations framed under section 25 of the Indian University Act, 1904, and the schools recognised by the Education Department in accordance with the rules laid down in Chapter III of the Frontier Education Code. No college which is not affiliated to the punjab University and no school which is not recognised by the Education Department can be given any grant.

As regards points (ii) and (iii) of your D.O. letter under reference, the building of a college or a school for which grant (half of the total cost of the project) is given must be utilized for educational purposes and the Manager of the Institution concerned is required (vide Article 161 of the Frontier Education Code) to execute and register a bond (Appendix 18-ii to Frontier Education Code) securing to Government a lien on such building for the recovery of the amount paid in case the building or land should cease to be utilized for educational purposes or in case of a school, it ceases to enjoy recognition by the Education Department. No limit of time is fixed in such bonds.

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GOVERNMENT OF THE N.W. FRONTIER PROVINCE

CIVIL SECRETARIAT,
N.-W. F. PROVINCE.

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Copies of the Relevent Rules of the Frontier Education Code are enclosed for your information.

Yours sincerely,
Ahamed Yahya

To

T.S.Avinashilingam,
Honourable Minister for Education,
Government of Madrass.

(A.A.)
12/5

CHAPTER III

RECOGNITION OF COLLEGES AND SCHOOLS.

Applicability.

29. (i) The rules in this chapter apply to all kinds of colleges and all Government, district board, municipal committee, notified area committee and cantonment board schools; also to aided and unaided schools recognised by the department.

(ii) Unless in any case the contrary is stated, the powers relating to all schools which are assigned to the inspecting staff for boys' schools by the rules contained in this chapter are exercised by the Inspectress and her assistants in the case of schools for girls.

"School" defined for this chapter.

(iii) For the purpose of recognition, the high, middle, and primary departments of an educational institution are treated as separate schools and the term "school" in this chapter applies to only one of such departments, although two or more departments may be combined in the same institution.

General conditions of re-cognition.

(a) Colleges.

30. (a) Colleges are at present affiliated to the University of the Punjab under Section 21-24 of the Indian Universities Act, 1904, and regulations framed under Section 25 of the said Act, which are contained in Chapter X of the Punjab University Calendar.

(b) A school desiring recognition must satisfy the department that it fulfils the following conditions :-

(i) that it supplies an educational need which cannot be adequately met by other recognised institutions in the same locality;

(ii) that it has an average attendance of not less than 24 pupils in case of boys' schools or 12 pupils in the case of girls' schools;

(iii) that the management is such as to maintain a proper tone and discipline in the school;

(iv) that the course of studies, the organisation of school work, and the text-books in use are such as may be approved by the Government, and that the work of the school is reasonably efficient,

(v) that the inter-school rules and regulations of the department in so far as they are applicable are duly observed, and that proper registers showing admissions and withdrawals and daily attendance are kept;

(vi) that in a secondary school proper provision is made for physical instruction and organised games;

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(vii) that the school premises are sufficiently commodious to provide adequate accommodation for the number of pupils on the roll; and that they are kept in proper repair and in good order;

(viii) that the supply of furniture and equipment is adequate;

(ix) that a proper scale of staff is maintained in accordance with the provisions of Article 31.

Minimum standard staff for recognised schools.

31. The prescribed minimum scale of staff in a recognised school is as follows :-

A- IN ALL SCHOOLS

(i) The proportion of pupils in average attendance to the number of teachers on the staff shall not exceed 35 to 1.

(ii) Ordinarily 40 pupils only may be enrolled in any single section of a class, and in no case is the number to exceed 45.

(iii) No teacher in permanent employ, shall receive a salary of less than Rs. eight per mensem.

(iv) No certificated teacher shall receive a salary of less than Rs. 12 per mensem.

B - IN VERNACULAR SCHOOLS

(i) When the average attendance of pupils at a school exceeds 70, one of the teachers employed must be certificated.

(ii) A proportion of one certificated teacher for every 70 pupils in average attendance must be maintained (e.g. in a school with an average attendance of 250 pupils, the staff must consist of at least seven teachers, (Article 31-A (i)), of whom three at least must be certificated).

C- IN ANGLO -VERNACULAR SCHOOLS FOR BOYS:-

(i) The minimum scale of staff in a middle school shall be as follows :-

1. One senior anglo-vernacular certificated head master;

2-4. Three junior anglo-vernacular certificated assistant masters;

5-6 Two senior vernacular certificated teachers;

7. One senior vernacular teacher or one teacher for Arabic, Sanskrit, Hindi, Punjabi and Pashto teaching;

8. One drill master;

9. One drawing master.

(ii) In order to qualify for recognition as a high school an institution must maintain the minimum scale of staff prescribed for a recognised middle school, and in addition :-

1-2. Two senior anglo-vernacular certificated teachers;

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3. One teacher for Arabic, Sanskrit, Hindi, Punjabi, and Pashto teaching.

N.B. - General certificates, whether vernacular or anglo-vernacular are of two kinds, viz, senior and junior. Holders of senior certificate (S.A.V.) and (S.V.) are qualified to work in the high departments of schools and holders of junior certificates (J.A.V.) or (J.V.) in middle and primary departments, respectively.

(2) In no case should sanction be accorded to a change in the status of any school maintained or aided by a local body until the approval of that body has been obtained.

(3) No change of status can be recognised unless it has been sanctioned in writing by the proper authority.

Provisional recognition.

32. A school fulfilling the first six conditions of recognition prescribed in Article 30 (b), but unable, for financial reasons, to fulfil any one or more of the three remaining conditions, i.e., as to building, equipment or staff, may be accorded temporary recognition for a period not exceeding two years, provided that the manager of the school under-takes to fulfil in the interim all the requisite conditions of recognition either by collecting privately the necessary funds or by applying for a grant-in-aid from public revenues. Such aid, if sanctioned, will be given in accordance with the grant-in-aid rules (See Articles 123 to 170).

33. A school which at the close of two years' temporary recognition fails to fulfil all the qualifying conditions for permanent recognition shall cease to be recognised by the department provided that, if it fulfils all the conditions prescribed in Article 30 (b), except condition (vii), and the buildings requisite are under construction, and are within reasonable distance of completion, the department may further extend the period of temporary recognition for a period not exceeding one year.

Withdrawal of recognition.

34. The department may at any time withdraw recognition from a school which fails to fulfil anyone or more of the conditions prescribed in Article 30(b) or may convert permanent into temporary recognition in accordance with the provisions of Articles 32 and 33.

The continuance, withdrawal or conversion of permanent into temporary recognition shall ordinarily depend on the condition of the school as ascertained at the annual inspection.

Recognition may only be refused for reasons to be recorded in writing and on one of the following grounds:-

(a) that the school does not follow the course of study prescribed or approved by the department;

(b) that it has committed a wilful breach of the inter-school rules;

(c) that it has not attained or does not attain to a reasonable standard of efficiency;

(d) that it does not maintain a satisfactory standard of discipline; or

(e) that it appears to the authority empowered

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(e) cont'd. to grant recognition for any other reason to be injurious (as defined in Article 126) to the interest of education.

Where recognition is refused to a school under the control of a local body, a copy of the orders shall be sent to the chairman of the local body.

If, when an application for recognition has been made to the proper authority no reply is received from that authority for three months, it shall be presumed that re-cognition has been granted.

35. The managers of an institution (for boys) desiring recognition, must submit an application in the prescribed form (appendix 2). If the institution is to be recognised as a high school, the Director will inspect the school to decide whether recognition should be granted. If recognition of lesser status is desired, the application should be addressed to the Inspector of Vernacular Education. The Inspector, on receipt of such an application, shall inspect the institution :- Application & procedure for recognition.

(a) in person, if it is an anglo-vernacular middle school;

(b) through the medium of the district inspector, if it is a vernacular school.

He shall then forward his report or that of the district inspector to the Director of Public Instruction, who shall accord or withhold recognition notifying the Inspector and the Deputy Commissioner of the district of his decision. In the even of his rejecting the application, the Director shall state the reasons for the rejection, in writing, to the managers.

In the case of girls' schools all applications for recognition shall be submitted by the managers to the Inspectress of Schools, who shall inspect the school in person. Thereafter the procedure shall be the same as that prescribed for the Inspector of Vernacular Education.

36. No school shall be eligible for recognition until it has been in existence for at least six months and has fulfiled the first six conditions under Article 30 (b). Application when admissible

37. Every college and recognised shool, with its account-books, registers, and other records, must be open to inspection at all reasonable hours by the authorised inspecting officers of the University or of the department, by the executive officers of Government and by any director or assistant director of public health, or civil surgeon or assistant surgeon deputed by Government to examine the health of the students and the sanitary conditions of the buildings and premises. Inspection by Government of colleges & schools.

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NOTE.- In addition to the above any distinguished non-official or official visitor is ordinarily at liberty to visit a Government school for boys at any time with the assent of the head master or the master in charge of the school. Should, however, the visitor wish to deliver an address, or desire that a holiday should be granted in honour of his visit, the head master should obtain the consent of the president or the vice-president of the managing committee of the school, or, where there is no such committee the consent of the Director.

Submission of annual returns. 38. Every recognised college and school must submit punctually in the prescribed form such annual and periodical returns and such other reports as may be required by the department.

Exclusion of undesirable persons as teachers. 39. The department may exclude from employment in any recognised school a teacher whose certificate has been withdrawn, or who has, after due enquiry, been declared by the Director unfit to be a teacher.

In aided schools, the dismissal of permanent teachers must receive the final sanction of the Director.

NOTE.- Teachers who contribute to the school provident fund shall be deemed to be permanent teachers.

Right of Government to with-hold or withdrew recognition. 40. Anything in the above rules notwithstanding, the Local Government reserves to itself the right to withhold or withdraw recognition from any institution without cause assigned.

CHAPTER V.

GRANT-IN-AID- RULES.

SECTION A - GENERAL CONDITIONS.

123. Sums of money are annually set apart from provincial revenues or local funds to be expended, under these rules, in grants-in-aid for the purpose of encouraging and extending enterprise in education. — Object of grants.

124. Grants may be made, under the orders of Government, for special education and to colleges for general education. — Grants under special rules.

125. Grants are given impartially, without reference to religious instruction, to colleges and schools which impart sound secular education. But the bestowal, refusal or withdrawal of a grant rests entirely at the discretion of the local Government or the local body concerned, provided that in the case of the refusal or withdrawal of a grant by a local body an appeal shall lie to the Local Government through the Director. — General conditions of awarding grants.

126. Grants may, under the orders of the Department, be reduced, suspended or withdrawn at any time, if the tone, discipline, organisation or instruction is unsatisfactory, or for any other serious reason, defined hereafter, provided that, before such action is taken, an enquiry at which the school authority shall be allowed a full opportunity of explanation, shall be made by the department, the result of which shall be communicated to the manager. If the defects are capable of immediate or early removal, the school authority shall on the first occasion, be allowed a reasonable time to be fixed by the Department, within which to remedy them, and if they are remedied to the satisfaction of the Department the grant shall not be reduced or withheld. — Right to determine number of schools in an area eligible for grants.

Grants are liable to be withdrawn from a school if the management or the staff of the school take part in agitation directed against the authority of Government or disseminate opinions tending to excite feelings of disloyalty or disaffection against Government or of enmity and hatred between different classes of His Majesty's subjects. Grants will not be drawn under this provision without giving opportunit to the school authority concerned to show cause why the grants should not be withdrawn.

Government reserves to itself the right, anything in the rules of this code notwithstanding, to refuse or withdraw any grants at its entire discretion.

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127. Government further reserves to itself the right to determine the number of schools in an area which shall receive grants-in-aid in order to meet the needs of education within that area.

128. The Director or Inspector is empowered, for the purpose of assessing the grant to a school, to reduce or dis-allow expenditure which is obviously lavish or extravagant, whether on account of buildings, equipment, contingencies or menials or on account of teachers who, in the opinion of the Director or Inspector, are paid excessive pay or whose time is economically spent in teaching very small classes or which is inadmissible under these rules.

Sanction of the Department.

129. Whenever under these rules the order or sanction of the Department is required, the order or sanction of the Director is meant. Whenever the sanction of the Inspector of Vernacular Education is required, and has been granted, the Director has power to revoke such sanction.

Sanction of Government in cases not provided for.

130. No grant from public funds may be made, increased or withdrawn otherwise than as provided in this chapter, except with the previous sanction of Government.

Authority for Inspect aided schools.

131. Any Government officer or any inspecting officer authorised for this purpose, the president and vice-president, of any local body giving a grant to an aided school, the executive officer of a cantonment, and any magistrate of the 1st class on the civil staff of the district in which such school is situated, may, at any reasonable time, without notice, visit and inspect the school and such of its records as are required by the department to be maintained; provided that in the case of purdah schools, the inspection shall be conducted by the Inspectress or her assistant or by a lady visitor.

Source of grants.

132. Grants awarded under the rules of this chapter are payable from provincial revenues on account of colleges and secondary departments of aided schools and from local funds on account of primary schools and the primary departments of aided secondary schools.

NOTE.- (i) No grant to a primary school or department shall be refused merely on the ground that the public funds are insufficient.

(ii) Grants to departments of a school higher than the primary, or for instruction in English, may be refused on the ground that the public funds are insufficient.

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Form of grants.

133. Grants are made in the form of maintenance grants, building grants and equipment grants.

(i) Maintenance grants are given in order to enable a college or a school to maintain a proper scale of staff and expenditure.

(ii) Building grants are made for the purchase of land for college or school purposes or for the purchase, construction, extension or improvement of buildings and hostels.

(iii) Equipment grants are made for the purchase of furniture, books or appliances.

Correspondence with the Department.

134. All correspondence with the department, on the subject of grants-in-aid, must be addressed to the inspecting officer or officers concerned.

Annual returns for colleges and schools.

135. The college or school authority shall submit to the inspecting officer, annually, and at other times, if called for, and in due form, all returns which may be required. Where a school is aided as to one part and unaided as to another, the annual returns shall be submitted in such form as to show readily the division of the staff, expenditure, etc. between the two parts.

SECTION B - MAINTENANCE GRANTS.

Maintenance grants payable to colleges in a lump sum.

136. Maintenance grants are generally paid to colleges in a lump sum. The assessment is based on the requirements of a college brought to the notice of the Government from time to time. The Government reserves the right to satisfy itself that the grants received by a college are expended on the proper purposes.

Maintenance grants payable to schools monthly.

137. Grants will ordinarily be paid monthly to the school manager or correspondent, provided that, if so desired the grants may, by special arrangement, be paid quarterly, half yearly or yearly.

Grant inadmissible when unnecessary.

138. No grant shall be made to a school the income of which from fees and endowments is sufficient to maintain it in a state of efficiency, and which needs no further development to meet the wants of the locality.

Partial refusal of grants.

139. Grants may be made to one department of a school and refused to other departments; provided that a school which receives grants in any department shall observe the rules laid down in Article 141 in all departments.

Applications for new grants necessary in all cases.

140. A school in receipt of grant in one department of a school and desirous of grant in respect to another department shall submit a fresh application regarding the department for which grant is desired.

Conditions for maintenance grants.

141. In order to be eligible for a maintenance

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141 Contd. grant, a school must be recognised by the department, and must also fulfil the following conditions :-

(i) The rates of fees levied must not be less than three quarters of the rates of fees prescribed by Government for institutions of the same class under public management; and the proportion of scholars exempt or partially exempt from fees must not be higher than the proportion laid down by Government for such institutions.

(ii) The accounts of the income of the school from all sources and its expenditure under all heads must be kept in the form prescribed by the department and must be at all times open to inspection by Government. A return showing the monthly income and expenditure of the school during the preceding year must be submitted annually to the department by April 1st in the prescribed form (appendix 13). Only disbursements actually made shall be shown in this return.

(iii) Acquittance rolls of the staff and menial servants must also be maintained. They shall show the exact amount paid to and received by each teacher or servant as pay and any deductions must be shown separately. The whole of the maintenance grant may be withheld by the department for breach of this rule. The managers of recognised secondary schools in receipt of maintenance grant-in-aid are required to submit to the department by the 15th of the month following that for which the payment is made, a statement as in appendix 14.

(iv) that the school in all its departments recognised or unrecognised, is open to inspection as laid down in article 131 provided that it shall be no part of the duty of any one inspecting an aided school to examine any pupil, or to enquire into any instruction given, in religious knowledge;

(v) that the books and periodicals purchased for use in the school are approved by the department;

(vi) that the rules of this code, so far as they are applicable to aided schools, are complied with;

(vii) that in the case of a secondary school receiving a grant-in-aid or recognition for the first time, a provident fund is established and properly administered in accordance with the standard provident fund rules, as given in appendix 15.

(viii) the model provident fund rules for district boards printed in Appendix II of the North-West Frontier Province District Board Account Code are followed for district board teachers with the following amendments :- G.O.No. 212-F.D., dated the 5th January 1933.

AMENDMENTS.

7. Any contribution and interest thereon withheld from a district board servant shall vest in the board. But in the case of district board teachers the amounts so withheld shall be transferred to a separate account named "Distress Fund". This "Distress Fund" will be utilised in special cases at the discretion of the board :-

(1) for paying a compassionate gratuity to the

dependents of a teacher, who dies prematurely, leaving inadequate provision for them, or for giving a scholarship to the orphans of such a teacher.

(2) for paying gratuity to old teachers on superannuation, for the services rendered by them prior to the institution of district board provident funds between 1907-14.

142. Applications for a maintenance grant shall be made in the prescribed form (appendix 16 (i)) to the district inspector of vernacular Education, in the case of secondary schools for boys and to the Inspectress in the case of girls' schools. The officer receiving the application shall, after inspecting the institution forward it to the Director of Public Instruction, who will decide on the application in the case of secondary schools and in the case of primary schools forward the report together with his recommendations, to the local body concerned. APPLICATION for maintenance grants.

G.I.20 (3)-A, dated the 3rd December 1926. NOTE.- When communicating orders for a grant-in-aid to the Comptroller, details should always be given to show exactly what are the conditions on which it has been made.

Kinds of maintenance grants. 143. Maintenance grants are of the following kinds, any or all of which may be earned in the same school :-

(a) ordinary staff grants;
(b) special staff grants;
(c) additional staff grants;
(d) provident fund grants;
(e) boarding house grants.

Ordinary maintenance grant for vernacular school. 144. The maintenance grant for a vernacular school in which term is included the vernacular departments of anglo-vernacular schools, shall be calculated as follows :-

(i) For a school with an average attendance of 35 scholars, or less, a minimum of Rs. 8 per mensem.

(ii) For a school with an average attendance of more than 35 scholars, a minimum of Rs.12 per mensem for every certificated teacher and a minimum of Rs. 8 per mensem for every uncertificated teacher, provided that an ordinary maintenance grant will only be payable for the minimum number of teachers requisite under Article ~~132~~ 131. The managers of vernacular schools for boys will submit to the Inspector of Vernacular Education, a statement as in Appendix 16(ii) on the 1st of April each year. In the case of girls' schools this statement will be submitted to the Inspectress.

NOTE.-(1) The rates of grants for girls' schools shall be at present double those for boys' schools.

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Note (2) The teachers of special classes which have been recognised by the department (e.g., the prajna and Hindi proficiency classes at the Arya Kanya Pathshala at Dera Ismail Khan), may be allowed to earn grant on conditions that will be decided by the Director.

(3)(a). In the case of schools situated in areas controlled by municipalities and cantonment boards, the minimum rates will be Rs.14 and Rs. 25 for boys' schools and Rs. 20 and Rs. 30 for girls' schools, instead of Rs. 8 and Rs. 12 respectively. — Director of Public Instructions No.2436-44, dated the 23rd March 1923.

(b) A special grant equal to half the excess salary subject to the maximum limit of Rs. 5 per mensem shall be allowed in the case of certificated teacher who has put in more than twenty years' approved service and who has been granted a special personal allowance with the previous approval of the Director of Public Instruction". — G.O. No.2288 D.D.- Y 1/71-II, dated 18.1.39.

145. The ordinary maintenance grant for an anglo-vernacular school for boys shall be calculated as follows, viz., the average monthly income from fees calculated at 75 per cent of the full rates as given in Articles 141, 102 and 99 shall be deducted from the minimum scale of expenditure as given below. The difference between these fee receipts and the standard scale shall be raised by 25 per cent. in the case of schools (a) providing education for the children of educationally backward communities and (b) maintained in educationally backward areas. — Ordinary maintenance grant for an anglo vernacular schools for boys.

In anglo-vernacular schools for boys:-

(i) The minimum scale of staff and expenditure in a middle school shal be as follows :-

		per mensem. Rs.
1.	One S.A.V. head master.	80
2.	One J.A.V. teacher	50
3.	One J.A.V. teacher	40
4.	One J.A.V. teacher	40
5.	First Oriental or Science teacher SV.	30
6.	Second teacher, S.V.	30
7.	Third teacher S.V., or (Arabic, Punjabi, Sanskrit, Hindi and Pashtu teacher).	20
8.	Drill Instructor.	20
9.	One Drawing Master.	40
Contigencies.	.....	50
	Total....	400

P.T.O.

145 contd. (ii) In order to qualify for grant-in-aid as a high school, an institution must maintain the minimum scale of staff and expenditure prescribed for a recognised middle school, and in addition :-

		per mensem. Rs.
1.	One S.A.V. teacher	120
2.	One S.A.V. teacher	80
3.	One Arabic, Sanskrit, Hindi, Punjabi and Pashto teacher.	40
4.	Contingencies.	60
	Total....	300

NOTES.- (1) The managers of anglo-vernacular secondary schools for boys will submit to the Director a statement as in appendix 16 (iii) on or before the 5th of April each year. In the case of girls' schools this statement will be submitted to the Inspectress.

2. The S.A.V. teacher for middle classes may, in case of a high school, work in the high department also.

3. In case of high schools, where the services of a clerk have been engaged, an additional grant of Rs.25 per mensem may be earned.

Special grants. 146. A special grant will be payable for every teacher in an anglo-vernacular school possessing higher qualifications than those prescribed for his post in the standard scale, or possessing the requisite qualifications, but drawing higher pay than that assigned to his post. In a school the income of which from fees and endowments is sufficient to maintain it in a state of efficiency the rates of special grants mentioned in this Article shall be reduced by 25 per cent. The special grants will be calculated as follows :-

(i) For every graduate, or possessor of a senior anglo-vernacular certificate occupying a post assigned to a teacher of lower qualifications, an amount of Rs.20 per mensem.

(ii) For every teacher possessing the requisite or higher qualifications, but in receipt of a higher salary than that assigned to his post, an amount equal to half the excess salary. But if the pay of the teacher be considerably in excess of the salary paid in neighbouring schools for teachers of similar qualifications and standing then for the purpose of calculating the grant the latter shall be assumed to be the standard pay and the grant payable shall be based thereon.

(iii) Grant shall be assessed on the leave salary of an absentee as admissible in accordance with the Fundamental Rules or Revised Leave Rule, as the case may be as well as on the pay of his substitute subject to the proviso that account shall not be taken of leave arrangements in respect of more than one member of the staff on leave at one time, or 1/11th of the total strength if it exceeds eleven. Where fractions occur, the nearest unit should be taken.

P.T.O.

Note.- In the event of a teacher qualifying for grant under both (i) and (ii), the special grant earned under (i) shall be deducted from the excess salary for the purpose of calculating the grant under (ii).

147. An additional grant will be payable for teachers employed in excess of the standard scale in the following circumstances :- Additional grant.

(i) When the roll in any class exceeds 40, and the employment of an additional teacher is therefore obligatory under Article 31.

(ii) When the opening of a special class (vide Article 11, N.3.(iii)) has been authorised by the department. In such cases grant will not be admissible till the class has been in existence for two years with an average attendance of not less than five pupils.

A teacher employed under any of the above conditions will be treated as an additional member of the standard staff for the purpose of calculating maintenance grant earned (Article 145) by the school in which he is employed. His salary will be reckoned for this purpose as equivalent to the minimum salary assigned to a teacher of similar qualifications in the standard scale, but a special grant will also be payable for him in accordance with Article 146 if his salary exceeds that minimum.

DURATION OF MAINTENANCE GRANTS.

148. Maintenance grants are assessed annually in April for the ensuing school year, and are not liable to revision during that period; but a grant may be withdrawn at any time from an institution with the management or discipline of which the local Government is dissatisfied. Withdrawal of recognition implies withdrawal of grant. The department also reserves the right to reduce or to refuse the grant in the case of a teacher whose work is continuously unsatisfactory.

CALCULATION OF MAINTENANCE GRANTS.

149. For the purpose of calculating a maintenance grant, the scale of staff, average attendance and monthly income from fees for the ensuing year shall be estimated as equivalent to the scale of staff average attendance and monthly income from fees calculated at full rates for the preceding year. But if the department is satisfied that in any month or months during the preceding year the average attendance or the receipts from fees were abnormal owing to sickness or some other disturbing cause, these months may be left out of account when the grant is assessed. Entrance fees shall not be included in fee receipts for the purpose of calculating the grant.

PROVIDENT FUND.

150. In order to encourage the establishment of provident funds in institutions under private management, a grant equal in amount to the sum contributed by the management from private sources, and not exceeding one anna in the rupee of the total aggregate salaries of the staff employed, will be payable to a school which is in receipt of a maintenance grant and has established a provident fund under rules approved by the department.

INSPECTION OF AIDED COLLEGES.

151. The Director shall be authorised to inspect an aided college, and make such enquiries as may be necessary or possible to satisfy himself that the conditions required for recognition and for grant-in-aid are fulfilled.

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(122)

CORRECTION SLIP NO. 81

Add the following as Note I under Article 154 Frontier Education Code, 1935.

"Grant shall be assessed on the leave salary of an absentee as admissible in accordance with the Fundsmental Rules of Revised Leave Rules, as the case may be, as well as on the pay of her substitut subject to the proviso that account shall not be taken of leave arrangements in respect of more than one member of the staff on leave at one time, or 1/11th of the total strength if it exceeds eleven. Where fractions occur, the nearest unit should be taken.

INSPECTION OF AIDED SCHOOLS.

152. At each annual inspection of an aided school the inspecting officer shall examine the log-book, registers and accounts, and shall make such enquiries as may be necessary or possible to satisfy himself:-

(i) that the registers are regularly kept, and properly record the attendance and expenditure.

(ii) that the pupils presented for examination are bona fide receiving regular education in the school.

(iii) whether the school provides education for the children of educationally backward communities for the purposes of Article 145.

(iv) and whether the income from fees and endowments is sufficient to maintain it in a state of efficiency, vide Article 146.

BOARDING HOUSE GRANTS.

153. Maintenance grants not exceeding three quarters of the excess of the approved expenditure over the receipts from boarding fees may also be made for school boarding houses, provided that the average number of pupils in residence during the preceding 12 months has not been less than 10, and that the following conditions are fulfilled :-

(i) that the boarding house is under the immediate supervision of a superintendent approved by the department who resides within the precincts of the boarding house and is paid a monthly allowance not below the scale fixed for Government and board schools. The scale is as below :-

When the number of boarders in a hostel is :-

	Amount of allowance.
	Rs. As. Ps.
10 but under 20	10 - 0 - 0
20 " " 30	12 - 8 - 0
30 " " 40	15 - 0 - 0
40 " " 50	17 - 8 - 0
50 " " 60	20 - 0 - 0
60 " " 70	22 - 8 - 0
70 " " 80	25 - 0 - 0
80 " " 90	27 - 8 - 0
90 " " 100	30 - 0 - 0
100 and over	35 - 0 - 0

(ii) that the accommodation is adequate for the number of pupils in residence, and that the house is well ventilated and kept in a cleanly state and in good repair ;

(iii) that the sanitary, cooking and other internal arrangements of the boarding house are satisfactory;

(iv) that the detailed regulations governing the conduct of the inmates and the closing of the boarding house at night are approved by the department.

The managers of aided schools to which boarding houses are attached will submit to the Inspector of Vernacular Education a statement as in Appendix 16(iv) on the 1st April each year.

154. The ordinary maintenance grant for a secondary school for girls shall be an amount equivalent to

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half the expenditure on staff plus a fixed grant of Rs.50/- per mensem for contingencies for a middle school, and a fixed grant of Rs.100/- per mensem for contingencies for a school containing high and middle classes. The local Government may sanction for a girls' high school, a grant equivalent to half the expenditure on staff for the middle classes, plus the whole of the expenditure on the staff employed for the high school classes.

Ordinary Maintenance grant for a secondary school for grils.

The minimum scale of staff and the standard scale of expenditure in a secondary school for girls containing one section in each class for the purposes of recognition and assessment of maintenance grant shall be :-

No.	Post.	A. V. Middle. Rs.	Vernacular Middle. Rs.
1.	One J.A.V.Head Mistress.	100-10-150	--
2.	One J.A.V. Assistant Mistress.	90-10-140	--
3.	One J.A.V. Assistant Mistress.	90-10-140	--
4.	Oriental Teacher.	70-6-100	--
	S.V. Head Mistress.	¾-	(1) 60-5-90(M.B.) 55-3-70(D.B.)
5.	S.V.Assistant Mistress.	50-2-70	(2) 50-2-70.
6.	S.V. Assistant Mistress	50-2-70	(3) 50-2-70
7. or	S.V.Assistant Mistress J.V.Assistant Mistress.	50-2-70	(4) 50-2-70 or 40-2-50 or 30-2-40

In a high school for girls there must be at least three senior anglo-vernacular minstress, for whom the scale of pay will be :- G.O.N.920 T.D.N. 19-23, dated the 27th May 1933.

S.A.V. Head Mistress	150-10-200
S.A.V. assistant Mistress	140-10-190
S.A.V. assistant mistress	120-10-170

Uncerfificated women teachers who have passed (i) the middle school examination for girls, (ii) the matriculation, (iii) the intermediate, (iv) the degree examination of a recognised Indian University, will be eligible for grants-in-aid as (i) junior vernacular, (ii) senior vernacular, (iii) junior anglo-vernacular, (iv) senior anglo-vernacular teachers, respectively, if qualified teachers are not available and provided the department permits the appointment.

The Inspectress shall report on the efficiency of the school each year when submitting the grant-in-aid application and in case the school is not efficient shall recommend the reduction of the grant by 25 per cent.

In estimating the amount of grant, the average monthly income from fees, calculated at 75 per cent of the rates given in Article 99 of the Code, shall be deducted from the expenditure on staff.

Next page.....

Section C-Equipment Grants.

Amount of equipment grant permissible.

Conditions for an Equipment Grant.

155. Grants for school furniture, books or appliances shall not exceed half the cost of the articles for the purchase of which the grant is sanctioned and no grant of less than Rs.25/- shall be made. Grants shall not be made for any apparatus for which aid has not been promised by the department prior to purchase.

Application for equipment grant

156. Application for an equipment grant must be made in the prescribed form (Appendis 17) and show:
(i) the articles required in detail and their cost;
(ii) the amount of contribution guaranteed by the school authorities;
(iii) the amount of grant required.

The application shall be made to the district inspector of schoolsin the case of primary schools, to the Inspector of Vernacular Education in case of secondary schools for boys, and to the Inspectress in the case of girls' schools. The officer receiving the application shall forward it to the Director who will decide on the application in the case of secondary schools and in the case of primary schools, forward it with his recommendations, to the local body concerned.

Director of Public Instruction's Circular No 6068-N.129-32 dated the 5th June 1933.

The following certificates should invariably be endorsed on each copy of the application.

(a) In case of articles of furniture or science apparatus certified that the rates shown in the above application are the lowest possible in the market, or, though not the lowest possible in the market have been recommended for the reasons given below:

(Signature).....

(Desination).....

(b) In case of books and periodicals.

Certified that the books and maps/periodicals and the prices, as shown in the above application are all approved by the Text Book Committee/Government of this province or by the university.

Signature.....

(Designation).....

Payment of equipment grant.

157. The grant, if sanctioned, can only be drawn after the submission to the department or the local body concerned, of receipted vouchers showing that the purchase of the articles has been completed, and after the articles have been inspected by an officer of the department and pronounced satisfactory.

Section D-Building Grants.

CONDITIONS FOR BUILDING GRANTS.

Amount for building grant admissible.

158. The amount of building grant from public revenues shall not as a rule exceed half of the total cost of the project in aid of which it is sanctioned.

Initial application for building grants.

159. Application for a building grant must be made through the Inspector of Vernacular Education, and the Deputy Commissioner of the district in the prescribed form Appendis 18 (i) and show:-

(i) the necessity for the project;
(ii) the cases involving the purchase of land, the approximate

P.T.O.

approximate area to be acquired and its estimated cost.

(iii) in cases involving the purchase, erection or extension of buildings, the nature of the buildings to be erected, their approximate dimensions and estimated cost;

(iv) the estimated amount of contributions from private sources;

(v) the amont of grant required.

Second detailed application.

160. If general approval to the issue of the grant is accorded by the local Government through the education department, detailed plans and estimates of the project must be submitted to the Director, together with a guarantee that the reminder of the cost will be found from private sources and a certificate attested by the Deputy Commissioner that one half of this guaranteed contribution is already in hand. The Director shall, if it appears expedient, refer the plans and estimates to the public works department, and the managers shall carry out such alterations in them as that department may consider necessary.

Execution of bond.

161. If the detailed proposals are approved by the local Government, the managers will be required to execute and register a bond (Appendix 18 (ii))securing to Government a prior lien on the buildings for the recovery of the amount paid on account of the grant in case the buildings or lan-d should cease to be utilized for the school purposes, or in case the school should cease to enjoy recognition by the department.

payment of building grants.

162. When the bond has been duly registered and accepted by the Department the managers are entitled to draw one moiety of the grant. The remainder of the grant may be drawn when the Department is satisfied that the whole of the private contributions have been collected and when the building has been completed to the satisfaction of the Inspector of vernacular Education if the total cost of the projects is less than Rs. 500/- and of the public works department if the cost exceeds that sum.

APPENDIX 18 (ii)

(Article 161).

NORTH WEST FRONTIER PROVINCE.

Bond.

This Indenture made the ..... day of..... one thousand nine hundred and..... between the (-.....) (hereinafter called the grantor) of the one part and ....., son of ....., Caste....., resident of ....., Tahsil....., District..... (hereinafter called the grantee) of the other part: Witnesseth that in consideration of the grant-in-aid now about to be made to the said grantee by the said grantor for the purpose of..... a public school building and premises, the said grantee doth hereby on his own behalf, and for and on behalf of his heirs and legal representatives, and of all persons who may at any time or times have the legal right to dispose of the said public school building and premises, covenant and agree with the said grantor, its successors and assigns, that the present grant of rupees..... ..... shall be made by the said grantor and be accepted by the said grantee upon and subject to all the conditions provisos and rules contained in the Regulations governing grants-in-aid by the Education Department of the North West Frontier Province. And it is also hereby agreed and declared by the parties hereto, that in the event of the said public school building and the premises (the particulars whereof are set forth in the schedule hereto annexed), towards the..... whereof the present grant-in-aid is hereby agreed to be made, ceasing to be applied and used for the purpose of a public school of the..... class or of a higher class: or if the public school shall cease to be open to inspection, or to be maintained in a state of reasonable efficiency or if any damage is caused to the said building due to neglect on the part of the said guarantee to observe regidly the rules for prevention and extinction of fire, prescribed by the Director of public Instruction the same grantor shall have lien upon the said public school building and premises by way of mortgage for the recovery of all sums of money paid for advanced on account of the said grant-in-aid and the said grantee doth hereby grant unto the said grantor from the date of these presents all the public school building and premises as set forth in the schedule hereunto annexed and all the estate, right, title and interest of the said grantee into or upon the said public school building and premises to have and to hold the same as security for the due re-payment of the said grant-in-aid as aforesaid; And it is hereby agreed and declared that the Director or Officiating Director of public Instruction, North West Frontier Province or by whatever title the head of the Educational Department in the North West Frontier Province may for the time being be called shall be the sole judge of whether any breach of the conditions herein contained has or has not occurred and a certificate in writing under his hand shall be final and conclusive of the matter or matters in dispute between the parties.

In witness whereof the said parties have hereunto set their hands and seals on the dates hereinafter mentioned respectively.

Signed, sealed and delivered for and on behalf of the said grantor by Signed, sealed and delivered by the said grantee

on the day of 193

P.T.O.

on the day of 193
in the presence of
Witness

THE SCHEDULE REFERRED TO IN THE ABOVE WRITTEN INDENTURE.

(Here set out a proper description of the school building and premises with boundaries and measurement of land).

Witnesses (Signature and office of the
(officer empowered to execute on
Witnesses (behalf of the grantor.

Grantee. -.-.-.-.-.-.-.-.-.-.-

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Secy. Ex. Edn.

Government of Orissa
Education Department.

This may be filed along with similar notes from other Govts.

CUTTACK,
THE 22nd May, 1947.

D.O.No. 2144/E.

45341

Secy. E.& P.H.

This may be filed along with similar notes from other Govts.
15A 29.5.47
H.M. Edn.

Dear Friend,

Please refer to your D.O. dated the 4th April, 1947 The information required therein is given below:-

1. Government impose the following conditions on admissions etc. on such of the solleges and schools to which capital grants are made.

(a) Save as the local Government may permit, no building towards the erection, purchase, imporvement or repair of which a grant has been made by Government shall be used for any other than educational purposes, prior to the lapse of a period of twenty years from the date on which the grant is paid.

(b) The college or school shall be under a regular govering body or managing committee, the constitution of which shall be approved by Government.

(c) The buildings shall be erected in accordance with plans and estimates to be approved by the D.P.I. and shall be completed to the satisfaction of the Engineer, appointed in that behalf within a specified period. The previous approval of the superintending Engineer shall be obtained to any contract into which it is proposed to enter in respect of the building.

(d) The college or School authority shall pay a specified rent per annum in the case of a lease.

(e) The buildings shall be maintained in good repair.

(f) The property shall yield no pecuniary return to the College or School authority, save for the purpose of the School or College.

(g) The College or School shall be open to inspection by the officers of Government.

(h) The college or school shall be managed as regards central maintainance staff, fee, free studentship, curriculum discipline, residential arrangment, and in all other respects in accordange with the grant-in-aid rules and to the satisfaction of local Government. In case a college it should remain recognised by University, and in case of schools if it is a high school

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school it should be and remain recognised by Local Government.

2. When a grant of land is made, whether Government land or land acquired for the purpose and with or without a grant of money, the land is leased by Government to the school or College authority at a nominal rent and the authority receiving the grant executes an agreement. When the grant is one of money to extend existing buildings or to build on land already belonging to an educational institution, the authority receiving the grant executes such an agreement too. These arrangements provide for a mortagage for twenty years in cas e of grant of money and generally for thirty years in case of grant of land and of money for building.

3. Government reserve to themselves the power, in the event of a breach of the conditions on which the capital grants are made either to have the defects remedied or in the last resort to resume the land and recoup themselves for the grant of money. In the event of dispute whether there has been a breach of the condtions whether the defect has been remedied, the decision of the Provincial Government shall be final. If it is necessary to resume the land, compensation may have to be paid to the college or school authority. After resumption Government will either carry on the College or school under different management or otherwise dispose of the property as they think fit.

If the grant is one of money only, and if the college or school authority fails to repay the amount, them Government will at their option either take over the property on payment of compensation (including the value of the site if the land does not belong to Government) ro cause the property to be sold and recoup themselves from the proceeds. Whenever a condition involves the payment of compensation for buildings or land, provision should be made for the appointment of two arbitrators, one to be nominated by the Director and the other by the college or school authority. If the arbitrators fail to agree, they will appoint an umpire, whose decision shall be final. If the College or Schod authority fails to nominate an arbitrator, the decision will rest with the Director.

Yours sincerely,

L. Misra

Hon'ble Sri T.S. Avinashilingam
Minister of Education
MADRAS.

D.O.No.8877/Edn.Bnc.

Diwan Bahadur
DR. T. C. M. ROYAN, M.D.,
Minister for Education and
Public Health.

PUBLIC OFFICES,
Bangalore, ~~20nd May~~ 194 13th June 1947

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Edn 12-46.

Dear Sir,

With reference to your Demi-Official letter dated 4th April 1947, addressed to the Minister for Education & Public Health, enquiring about conditions on which capital grants are given in the Mysore State, I am desired to furnish the required information as per statement enclosed. Any further information regarding payment of grants to private Colleges can be obtained from the enclosed printed copies of the Grant-in-Aid rules applicable to the College affiliated to the Mysore University and the Mysore Educational Manual, Volume VII in regard to Aided Schools.

Yours sincerely,
T C Royan.

To

A. S. Avinashilingam, Esqr.,
Minister for Education,
Government of Madras,
Fort St. George,
MADRAS.

Cpg/2.

R.G.A

Enclosure to D.O. letter No. Dated 15 May 1947.

Questions.	Replies.
1. Whether Government impose any conditions on admissions etc., on such of these grants (Capital Grants) are given.	Yes. For Colleges:- (a) Colleges admitted to Grant-in-Aid shall be open to the students of all castes and communities without discrimination. (b) In the admission of students there shall be no predominance of any one community as a result of discrimination against others. (c) Provided that it shall be competent to the Managing Committees of a College to fill seats up to 50 per cent of the available number at their discretion: in respect of the remaining seats the Standing Orders of Government now in force, and to be issued hereafter in respect of the admission of students to the several courses of study, the reservation of seats in each Branch of study for the distinct groups of students shall be strictly applicable. (Vide Rule 3 under "preamble"). For Schools:- Schools to be open to all communities:- No School shall be eligible for a Grant-in-Aid under these rules, if it is not open to pupils of all communities. An exception may, however, be made in the case of schools started in the interests of any particular community, restricting admission to pupils of that community on grounds of religious belief, social customs or other reasonable cause. (Vide Rule 3, Chapter II, Educational - Manual VII).
2. Whether the Government take any mortgage for any particular number of years or permanently that these buildings should be utilised only for Educational purposes; if it is not permanently, the number of years for which the mortgage is taken.	Yes. College:- No portion of the sanctioned grant will be paid until the Management has executed a bond in the form prescribed in Appendix III. (Vide page II of Grant-in-Aid Rules). Claims of Government:- The Management of the College or Hostel shall refund the grant or portion of it as specified below if a building for the acquisition, construction, extension, alteration or repair of which a grant has been drawn, ceases within a period of forty years from the date of the final payment of the grant to be used for Educational purposes approved by Government, the amount to be refunded shall be equal to the total Government grant multiplied by forty minus the number of years during which the building has been used for approved purppses and divided by forty. The Management shall refund the amount so fixed, before the expiry of six months from the date of demand. If the Management fails to make such refund, Government may enter upon and summarily take possession of the building till the amount is refunded. They may continue to be in possession and take such action to recover the amount as they may deem fit. Vide Rule V (1) at page 4 and Rule 16 at page 6 relating to Building grants.

and 3

2 and

3. If the Management of these schools do not abide by these conditions what is the provision in the rules for the Government to enforce it? Or whether there is any provision by which the Managements can give the full or moiety of the grant received from the Government.

Execution of agreement.

No portion of any grant shall be paid until the Management of the School has executed a bond in the form (Appendix VII) on a Mysore Government 10 -Anna Stamp-paper.

Claims of Government.

If a building for the acquisition, construction, extension, alteration or repair of which a grant has been drawn ceases to be used for educational purposes approved by Government prior to the expiration of forty years from the date of payment of the grant, the management shall refund to Government such portion of the grant as may be determined by Government. This will apply also to lands which ceased to be used for educational purposes prior to the expiration of forty years from the date of payment of the grant of delivery of possession of the land for the acquisition of which a grant has been drawn or which have been given free or at concession rates. If the management fails to make such refund, Government may summarily take possession of the building or land till the amount is refunded or recover the amount by such means as they may think fit.

Amount to be recovered.

The amount to be recovered from the management under the preceding rule, in any case, shall be equal to "The total Government grant X 40 minus the number of years during which the building has been used for approved purposes), divided by 40." The Management concerned shall pay the amount so fixed before the expiry of three months from the date of demand. (Government Order No.3465-66-Edn. 210-36-4 dated 1-4-1937).

(Vide rules Nos.4, 10, 11 relating to the payment of Building grants).

B. Ranglianna Swamy
for SECRETARY TO GOVERNMENT,
EDUCATION DEPARTMENT.

Cpg/2.

1

Asst

SECRETARY, EDN. AND P.H. DEPT.
18 JUN 1947
50556
GOVERNMENT OF MADRAS

Secretary, E.& P.H.

12) (137) 133

Please see herewith the rules with regard to giving Capital Grants by the Mysore Govt. I think by this time we have received replies from the various Govts., and I hope all of them are now with you. They may be tabulated and put up.

TSA
17-6-47

H.M. Education.

1

ASIV

SECRETARY, EDN. AND P.H. DEPT.
18 JUN 1947
50556
GOVERNMENT OF MADRAS

Secretary, E.& P.H.

121 (137) 133

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TSA 17-6-47

H.M. Education.

Notfn A (West) 138 Ed 1341-24

9-SEP 1947 GOVERNMENT OF MADRAS

10 SEP 1947 ASST. SECRETARY TO THE GOVT. OF MADRAS EDUCATION AND PUBLIC HEALTH DEPTT.

MINISTER FOR EDUCATION GOVT. OF MADRAS

PUNJAB EDUCATION DEPARTMENT.

D.O.No. 25th 449/S

Dated, Lahore the 25th August, 1947.

Dear Mr. Avinashilingam,

Will you please refer to your letter No.Nil, dated the 4th April,1947? The following are the answers to the queries made therein:-

1. Govt. sanctions building grants to aided colleges which are affiliated to the Punjab University. In the case of schools, grants are given to schools recognised by Govt. on the conditions mentioned in Articles 96-104, P.E. Code.

2. The colleges and schools to which building grants are given are required to execute a trust deed. A copy of the standard form of trust deed is enclosed.

3. Govt. holds a lien on the building constructed with Govt. grant to the extent of the amount of the building grant. In the event of the institutions not abiding by the conditions laid down in the trust deed Government has the legal right to recover all the sums of money paid or advanced as building grant.

D.A.
Trust deed.

Yours sincerely,
S.M. Sharif

71985
60316/46

To
Mr.T.S.Avinashilingam,
Minister of Education,
Fort St.George,
MADRAS.

Edn. H(C1)

The main file on the subject has been sent to the Legal dept. with this dept u.o. No. 60316 C1/47-4 Edn. dt. 4.8.47. and has not yet returned from that dept. This may kindly be put till the main file returns to this dept.

for preparing a draft Bill

If does not appear necy to send this to the legal dept u.o.

KR 19.9.47.
19.9.47.
19/9/47

(13) 135 1-3

This INDENTURE made the _____ day of _____ 19

BETWEEN (i) The Governor of the Punjab (hereinafter called the Grantor) of the one part ; and (ii) The _____ a society registered under Act XXI of 1860 (hereinafter called the Grantee) of the other part :—

WITNESSETH that in consideration of the grant-in-aid made to the said grantee by the said grantor for the purpose of a public school building and premises, the said grantee doth hereby on its own behalf, and for and on behalf of its successors, and of all persons who may at any time or times have the legal right to dispose of the said public school buildings and premises, covenant and agree with the said grantor, his successors and assigns that the present grant of Rupee _____ has been made by the said grantor and accepted by the said grantee upon and subject to all the conditions, provisos and rules contained in the Punjab Education Code, AND it is further hereby agreed and declared by the parties hereto that in the event of the said school building and premises (the particulars whereof are set forth in the schedule hereunto annexed) towards the _____ whereof the said grant-in-aid has been made, ceasing to be applied and used for the purposes of a public school of the _____ class or of a higher class ; or if the public School shall cease to be open to inspection, or to be maintained in a state of reasonable efficiency, or if any damage is caused to the said building and premises due to neglect on the part of the said grantee to observe rigidly the rules for prevention and extinction of fire, prescribed by the Director of Public Instruction, Punjab, the said Grantor shall have a lien upon the said public school building and premises by way of mortgage for the recovery of all sums of money paid or advanced on account of the said grant-in-aid, AND the said Grantee doth hereby grant unto the said Grantor from the date of these presents all the public school building and premises as set forth in the Schedule hereunto annexed and all the estate, right, title and interest of the said grantee into or upon the said public school building and premises to have and to hold the same as security for the due repayment of the said grant-in-aid as aforesaid ; AND it is hereby agreed and declared that if any question of difference or objection whatsoever shall arise in any way connected with or arising out of this instrument or the meaning or operation of any part thereof or the rights duties or liabilities of either party. then save in so far as the decision of any such matter is hereinbefore provided for and has been so decided, every such matter including whether its decision has been otherwise provided for and/or whether it has been finally decided accordingly, or whether the Indenture should be terminated or has been rightly terminated and as regards the rights and obligations of the parties as the result of such termination shall be referred for arbitration to the Commissioner of _____ Division and his decision shall be final and binding and where the matter involves a claim for or the payment or recovery or deduction of money only the amount, if any, awarded in such arbitration, shall be recoverable in respect of the matter so referred.

IN WITNESS WHEREOF the said parties have hereunto set their hands and seals on the dates hereinafter mentioned respectively.

Signed for and on behalf of the said Governor of the Punjab by _____
Director of Public Instruction, Punjab, acting under the orders of the Punjab Government on the—
_____ day of _____ 19 .

Director of Public Instruction,
Punjab.

Signed this _____ day of _____ 19 by the said grantee _____
S/O _____
as attorney for and on behalf of the society by virtue of resolution No. _____ ,
dated _____ .
in the presence of—

Witness No. 1—
Signature ;
Occupation :
Address :

Witness No. 2—
Signature :
Occupation :
Address :

2

THE SCHEDULE REFERRED TO IN THE ABOVE WRITTEN INDENTURE

(Here set out a proper description of the public school building and premises with boundaries and admeasurement of land).

A plot of land measuring _____ square yards containing school building with a plinth area of square yards and bounded as follows :—

On the North.
On the East.
On the South.
On the West.

Plan attached.

Director of Public Instruction, Punjab.

Grantee,

As authorized by the attached registered power-of-attorney.

109 DPI—100—13-8-46—SGPP Lahore

D.O. No. ESS.110/47.

Shillong
13th September, 1947.

From -
G.N. Bardoloi,
Minister for Education,
Government of Assam,
Shillong.

Dear Friend,

Kindly refer to your D.O. letter dated 4th April, 1947, regarding capital grants to Schools and Colleges. The following particulars are furnished item by item in reply to your queries: -

i) Yes. In the case of capital grants conditions are imposed as laid down in rule 4, Chapter X Sec. 66 of the Assam Education Department Rules and Orders.

ii) Yes. Legal documents are executed by the School or College authorities in forms 'A' & 'B' as the case may be. Generally the Government of Assam take mortgages permanently on the conditions mentioned in form 'A' & 'B'.

iii) References are invited to clause (10) of the bond form 'A' and clause (9) of form 'B'. A copy of above references including a copy of Chapter X Sec. 66 of Assam Education Deptt: rules and orders are enclosed herewith.

With regards.

Yours sincerely,
Gopinath Bardoloi.

To,
The Hon'ble Minister for Education,
Government of Madras,
Fort St. George, Madras.

FORM A

(141) 126

FORM OF AGREEMENT FOR A GRANT OF LAND UNDER THE ASSAM GRANT-IN-AID.- Code.

137

The indenture made the day of between the Secretary of State for India in Council (hereinafter called the Secretary of State, which term shall include his successors and assigns) of the one part and the of the school (hereinafter called the school authority, which term shall includede their successors in office representatives and assigns) of the other part.

Whereas on the application of the school authority and under the rules relating to the grant of land and money for school sites and buildings the Secretary of State has granted to the school authority permission to occupy for the purposes of the said school and subject to the conditions set forth below, the land specified in the schedule and delineated in the plan hereunto annexed and has also sanctioned a grant of the sum of Rs. ( ) this indenture withe-seth that it is hereby mutually agreed by and between the parties hereto as follows:-

(1) Save as the Local Government shall permit the said land (and the said sum of Rs.) shall be used solely for the purposes of the School.

(2) The school shall be governed by a regular managing committee the constitution of which shall accord with the rules of the Education Department of Assam for the time being in force governing schools in receipt of grants - in - aid.

(3) The school authority shall cause the buildings specified in the Director of Public Instruction's letter No.. dated to be erected in accordance with the plans and estimates which have been approved by the Director of Public Instruction in his said letter and to be completed to his satisfaction.

(4) The School Authority shall pay Rs. as annual rent on or before the in every year and shall also pay all rates and taxes which are or may hereafter be levied upon the school by any local authority whether the same be payable by owner or occupier.

(5) The said buildings shall be maintained in good repair.

(6) Neither the school authority nor any member thereof shall derive any pecuniary return from the use of the said land or buildings save for the purposes of the school.

(7) The school shall be opened to Inspection at all reasonable times by the Officers of Government.

(8) The school shall be managed as regards control, maintenance, staff, fees, free-studentships, curriculum, discipline, residential arrangements, and in all other respects in accordance with the rules of the Education Department of Assam forthe time being in force governing schools in the receipt of grants-in-aid and to the satisfaction of the Local Government.

(9) The School shall be recognised by the University of Calcutta or any university having jurisdiction over Assam which may be hereafter established by law.

(10) Should the land be at any time required for a purpse declared by the Local Government to be a public purpose then on giving six months' notice in writing and if any of the foregoing conditions shall at any time form any cause whatsoever be broken or cease to be performed and observed then and in any such case without notice the Secretary of State shall be entitled to re-enter upon the said land and the school authority shall be bound to give him or any officer authorised in this behalf quiet and peaceable possession of the said land and of all buildings erected thereon and of all the school furniture and equipment. Provided that the school authority shall be entitled to *

2.....

(142) 137 138

shall be entitled to* [a refund of the sum if any contributed by the said authority towards the acquisition of the land] and to compensation for all buildings erected upon the land in accordance with condition 3 above, and for all the school furniture and equipment less a deduction of the sum of Rs. hereinbefore mentioned, such compensation ~~to~~ not to exceed the cost of present value of the said buildings furniture and equipment whichever shall be less. Provided also that if the Director of Public Instruction and the school authority are unable to agree as to the present value of the said buildings, furniture and equipment, two arbitrators shall be appointed, one by the Director of Public Instruction and the other by the school authority to assess the said value. If they agree their decision shall be final but they are unable to agree they shall appoint an umpire whose decision shall be final. Provided also that if the school authority fail to appoint an arbitrator within a reasonable time the decision of the Director of Public Instruction on the said value shall be final.

(II) Should the Director and the School authority be unable to agree as to whether any of the first eight conditions of this lease have been broken or have ceased to be performed or observed or as to whether any defect has on the demand of the Director of Public Instruction been remedied the dispute shall be referred to the Local Government whose decision thereon shall be final.

In witness whereof the said parties hereto have hereunto set their hands and seals.

Signed, sealed and delivered by Deputy Commissioner of the district of for and on behalf of the Governor of Assam acting in the premises for and on behalf of the Secretary of State for India in Council in the presence of

Signed, sealed and delivered by the above named in the presence of

* To be inserted in cases where the land has been acquired partly or wholly from funds contributed by the school authority.

CHAPTER X. - GRANTS - IN - AID.

SECTION 66. - Grants of Land and Money for sites and buildings.

1. In these rules "school" includes "hostel" unless the contrary appears from the context.

"School authority" means the person or persons with whom negotiations are conducted.

2. The grants referred to are -

(a) grants of land on lease ;

(b) grants of money for the acquisition of land, the preparation of site, the erection, extension, purchase or repair of buildings and other works of this nature.

Grants for paying off debts incurred for school sites and buildings may be made in exceptional circumstances with the sanction of Government.

3. Without special or general orders from Government, grants of money may not exceed double the sum provided from local sources but the Director of Public Instruction may relax this rule when the amount of grant does not exceed Rs. 1,000.

4. The procedure under these rules is as follows: -

(1) Formal application for grant. - It should be addressed to the Inspector of Schools, or to the Inspectress in the case of girls' schools at headquarters stations. The application must contain particulars of -

(a) the constitution and powers of the school authority with names and designations of its members;

(b) sites, buildings, and accommodation, existing and proposed, with ground plans showing dimensions of buildings, rooms, etc., and their location on sites; a north and south line must always be shown on the plans;

(c) scale of establishment, enrolment class by class, and all sources of maintenance.

(d) the agency to be employed for any work propose i.e., whether local agency or the Public Works Department;

(e) land to be accquired or granted, and, if acquisition under the Act is proposed, reasons why ordinary purchase should not be made ;

(f) plan and description of land, for attachment to the legal document under which the land will be conveyed subsequently to the school authority.

(g) general specification and estimate of expenditure proposed, amount of grant asked for, and local contribution promised or in hand.

(2) Settlement of the terms of grant-in-aid. -This will involve -

(a) reference by the Education Department to the District Officer, when necessary, and in all cases in which the grant of Government land or acquisition under the Act is proposed.

(b) Preparation by or on behalf of the school authority and acceptance by the department of detailed plans specifications and estimates ;

(c) drafting of a legal document to be executed by the school authority. Form A appended to these rules, with such additions or modifications as may be called for, will be used in all cases where the grant of acquisition of land is involved. Form B is appropriate to the case of money grants where there is no conveyance of land.

2.....

(144) 139 140

Conveyance of land.

(3) Sanction to the grant-in-aid. - On the basis of terms arranged the school authority will be called upon -

(a) to execute a legal document in the form decided upon;

(b) to produce the amount of contribution stipulated, or it so arranged, and acceptable guarantee in lieu thereof.

(4) Final operations -

(a) Land willbe made over to the school authority by the District Officer with the necessary sanction of the Local Government;

(b) Money grants will be given out, in whole or in instalments, in the discretion of the Director of Public Instruction;

(c) in the case of large grants or where, for any reason or reasons this course is indicated, the Inspector of Schools may take the professional advice of the Executive Engineer or any specific point or points.

If necessary, the Inspector will after the completion of the work inform the Executive Engineer of the terms of the grant and will provide him with a set of the approved plans and estimates requesting him to arrange for an inspection and a report as to whether the work has been carried out satisfactorily and in accordance with the sanction plans and estimates.

5. The grant will be drawn in Form C appended to these rules.

6. Government Pleaders will advise the departments if called upon, in connection with titles of school authorities and generally in legal questions arising under the rules. When the form of legal documents to be executed offfkkkks offers any difficulty, a Government Pleader may be asked to prepare the necessary draft.

7. The grant or the instalment of a grant must be spent within the period specified in the order of sanction. This period must exceed six months from the date of the drawal of the grant. As soon as the site has been purchased or the buildings have been purchased or constructed, a certificate in the following form should be furnished to the Comptroller, Assam, by the Officer who countersigned the bill: -

~~Certified that the grants of Rs.~~

Certified that the grant of Rs. _____ drawn from _____ Treasury on _____ 19 , has been actually spent for the purpose for which it was sanctioned.

SECTION 6 - Grants for School Equipment.

1. Grants of money towards purchase of school furniture, apparatus, and library books may be sanctioned for approved schools by the Director of Public Instruction.

2. Applications for such grants must be submitted to the Inspector of Schools in Form D appended.

3. Grants may not, save under general or special santion of Government, exceed one-half of the total cost of equipment in the case of high and middle English schools for boys and two thirds in the case of vernacular schools for boys and girls' schools. This rule may be relaxed by the Director of Public Instruction where the amount of the grant does exceed Rs. 250/-

4. Grants will be paid on submission of a detailed estimate of the total cost of the equipment, and should be drawn in Form E appended.

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in form E appended.

5. If a school is closed within five years from the payment of a grant of more than Rs. 200/- under these rules, it shall be at the option of Government to purchase at a valuation of the school's share in the articles purchased with the help of the grant.

6. The grant or the instalment of a grant must be spent within the period specified in the order of sanction. The period must not exceed three months from the date of the drawal of the grant. As soon as the equipment has been purchased, a certificate in the following form should be furnished to the Comptroller, Assam by the officer who countersigned the bill :-

Certified that the grant of Rs. _____ drawn from _____ Treasury on _____ 19 , has been actually spent for the purpose for which it was sanctioned.

CORRECTION SLIPS TO THE ASSAM EDUCATION DEPARTMENT
RULES AND ORDERS.

No.172.

Section 68, page 306 -

Insert the following as "IV - Rules for Aided Colleges:-"

30. Every aided College shall be conducted in accordance with the rulles in this part.

31. Every aided College shall be managed by a Governing Body constituted in accordance with the University Regulations and approved by Government.

32. The staff of Principal, Professors and Lecturers of every aided College must be approved by the Director of Public Instruction, and all changes in the staff, whether due to additional appointment or dismissal, must be notified to the Director of Public Instruction for his approval after the usual enquiries into the antecedents of the candidates.

No appointment may be confirmed without his approval.

33. No building operations may be undertaken until the plans and estimates have been approved by the Director of Public Instruction.

34. Every aided College shall, unless otherwise authorised by the Director of Public Instruction, follow the rules laid down in the rules and Orders for Government Colleges relating to scholarships, management of hostels, discipline and holidays, and any other rules which may in future be declared by Government to be applicable to aided Colleges.

35. The Governing Body shall notify to the Director of Public Instruction any extension of affiliation or abolition of affiliation proposed for his advice and approval.

36. All aided Colleges shall levy fees at rates approved by the Director of Public Instruction from all students except those who are granted free studentships by the Governing Body according to a system approved by the Director of Public Instruction.

37. All receipts and disbursements must be entered in the Account Books of the College, and all its accounts and records shall be open to inspection of the Director of Public Instruction or of any officer authorised by him in this behalf.

38. Government may claim a fair share of any balance at the credit of an aided College on its abolition, as well as a fair proportion of the sale Proceeds of any buildings, furniture and other property for which a grant has been given.

39. The Governing Body of every aided College shall frame a set of rules to regulate the conditions of appointment of members of the staff and of their absence from duty on leave.

These rules must be approved by the Director of Public Instruction.

40. Applications for grants shall be made to Government through the Director of Public Instruction.

41. Grants shall be formally accepted by the College authority on the terms on which they are given. Form N will be used for this purpose.

In the event of any disagreement between the Director of Public Instruction and the Governing Body of an Aided College the matter shall be referred to Government whose decision xx shall be final.

[Government Order No. 439-E., dated the 13th February 1947]

Section 68, page 306- 173.

Renumber " IV - General" as "V.- General" and the existing rule 30 to 43.

[Government Order No. 439-E., dated the 13th February 1947]

Section 68, page 323 -

Insert the following as Form N:-

FORM N.

(To be drawn up on stamped paper).

Form of acceptance of grant under Assam Grant-in.aid Code.

We, the undersigned, being the members of the Governing Body of the College hereby accept the grant-in-aid sanctioned in the Director of Public Instruction's Memorandum No. dated for the said College, and we agree jointly and severally that we will be responsible that so long as the College continues as an Aided College it shall be managed in accordance with the conditions therein set forth and with the rules and orders of the Education Department.

Provided that retirement from the Government Body, formally notified to the Director of Public Instruction will relieve from responsibility for actions of the Committee subsequent to the date of retirement.

[Government Order No. 439-E., dated the 13th February 1947]

D.O. No. A-3296 /XV-269-47. (148) 144

Registered

U.P. Secretariat,
Education (A) Department.

Dated Lucknow, May 3 , 1947.

Dear

Your D.O. letter dated April 4, 1947.

I enclose herewith copies of paragraphs 361 - 368 of the Educational Code of these provinces which govern capital grants to aided educational institutions in these provinces. A copy of paragraph 358 of the Code containing general rules regarding grant-in-aid to aided educational institutions is also enclosed. These rules contain all the information you require. If any further information is required, please let me know and I shall be glad to furnish it.

With kind regards.

Yours sincerely,

To

Hon'ble T.S. Avinashilingam,
Minister for Education,
Madras.

Husain

.....

Enclosed. one cdr 7
Educational Code,

(140)

145

No. S.134/7945-E,
Education and Industries Department,
Bombay Castle, 8th May 1947.

Duplicate

From

D.S.Joshi, Esquire, I.C.S.
Joint Secretary to the Government of Bombay,
Education and Industries Department.

To

The Secretary to the Honourable Minister for
Education, MADRAS.

Subject:- Capital Grants to Schools and Colleges
Information required By the -

Sir,

With reference to the letter from the Honourable Minister for Education, Madras, dated the 4th April 1947, addressed to the Honourable Prime Minister, Bombay on the subject mentioned above, I am directed to enclose a copy of the Grant-in-aid code for Schools and Colleges in the province of Bombay and to state that the conditions on which building grants are given, are incorporated therein vide Chapter X. I am to add that admissions to such Schools and Colleges, are open to all communities without any bar or restriction.

Your obedient servant,

B.T.Ranpise

for Joint Secretary to the Government of Bombay,
Education and Industries Department.

MN 8/5/47.
S. 8.5.

663—1,000—8-43—N2* [Pages 20]

(50) 146

Edcl. 160 e.

EDUCATIONAL DEPARTMENT

Bombay Castle, 13th April 1939

No. 6100/E—In supersession of Government Notification, Educational Department, No. 261, dated the 11th February 1911, and subsequent notifications amending it, the following revised Grant-in-aid Code for Schools and Colleges in the Province of Bombay is approved by the Provincial Government and published for general information. It will come into force from the current academic year and is liable to revision from time to time as the Provincial Government may consider necessary.

2. The question of the revision of the courses for the Secondary (English) and other Secondary schools is also under the consideration of the Provincial Government and the revised courses may be introduced from June 1940.

The Grant-in-aid Code for Schools and Colleges in the Province of Bombay (1939)

INTRODUCTORY NOTE

The grant-in-aid system was first introduced in the year 1859. The Despatch of 1859 says: "The introduction of this (grant-in-aid) system was authorised from a regard to the impossibility of Government alone doing all that must be done in order to provide adequate means for the education of the natives of India and it was expected that the plan of thus drawing support from local sources, in addition to contributions from the State would result in a far more rapid progress of education than would follow a mere increase of expenditure by Government, while it possesses the additional advantage of fostering a spirit of reliance upon local exertion and combination for local purposes which is of itself of no mean importance." Even after all these years Government finds it difficult to shoulder the entire burden of educating the people. This system, therefore, is continued with the same objective, viz., to share the burden of education of the people with such agencies as are prepared to shoulder the responsibility with a hope that such arrangement will result in a far more rapid progress of education than would otherwise be. It is, therefore, with this objective that sums of money are annually set apart from Provincial Revenues to be expended under this Code as grant-in-aid to Educational Institutions for the purpose of extending and improving secular education and of encouraging private enterprise in education. Such grants are given only for purposes connected with secular education, without reference to any religious instruction, to all educational institutions which impart secular instruction subject to the conditions specified in the Code and with due consideration of the requirements of each locality and of each institution and of the funds available. It is an important element in the grant-in-aid system that part of the expenses of the aided institution should be provided by its manager from resources of their own.

CHAPTER I

General Rules of Recognition

Rule 1.—Recognition of Educational Institutions

Educational Institutions may be admitted to recognition by the Department of Public Instruction (or the Department of Industries in the case of Technical and Industrial schools for boys) hereinafter called the Department provided they conform to the rules set forth in this Code. Such recognition entitles the managers (1) to present their pupils at all public examinations, (2) to present pupils as candidates for scholarships and to admit scholarship holders and (3) to apply for grant-in-aid from public funds.

Rule 2.—Classification of Educational Institutions

Educational Institutions which apply for recognition will be classified as Colleges, Secondary Schools, Schools for Europeans and Anglo-Indians, Primary Schools, or Special institutions, such as Industrial Schools, Training Institutions, Schools for Defectives, Schools for Adults, etc.

Secondary and Primary Departments of the same School will be recognised as separate schools:—

(*a*) A College is an institution affiliated to a Statutory University and in which students read a course prescribed by the University for a degree in Arts, Science, Law, Medicine, Teaching, Agriculture, Commerce, Engineering or any other branch of technical training.

(*b*) Secondary schools are those whose main object is to afford a higher general education.

They include Secondary Schools such as Anglo-Marathi, Anglo-Gujarati, Anglo-Kannada or Anglo-Urdu Secondary Schools.

They also include Secondary (English) Schools in which the proportion of pupils of European descent is not sufficient to constitute them as schools for Europeans and Anglo-Indians, and in which the medium of instruction is English.

(*c*) A school for Europeans and Anglo-Indians is one in which at least seven-tenths of the pupils are of European or Indo-European descent. These schools are governed by a separate Code of regulations for such schools.

(*d*) Primary schools are those in which instruction is given wholly in the regional language and which teach the whole or part of the course leading to the Primary School Leaving Certificate Examination and which are governed by the Primary Education Act and the rules thereunder.

(*e*) Special institutions are those which are not included among those defined above, and in which pupils receive whole or part-time instruction in the theory or practice of an art, trade or profession, or in which only a language is studied.

Rule 3.—Application for Recognition

Applications for the recognition of Educational institutions other than colleges must be made to the Educational Inspector concerned (or to the Director of Industries in the case of Technical and Industrial schools for boys) at least three months before the commencement (April 1st) of the official year for which recognition is sought and must be accompanied by a statement in the form of Appendix 2.

Those institutions, however, of which the permanent character is established may be recognised once for all. All colleges being expected to be affiliated to a Statutory University will be treated as recognised institutions without formal application.

Rule 4.—Requirements of recognition

In disposing of applications for recognition the following circumstances will be taken into consideration:—

(*i*) Whether the management of the institution is in the hands of a competent and reliable person or body.

(*ii*) Whether the teaching staff is competent and adequate.

(*iii*) How far the schools own resources exclusive of fees, are adequate to meet necessary expenditure*.

(*iv*) Whether the fees† charged and percentage ‡ of free-studentships are reasonable and are such as to involve no unhealthy competition with any existing institutions of the same class in the neighbourhood.

Rule 5.—Conditions of recognition

In granting recognition for the first time, and thereafter in allowing it to continue, the Educational Inspector or the Director of Industries, as the case may be, shall consider (due regard being had to the special circumstances of each institution and locality) whether—

(*i*) the conditions on which the institution was recognised and the attendance are duly maintained;

(*ii*) the institution premises are sufficiently healthy, well lighted and ventilated, and contain sufficient accommodation, furniture and appliances for the instruction and recreation of the pupils attending them;

(*iii*) the arrangements for the registering the admission, attendance and age of pupils, for management, and for keeping accounts of income and expenditure, are effective;

(*iv*) the teaching staff is adequate and well qualified and that it is not changed too often;

(*v*) the pay and other conditions of service are clearly laid down and communicated to the teachers concerned and to the Educational Inspector or the Director of Industries as the case may be, and in the case of Secondary Schools the school agrees to institute a Provident Fund for teachers as required by the Provincial Government. In case of Secondary Schools and Colleges conditions of service, salary, etc., will be such as will ensure security of service;

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* "It is an important element in the Grant-in-aid System that part of the expense of the aided institution should be provided by its managers from resources of their own" (*vide* page 417 of the Report of the Education Commission of 1882).

† The general principle laid down by the Department as regards the fees is that in recognised Secondary schools the minimum rates should not be less than two-thirds of the rates charged in Government schools of the same class in the same locality or District.

The minimum rate of fee for a Secondary (English) School will be fixed by the Director of Public Instruction upon a report from the Inspector, and after due consideration of the circumstances of each locality.

‡ Except with the Special sanction of the Educational Inspector the total number of free-studentships in Secondary Schools shall not exceed 15 per cent of the total number on the rolls exclusive of free-studentships granted to Backward class pupils. In calculating the percentage of free-studentships the reduction in fees made, if any, shall be taken into accounts.

(*vi*) the education given is sufficient in range and quality;

(*vii*) the discipline and behaviour of the pupils, especially their manners, regularity of attendance and honesty under examination, are satisfactory;

(*viii*) the records are properly maintained and all statistical returns and formal certificates given by the teachers or managers are trustworthy.

The condition of the institution shall, under each of the above heads, be tested by thorough inspection. As regards the quality of education given, the inspecting officer will test the classes according to the standards under which they are presented.

N.B.—No recognised Secondary school may employ a teacher who is under 18 years of age.

Rule 6.—Channel of Correspondence

Each recognised institution must have a person who has been authorised by the managing body of the institution to act as a correspondent with the Department and whose name and address must be registered in the office of the Director of Public Instruction or of the Director of Industries as the case may be. Any change in the name or address of the correspondent must be reported to the same office and in communicating with the Department the correspondent should invariably address the Educational Inspector if the institution is not a college. If no other person is authorised by the managing body of the institution to be the correspondent the head of the institution shall be regarded as its authorised correspondent.

Rule 7

All recognised institutions shall be required to adhere to the rules laid down in Chapter II for regulating the admission or withdrawal of pupils so far as they are applicable.

Rule 8.—Inspection of Recognised Institutions

All recognised institutions and hostels maintained or controlled by them directly or indirectly shall be open to inspection by the officers of the Department at all times; and the managers or head teachers shall punctually supply the Department with such returns and information as may be from time to time required.

Rule 9.—Records to be maintained

Every recognised school shall maintain—

(*i*) a printed General Register in the form prescribed in Appendix 3;

(*ii*) a record of attendance in the form prescribed in Appendix 4;

(*iii*) a systematic record of the progress and conduct of each pupil embodying the results of periodical examinations including the annual examination;

(*iv*) progress books for individual pupils which shall be shown from time to time to the parent or guardian concerned.

Rule 10.—Opening of Higher Standards

(*a*) No recognised school shall teach a standard or standards higher than those for which it has been recognised, without the previous permission of the Department. Application for the recognition of higher standard or standards must be submitted to the Educational Inspector not less than three months before the beginning of the school year in which it is proposed to open the higher standard or standards.

(*b*) No recognised school shall open a new division of a standard without the previous permission of the Department.

Explanation.—The object of this rule is to keep down the number of pupils in a school so as to prevent schools from becoming too unwieldy or prevent them from admitting pupils when there is not sufficient accommodation, or prevent them from entering into unhealthy competition with neighbouring schools. Previous permission, therefore, will not be necessary in cases where the sole object of dividing a class will be for better internal management. The school authorities, however, must inform the Educational Inspector of any such division made.

Rule 11.—Use of sanctioned Text-books

Except with the special sanction of the Educational Inspector no recognised school shall use text-books other than those sanctioned by the Department. No text-book, once introduced, should be changed ordinarily before three years are over without the permission of the Educational Inspector concerned.

Rule 12.—Principles of Discipline

The manager of every recognised educational institution is required to enforce the principles of discipline laid down by the Provincial Government from time to time (*vide* Appendix 1 to the Code).

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Rule 13.—Curriculum

All recognised schools shall adopt the standards laid down, which will, with the addition of the heads for optional subjects and of needle-work in Girls' Schools, remain as a guide to Managers, but Managers will be allowed to adopt variations of the curriculum provided that such modifications are previously brought to the notice of the Educational Inspector and are duly approved.

It is expected that Managers of Secondary schools will make due provision for suitable instruction in such subjects as Object lessons, Drill and Gymnastics, Class Singing, Drawing, Manual Training, Elementary Science, Commercial Instruction, Music and Domestic Economy (for girls). It is not intended that a school should teach all these subjects, but it is expected that every Secondary school will make provision for the teaching of at least one optional subject in the middle stage and two optional subjects in the high stage. Managers will be given the greatest freedom possible in planning and carrying out courses of instruction comprising these subjects.

Rule 14.—Religious Instruction

(A) No recognition will be given to any school or college maintained by a particular religious community which—

(*a*) being the only school or college of its class in the locality, and

(*b*) admitting pupils of other religious communities, makes attendance at instruction in its own religion a condition of the admission of such pupils.

(B) Religious instruction in schools or colleges is allowed under the following conditions:—

(*a*) School and College premises may be used for religious teaching or simple prayers if well constituted outside bodies offer to make provision for such teaching or prayers either just before or just after school hours provided that (*i*) there is no local objection, (2) the teachers appointed are acceptable to Government or the Local Body concerned, and (3) no ceremonial observances are included. A slightly greater latitude may be allowed in the case of hostels in regard to the last proviso;

(*b*) The services of a teacher in the service of Government or a local body should not, however, be utilised for imparting religious instruction;

(*c*) The time spent by any student on religious teaching or observance should not be deducted from the prescribed period of the curriculum which should be fixed on educational considerations alone.

CHAPTER II

Admissions and Withdrawals

Rule 15.—Application for Admission

Every application for admission should be made to the Head of the institution by the parent or guardian of the candidate either in person or by letter.

Rule 16.—Admission of Pupils from certain objectionable Schools

Except with the express permission of the Director given in writing, no pupil shall be admitted to any recognised school from a school the teaching in which is pronounced by the Provincial Government from time to time to be of a pernicious character.

Rule 17.—Production of a Leaving Certificate

No pupil who has previously attended a recognised school shall be admitted to any recognised school without a leaving certificate in the prescribed form—(Appendix 5)—from the last recognised school attended by him, and all such certificates must be filed on the school records.

If no leaving certificate from a recognised school is produced on the ground that the pupil has not previously attended such a school, a certificate to that effect should be obtained from the parent or guardian and filed.

Rule 18

If an applicant states that a leaving certificate from the last school attended has been refused to him, the Head Master of the new school shall intimate to the authorities of the former school that the pupil seeks admission and, if within a week he receives no satisfactory explanation of the omission to give a leaving certificate, he shall be entitled to admit the pupil, but must report the circumstances immediately to the Educational Inspector, who shall inquire into the case.

Rule 19.—Migration Period

In the case of schools of the same class, situated in the same locality, admission from one school to another shall take place only at the beginning of the school term which the Educational Inspector shall have power to fix.

(*a*) Admission from schools of the same class situated in the same locality shall be permitted only within the first fourteen days of each school term, or within such an extended period as the Educational Inspector may previously have allowed.

Note.—Pupils must not be allowed to evade the rule by temporarily joining a school elsewhere, and afterwards returning to a school in the same town.

(*b*) As a general rule pupils should not be admitted after the first fourteen days of the first or second term. In cases of special difficulty, e.g., sickness, bereavement, transfer of parent or guardian, late declaration of examination results, the period may be extended to a maximum of one month. The Educational Inspector shall have power to extend this period still further in exceptional circumstances.

(*c*) When the parent or guardian with whom a pupil is living removes from one locality to another, or the pupil is compelled on medical grounds to change his residence, admission from a school of the same class may be made at any time during a term.

Rule 20.—Admission of Pupils from other Provinces

Admission of pupils from other provinces should be made only if the leaving certificate of the pupils is countersigned by the Inspector of Schools concerned in that Province.

Rule 21.—Entry in the General Register

A pupil's name should not be entered on the general register until the fees due are paid and he is formally admitted.

Rule 22.—Entry of Birthdate

The date of birth of the pupil according to the Christian era shall be entered in the general register from the date given in the leaving certificate. In the case of the school first attended or of pupils who have attended no recognised school the application for admission must be accompanied by a certificate of age signed by the parent or guardian. The date of birth given in this certificate should be entered in the school register. No alteration of the date is permitted without the permission of the Educational Inspector.

Rule 23.—Scrutiny of Leaving Certificate

If in a leaving certificate the headmaster suspects any unauthorised additions or alterations before or after a pupil is admitted, the fact should be immediately reported to the Educational Inspector, and if the pupil is not already admitted, he should not be admitted until the reply of the Educational Inspector is received.

Rule 24.—Statement of conditions of Admission for the information of the Guardians.

On first admitting a pupil to the school the Manager or Head Teacher should hand to the parent or guardian a paper, for which he will take a receipt, stating the rules of discipline mentioned in Appendix I, the rules about the payment of fees charged and also pointing out that parents have no right to dictate to the Managers, but that the Managers of schools have a right to say on what conditions they will admit or retain a pupil in their school.

Rule 25.—Admission of Pupils to Higher Standards

Except with the special sanction of the Educational Inspector, no pupil shall be placed in a standard higher than that for which his leaving certificate shows him to be qualified.

(*a*) Pupils who have studied privately or who have come from upper Primary schools to which no English classes are attached shall be placed by the Head of the school in the Standard for which they are fit but such cases should be brought to the notice of the Educational Inspector at the time of inspection.

(*b*) Pupils who are qualified for admission to a Secondary school, but have not attended any school for 12 months and seek admission to standards higher than those for which their leaving certificate show them to be qualified may be examined by the Head teacher provided that he is satisfied that the claim is worth consideration and placed provisionally in the standards for which they are found fit, but such cases should be brought to the notice of the Inspector at the time of inspection.

Rule 26.—Admission of Pupils from unrecognised Schools

Admission shall not be made on the strength of leaving certificates from unrecognised schools. Applicants for admission from unrecognised schools, who have not previously attended a recognised secondary school, should be carefully examined and placed provisionally in the Standard for which they are found fit. If an applicant from an unrecognised school has previously attended a recognised school, he should produce a leaving certificate from the last recognised school attended and should be placed either

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in the standard in which he is entitled to be placed by that leaving certificate or carefully examined and placed provisionally in the standard for which he is found fit. Such cases should be brought to the notice of the Educational Inspector at the time of inspection.

Rule 27.—Production of Primary Standard IV Certificate

Except in special cases, children who speak a recognised regional language of the Province of Bombay, and have not attended a Secondary school will not be admitted to a secondary school, unless they produce a Certificate from the Head of the Secondary School to which they seek admission, or an Inspecting Officer of the Department, or the Administrative officer of the School Board of a Local Authority showing that they have passed Primary Standard IV, provided that instruction in such regional language is available in the locality in which the school is situated.

N.B. (*1*).—In the case of children able to acquire education through the medium of a recognised regional language of the Province admission to a Secondary (English) school shall not be made into classes above Standard I unless the pupil shows special cause and a level of attainment in English and other class subjects which would fit him for admission without disadvantage to the school.

N. B. (*2*).—No new pupils may be admitted to a Secondary (English) School when his age is substantially above the normal average age of the class, based on a calculation assuming regular progress in the school from age of entry as an infant.

Rule 28

The following shall be the maximum number of pupils to be admitted in each class of Secondary Schools:—

Standards I—III	...	36
Standards IV—VII of Secondary Schools or Standards V—VIII of Secondary (English) Schools	...	40

These limits will be subject to the following provisos:—

(*a*) that the room in which a class is held shall provide the requisite accommodation for the number of pupils actually admitted at the rate of not less than 10 square feet per pupil on the rolls;

(*b*) that in addition to the number allowed above for the top class of Secondary Schools the Head Master may admit not more than 10 pupils who rejoin the school after failure at the final examination;

(*c*) that there will be no objection to schools admitting in the beginning of the school year before the expiry of the migratory period prescribed in Rule 19, four pupils in Standards I—III of Secondary Schools in excess of the above limits provided that there is adequate accommodation for the number of pupils actually admitted and provided further that fresh admissions are not made to fill the vacancies above the limits.

Rule 29.—Duration of School Instruction

For the purposes of calculating attendance a day of attendance, except in the hot weather when the school may be held in the morning, shall mean not less than four hours of secular instruction given in the same day provided that once a week instruction for two hours a day will be accepted as a day of attendance. In special circumstances this period may be reduced with the permission of the Educational Inspector.

Rule 30.—Number of holidays in Secondary Schools

The maximum number of holidays, including vacations, to be enjoyed during a year in all recognised Secondary Schools should in no case exceed 105 days. This number does not include half holidays and Sundays.

Rule 31.—Application for Leaving Certificate

Every application for a leaving certificate should be made by the parent or guardian, either in person or by letter.

Rule 32.—Issue of Leaving Certificate

Applications for leaving certificates must be complied with without unnecessary delay.

Rule 33.—Fee to be charged for a Leaving Certificate

No fee shall in any circumstances be charged for leaving certificate if asked for within two years from the date of leaving the school or from the date of the result of the Matriculation Examination in the case of students who have appeared for the Matriculation Examination. After this period a fee of Re. 1 may be charged. A fee of Re. 1 may also be charged for the duplicate copy of leaving certificate or a certificate of birthdate or an extract from School Register.

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Rule 34.—Refusal to issue a Leaving Certificate

The only ground on which a certificate may be refused is (i) non-payment of fees due, or (ii) expulsion or rustication by the Director. In the case of rustication no leaving certificate may be issued until the expiry of the period for which the Director has debarred the pupil from admission to a recognised school.

Rule 35.—Entry of Examination results in the Leaving Certificate

If a pupil leaves the school after having failed at the examination of his standard, a note to that effect shall be entered in the remarks column of the leaving certificate granted to him by the Headmaster.

Rule 36.—Entry of birthdate in Leaving Certificate

Entries regarding the date of birth according to the Christian era and the standard in which studying in columns 4 and 10 of the form of leaving certificate (Appendix 5) should be made both in words and figures. These entries shall be in manuscript and not typewritten.

CHAPTER III

General Rules of Grants-in-aid

Rule 37.—Allotment for Grants-in-aid

Moneys annually granted from public funds for aiding secular education in the Province of Bombay are administered under the control of the Director of Public Instruction (or the Director of Industries so far as technical and industrial schools for boys are concerned) in accordance with the conditions set forth in these rules.

Rule 38.—Application for Registration for Grant-in-aid

Applications for the registration of educational institutions for grants-in-aid must be made (in the form of Appendix 2) to the Director of Public Instruction in the case of colleges and to the Educational Inspector or the Director of Industries, as the case may be, in the case of schools at least 6 months before the commencement (April 1st) of the official year in which the institution is to receive the grant. Those institutions, however, of which the permanent character is recognised, may be registered once for all. While only recognised institutions will be eligible for grant the following circumstances will be taken into consideration in disposing of the applications for grant:—

(i) Whether the institution supplies a want in the locality;

(ii) Whether the teaching staff is competent and adequate and whether it enjoys reasonable security of tenure and adequate retirement provision;

(iii) How far the institutions' own resources, exclusive of fees, are adequate to meet its necessary expenditure;

(iv) Whether the fees charged and the percentage of free students are reasonable; and

(v) Whether the money at the disposal of the Department can meet the application.

Rule 39.—Requirements of Registration

Educational Institutions will be registered for grant for the first time and will continue to be so registered thereafter provided they conform to the rules of recognition so far as those rules may be applicable to them.

Rule 40.—Grants subject to vote of Legislature

The payment of Provincial grants to aided institutions shall be subject to the proviso that the requisite budget grants are sanctioned by the Provincial Legislature. Notice of the probable reduction in any year will be given as soon as possible after the budget grants are passed and such reduction will continue in force until the notice is modified or cancelled.

Rule 41.—Conditions for the payment of maximum Grant

The rates of maximum grants admissible to different classes of Institutions are those laid down in this Code. The maximum grant thus admissible will be paid to those institutions only which satisfy in all respects the conditions enumerated in the rules laid down in this Code. Failure to satisfy the Department in regard to any of these conditions will entail a proportionate reduction of the maximum grants. The Director's decision as to whether the conditions are fulfilled in any case is final.

Rule 42.—Assessment of Grants

Grants will be assessed in accordance with the instructions issued from time to time by Government or by the Director as regards the admissibility of certain items of receipts and expenditure.

Rule 43.—Disposal of Surplus Receipts

If the receipts from all sources exceed the total expenditure, the saving shall be fully expended in the following year, or placed in a Reserve Fund; otherwise the grant will be liable to be reduced.

Rule 44.—Salaries Admissible for Grant

No salary in excess of what is considered to be adequate by the Director or what is actually received by a teacher or manager, whichever is less, and no part of salary which is refunded either directly or indirectly to the funds of a school, shall, without the previous sanction of the Director, be allowed to be included in the admissible expenditure on which the grant is claimed.

Rule 45.—Grants subject to Capitation Limit

The grant may also be reduced if the average grant per pupil would otherwise exceed an amount to be fixed from time to time by Government for educational institutions of each class.

Rule 46.—Payment of grant in the first year

Normally the grant paid in any year is the grant for that year, and is calculated upon the receipts and expenditure of the preceding year. But if a school has been established to meet an urgent demand or under peculiar difficulties temporary grants may be awarded and assessed upon the expenditure of the current year. Such grants shall not exceed one-half of the actual cost of the teaching staff, and shall be payble monthly, quarterly, or halfyearly, as may be required. As soon as the permanent character of the school is established to the satisfaction of the Educational Inspector it shall be made subject to the ordinary rules.

Rule 47.—Re-assessment or reduction of Grant

The grant assessed will ordinarily be continued to a school from year to year, provided that the aforesaid conditions are maintained. (Re-assessment of the grant is admissible on the application of the managers, provided that the Director recognizes that the existing grant is inadequate, and has funds available to meet the application. Applications for re-assessment must reach the Inspector not later than September 1st in the year previous to that in which re-assessment is sought.) Similarly the grant will be reduced by the Director after due warning given to the managers, if it is found that the provisions of the rules laid down in this Code are not duly maintained and that the school has deteriorated in general efficiency.

Rule 48.—Payment of Grant in special cases

If it can be proved that the attendance or efficiency of any school has through misadventure, for which the managers are not to blame, fallen greatly below the average of previous years, a sum not exceeding the grant earned in the preceding year, or the average grant of the three last preceding years, whichever is less, may, with the sanction of the Director, be paid to the managers.

Rule 49.—Enforcement of Rules of Discipline

The managers of all registered institutions are required to enforce the principles of discipline laid down in Appendix I to the Code. If these principles are not observed satisfactorily and the standard of discipline or efficiency of the institution has been impaired the grant-in-aid is liable to be reduced or withdrawn.

Rule 50.—Inspection of all Aided Schools

Aided schools will be inspected periodically and if necessary every year. The Inspecting Officer will satisfy himself that the condition of the school is satisfactory in respect of the points enumerated in the rules laid down in this Code. The Educational Inspector will then intimate to the Manager the amount of grant sanctioned and the Manager will forward to the Inspector a bill for that amount. Grants will be liable to lapse if not claimed within one month of the date of the Inspector's intimation and before 31st March of the year for which the grant is sanctioned.

Rule 51.—Payment of Advance Grant

When a school is permanently registered for aid, the ordinary grant may, in special cases, be paid in two instalments at the discretion of the Educational Inspector.

An advance grant equal to one-half of the previous year's grant may be given as soon as possible after the end of June each year to permanently registered schools of which the standard of efficiency is not in doubt. As a safeguard against an institution closing after it has received the first instalment of grant the Management should be required to sign an agreement to refund the amount if the school is closed before the end of the year.

Rule 52.—Special Grants for Furniture, Equipment, etc.

Besides grants on recurring admissible expenditure or building grants admissible under the Code, applications for special non-recurring grants on account of expenditure incurred on educational furniture and appliances, libraries, scientific and other apparatus for laboratories, workshops, or gymnasia will be dealt with on their merits, and according to the funds at the disposal of the Department. Such grants will in no case exceed—

(*i*) one-fourth of the admitted expenditure in the case of colleges;

(*ii*) one-third of the admitted expenditure in the case of Secondary schools;

and shall be given subject to such conditions as the Department may impose. The Educational Inspectors and the Inspector of European Schools have power to sanction grants under this rule up to a maximum of Rs. 1,000 according to the means at their disposal.

In the case of an Industrial or Vocational School the Director may raise the one-third limit to one-half of the actual expenditure.

Rule 53.—Drawing Grants

Special grants for drawing will be given according to the rules printed in Schedule I to the Code.

CHAPTER IV

Grant-in-aid of Secondary Schools

Rule 54.—Maximum Rate of Ordinary Recurring Grant

The ordinary Government grant shall in no case exceed one-half of the local assets or one-third of the total admitted expenditure of the school during the previous official year.

Rule 55.—Minimum Attendance for Grant

No grant will be paid for any Secondary School standard with less than an average daily attendance of 15 pupils, except in cases in which, in the opinion of the Director, a school is necessary.

Rule 56.—Payment of Suplementary Grants

In addition to the grant mentioned in Rule 54, a supplementary grant may be made on the recommendation of the Inspector, to any Secondary school for the efficient maintenance of which the ordinary grant is not sufficient. In considering the assignment of supplementary grants regard will be had to the improvement of the quality and pay of the teaching staff. It shall be a condition of such grants that they shall not be applied to the reduction of fees or subscriptions. Such supplementary grants shall in no case exceed one-third of the ordinary grant earned under Rule 54 and shall be exempt from the limitation imposed by it. Not less than two-thirds of the supplementary grants shall be spent on improving the salaries of teachers, but the remaining one-third may be spent on other special wants of the school. In the case of poor but deserving schools the Director may, on the recommendation of the Educational Inspector, raise this maximum to half the ordinary grant with the special object of improving the salaries and equipment in the above ratio. Such special grants may, at the discretion of the Director, and on the recommendation of the Inspector, be fixed for a period of three years.

In addition to the grants mentioned in Rule 54 and in this rule a supplementary grant not exceeding 5 per cent of the ordinary grant may be given to a girls' school for expenditure on books, slates, etc., for girls attending it and for money or other rewards for regular and punctual attendance. This grant is free of all conditions but the managers should keep a statement showing how it has been expended and should produce it before the Inspector when required.

Rule 57.—Grants-in-aid of English classes attached to Primary Schools

English classes attached to Primary schools shall be treated as "Secondary" for purposes of grant-in-aid, and the expenditure on them should be shown separately by Local Authorities in their accounts.

Rule 58

No English class attached to a primary school will be registered unless there are 20 pupils on the roll.

If a manager professes to be acting for an association, corporation, society or other body of persons, the following will also be required :—

(*ix*) A copy of the memorandum and articles of association or rules and regulations of the body on whose behalf he professes to be acting, so far as they relate to holding and dealing with immovable property, the receipt of grants-in-aid and the execution of deeds, or any other documents authorizing him to acquire the property on its behalf.

(*x*) His authority (if any) to receive the grant and execute the trust deed on its behalf.

(*xi*) Information whether the Association, etc., is registered and, if so, when, where, and under what Act.

(*xii*) The title-deed vesting the property in the association, etc. In any complicated case, or where there may be a doubt as to the validity of the title of the managers, the latter are recommended to avail themselves of adequate legal assistance in placing their title properly before the Law Officers of Government, and, if necessary, rectifying their title.

Note.—All documents of title shall, if the grant is sanctioned, be retained by Government who shall be entitled to the possession thereof.

Rule 83.—Commencement of Building Construction

A building, for which an application for a grant is to be made, is not to be commenced until the plans (including site plan) and estimates have been approved in writing by the Educational, Sanitary and Public Works Department authorities.

Rule 84.—Agency for the Construction of Buildings

The construction of buildings by private agency shall be permitted up to any amount subject to the following conditions :—

(1) That the plans and estimates are approved by the Public Works Department, Educational and Sanitary authorities ;

Note.—The permission of the Executive Engineer concerned should be obtained if the cost does not exceed Rs. 10,000 and that of the Chief or Superintending Engineer concerned if the cost exceeds Rs. 10,000 but does not exceed the limit of his powers. In all other cases the sanction of Government is necessary.

(2) That no deviations in the sanctioned plans are made without the previous permission, in writing, of the Executive Engineer; and

(3) That the Public Works Department authorities who approve the plans are satisfied as to the competency of the private agency by which the work is to be carried out.

Note.—As regards buildings in which reinforced concrete is used, they shall not be entrusted to private agency except in places where there are contractors who specialize in this kind of work.

Rule 85.—Production of a Valuation Certificate

A grant shall not be paid unless the Executive Engineer certifies that the work for which it is claimed is in accordance with the approved plans, is in good condition and is, to the best of his knowledge and belief, of a certain value, the amount of grant actually to be given depending on the value of the building as estimated by him.

Rule 86.—Grants for sites

A grant of money may be made for the purchase of a site in the same proportions as for building grants in rule 79, provided that, subject to such additions and alterations as the Educational Department may direct the conditions specified in this Chapter for building grants shall apply *mutatis mutandis* to grants for the purchase of sites. If a site required for building belongs to Government it may be granted free or else its estimated value may be recovered from the grantee, less the amount of a money grant calculated as above.

Rule 87.—Execution of Trust Deed

No portion of a building grant shall be paid to the managers of a school, unless and until they execute or agree to execute a trust deed or an agreement, as the case may be, in accordance with the requirements of the next following rule. If, however, the building is erected on a site already covered by a trust deed, a receipt may be sufficient.

Rule 88.—Execution of an Agreement

If the total amount of the building grant does not exceed Rs. 1,000 and the building is in the opinion of the Director of such a description that it is not worth while requiring

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the executing of a trust deed, the Director may accept from the managers a written agreement engaging—

(*a*) to maintain the building in proper repair ;

(*b*) to manage the school in accordance with the rules and regulations of the Educational Department ;

(*c*) to subject the school to inspection by that Department ;

(*d*) to use the building as a school to be devoted wholly to education and in part to secular education ;

and

(*e*) to keep the building insured in the names of the managers and the Governor of Bombay jointly, subject to the provisions of rule 89 ;

(*f*) in the event of default being made by the managers in any of the preceding conditions to repay on demand by the Director the aggregate amount of all building grants made by Government in respect of the school ;

In every other case the manager shall execute a trust deed in such form as shall from time to time be approved by Government, either generally or specially in this behalf embodying conditions regarding—

(*g*) the construction and maintenance of the building ;

(*h*) the insurance of the building, subject to the provisions of rule 89 ;

(*i*) the times at which and the instalments in which the building grant shall be paid ;

(*j*) the management and inspection of the school ; and

(*k*) such other matters as Government thinks necessary.

Provision shall also be made in every such trust deed that in the event of default being made by the managers in the performance of any of the conditions thereof—

(*l*) the building grant, or so much of the same as shall not yet have been paid, shall lapse ;

(*m*) the aggregate amount of the building grant or grants from time to time advanced by Government for the school shall be repayable to Government ; and (except in cases where the site is granted by a private person on condition that it should revert to him in the event of the site ceasing to be used for a school or on any other condition which precludes a transfer to the Governor of Bombay);

(*n*) for the purpose of recovering any moneys so due, Government may enter upon and take possession of and sell the building ; and

(*o*) the building-site, if granted by Government, may be resumed by it, and the building, if any, standing thereon may be entered upon and taken possession of by Government and may be used or disposed of by Government at its discretion, for educational purposes, or, if it shall appear expedient to Government, for any other purpose.

Every such trust deed shall be prepared at the charge of the managers by the Law Officers of Government.

Note.—With reference to (*f*) and (*m*) above, if Government is satisfied that the school was closed through no default of the managers, account may be taken of any depreciation in the value of the building after expert revaluation which will take account of the state in which the building has been maintained by the managers and a proportionate reduction may be made in the amount to be claimed from the managers. If the Government grant extends to the acquisition of a site account may be taken after expert revaluation, of any enhancement in the value of the site and the proportionate share in such enhancement may operate as a set-off, either total or partial against the reduction to be made in the refund due in respect of the grant for buildings.

Rule 89.—Insurance of Buildings

Buildings in respect of which a building grant has been given must be insured, irrespective of their value, for a sum representing the value of all work above plinth level, including flooring, in the name of the school managers and the Governor of Bombay, jointly, provided that it shall not be necessary to insure a school building if the Executive Engineer certifies that in his opinion the risk of fire is not sufficiently great as to render insurance desirable.

Rule 90.—Other Building Grants

In addition to building grants as aforesaid Government will consider applications for grants-in-aid of building colleges, boarding-houses, laboratories, libraries, observatories, school workshops, or gymnasia, or for providing play-grounds, provided that funds are available, and subject to such of the foregoing conditions as may be declared applicable by the Department, or to any others that may be imposed. Grants made under this rule are exceptional, and Government are not pledged to give any fixed proportion, but will deal with each case on its merits and subject to financial considerations.

APPENDIX 1

Rules of Discipline in Educational Institutions

The Managers of recognized Educational Institutions are required to enforce the following principles of discipline:—

(1) Strict regularity and implicit obedience must be exacted in class;

(2) Any reported or observed objectionable conduct out of institution should be punished;

(3) Parents must be given to understand that they cannot dictate to managers, but that the managers have a right to say on what conditions they will admit or retain pupils in their institutions;

(4) Politeness and courtesy of speech and conduct should be inculcated, as well as cleanliness of dress and person;

(5) No child suffering from a contagious or infectious disease shall be permitted to attend any recognized institution.

(6) Persons at study who are over sixteen (16) are free to attend all public meetings. Persons at study who are under that age may with the consent of their guardians be prevented by the heads of their schools or colleges from attending any particular meeting which the heads of the schools or colleges consider objectionable.

(7) Persons at study who are over eighteen (18) are free to become members of organizations other than those whose policy or programme involves the dissemination of ideas of violence or the use of violence.

(8) Persons at study may take part in the activities of all educational, social and religious associations.

(9) Such persons may not, however, become members of the executive or managing committees of any political or religious organization or organizations likely to result in communal antagonism or take an active part in furthering their activities.

(10) The head of the institution will be the final judge whether a particular meeting, organization or activity falls under any of the aforesaid heads. The final approval of the Provincial Government will be necessary only as regards the character or types of public meetings or organizations with which persons at study desire to associate themselves.

(11) School masters and teachers who are Government servants are at liberty to attend all public meetings, but shall play no part in such meetings which might suggest that they favour a particular party.

(12) School masters and teachers who are the employees of local bodies like municipalities and local boards, etc., are at liberty to attend all public meetings subject to the rules (if any) regarding their conduct and discipline which may be prescribed by Government or by the local bodies themselves under the powers vesting in them by law.

(13) School masters and teachers in aided or unaided but recognized educational institutions are at liberty to attend all public meetings and become members of organizations other than those whose policy or programme involves the dissemination of ideas of violence or the use of violence. The head of the institution will have final authority so far as his assistants are concerned to decide whether a particular organization can be said to disseminate ideas of violence or the use of violence. If he feels any doubt as to whether he himself should or should not join any particular organization, he should refer the matter to the Director of Public Instruction whose orders will be final.

(138) 154

APPENDIX 2

Form of Application for recognition of Schools or for their registration for grant (*see Chapter I, rule 3 and Chapter III, rule 38*)

Locality and description of School.	Class of School.	Name of proprietor, society or other controlling body.	Date of establishment.	Names, ages and places of education of the Headmaster and Assistant masters, with University standing (if any) and Departmental Certificate and pay.	Other employment (if any) of teachers.	Rate or rates of fees.	Amount of fees received during the 12 months preceding the application.	Average annual income from all sources exclusive of fees.	Average annual expenditure.	Number of pupils in each standard during the year for which a grant recognition is requested.	Name and residence of parties to whom reference may be made.	Name and postal addres of Secretary or correspondent who will be responsible for correspondence with the Department.
1	2	3	4	5	6	7	8	9	10	11	12	13

663—5

APPENDIX 3

FORM OF GENERAL REGISTER [*see Chapter I, rule 9 (i)*]

Register No.	Name in full.	Caste with sub-caste.	Place of birth.	Date of birth, month and year according to the Christian era.	Attestation of parent or guardian.	Last School attended.	Date of admission.	Paying or free.	Standard and class into which admitted.	Progress.	Conduct.	Date of leaving.	Standard and class from which left.	Remarks (Reason for leaving, fees paid or (unpaid, etc.).
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

(159) 155

APPENDIX 4

FORM OF ATTENDANCE REGISTER [*see* Chapter I, rule 9 (*ii*)]

School or Institution

Attendance Roll of Class *Standard* *for the month of* *194*

Master/Mr.

Certificate by the Head or Manager of the School

I hereby certify that this Attendance Roll has been made up daily by the master in charge of the Class; that every pupil has received not less than a full day's instruction, as prescribed by the rule, on each day on which he has been marked present; and that the average attendance* of the class for the month is

* To find the average attendance of a Class for the month:—Add together the daily totals of Boys marked present and divide the sum by the number of times the School has met during the month; the quotient is the average number in attendance.

N.B.—No erasures of any kind are permissible in this return; corrections should be made in red ink and initialled.

No.	Name of pupil.	Attendance for the month.					Number of attendance.
		1	2	3	4	5 and so on.	
1							
2							
3							
etc.							

N.B.—Boys present to be marked P: boys absent without leave A; boys absent from sickness S and boys absent with leave L.

APPENDIX 5

LEAVING CERTIFICATE (*see* rule 17 in Chapter II)

Register No. of the Pupil

Name of School—

Name of pupil in full.	Race and caste (with sub-caste).	Place of birth.	Date of birth, month and year, according to Christian era.	Last School attended.	Date of admission.	Progress.	Conduct.	Date of leaving School.	Standard in which studying and since when.	Reason of leaving school.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12

Certified that the above information is in accordance with the School Register.

Dated 194 .

Class Master.

Head Master.

By order of the Governor of Bombay,

W. GRIEVE,

Joint Secretary to Government.

20

Education and P.H.(B.2.) Dept.

Please compare the ~~existing~~ relating to grants in the other Provinces, with those we follow here. I should like to have tabular statements separately for Elementary schools, Secondary schools and Colleges and in ~~case~~ each case separately for Local bodies and private aided managements.

I should like to have this in the course of 3 or 4 days. H.M. wanted the information to be compiled

M.V.S.
6-5-47.

A note is submitted hereto. A tabular statement is also submitted.

15/5/47

S

I was out yesterday. Will see Secretary - Revenue Dept. - tomorrow.

15/5/47

Reports received from Travancore, Cochin and the North West Frontier Province have been posted in the Statement relating to grants to elementary schools, secondary schools and colleges

A-S XII
10.6.47

9/6/47

from Public Works Department which have been forwarded for favour of information and necessary action.

Please post them quickly.

11/6/47.

The Reports have been posted.

A-S III
28.6.47

28/6/47

26/6/47

A note is underlined below

(161) 157

I. Madras Province.

Elementary Schools - Local Bodies - Subsidy for the construction of ~~school~~ buildings.

Subsidies are given to local bodies for the construction of buildings for elementary schools from Provincial funds. Generally the subsidy is limited to one half of the estimated cost or the actual cost of construction. The other half should be met by the local bodies from their own funds. If local bodies raise any private subscription towards the building scheme, such subscription can be taken as a set off against the local body's share. If the subscription exceeds the local body's share of the building scheme, the Government subsidy will be reduced to the extent of the difference between the amount of subscription realised and the local body's share of the cost.

Application for building subsidies from local bodies should be submitted to Government through the D.P.I. before the end of July every year. These applications are consolidated by the Director and submitted to Government with his recommendations for being considered as Part II schemes.

II. Elementary schools under private managements.

Grants to aided elementary schools are sanctioned for any of the following purposes:-

(1) Purchasing, erecting, enlarging or improving school houses or buildings or students' hostels including residential quarters for the warden or other staff and for sinking wells.

(2) Executing extensive alterations to buildings.

(3) Acquiring land for school, hostel or playground purposes.

The grant is limited to one half of the cost of the schemes, the other half being met by the management.

Managements should apply to the D.P.I. through the D.E.O. explaining the need for school buildings. After the application is accepted by the Director, the management should submit to the D.P.I. plans and estimates of the building scheme prepared by a recognised professional architect, a member or associate member of the

P.T.O.

Institute of Civil Engineers, a gazetted officer of the P.W.D. present or retired, a present or retired Dt. Board Engineer, who will be responsible for the structural stability of the building. The Director maintains in his office a list of works approved by him. He usually suggests a lump sum provision for grants to aided elementary schools. If the provision suggested by the Director is accepted by Govt, the proposals are treated as a Part II Scheme. Subject to the existence of budget provision, the Director is competent to sanction grants not exceeding Rs. 500/-.

His powers of sanction are limited to Rs. 300/- so far as grants for sinking wells are concerned. If the grant payable exceeds the limit, the sanction of Government is necessary. The title deeds relating to the payment of grant are scrutinized by the Government Solicitor. A completion certificate is also insisted upon before the grant is disbursed.

Managements should ~~ex~~ execute a deed of mortgage to Govt. in the prescribed form and get it registered . One half of the Govt. Solicitor's fee and the registration charges are borne by the Govt. Buildings erected out of Government grants should be used for locating schools for at least 40 years when the grant exceeds Rs. 1,000/- or 20 years when the grant is ~~below~~ Rs. 1,000/-. If within that period the building is diverted to other purposes, the managements are liable to repay a proportionate share of the grant.

In connection with the introduction of the scheme of compulsory elementary education, the Government have decided to sanction full grants for the erection of sheds in compulsory areas. The grant is limited to a maximum of Rs. one thousand ~~for sheds~~ and it is payable both for schools under local bodies and for schools under private managements.

10.5.47 12-5-47

G.O. 1915 Edn. 9/12/41 (B)

(K)

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L.& P.H.(B.1) 158

Secondary Schools and colleges - Local bodies and aided institutions - Subsidies towards the cost of construction of buildings.

Secondary Schools - Local bodies.

Subsidies not exceeding one-half of the cost may be given towards the cost of acquisition of sites and construction of buildings for secondary schools under the control of local bodies opened prior to 1930. Prior to 1941, subsidies for the purpose were being paid so far as funds permitted without restriction. Since 1941, no subsidy is paid for the construction of buildings for secondary schools for boys, unless a special case is made out that a subsidy is essential i.e. the local body is not in a position to finance the scheme entirely from its own funds even by raising a loan. This restriction does not apply to building schemes for secondary schools for girls or for the provision of play-grounds for all schools. Loans are also granted to local bodies for meeting their share of the cost of the approved building schemes.

2. Detailed instructions have been issued for the guidance of local bodies in submitting applications for subsidies and loans from Provincial funds. The applications should be submitted in the prescribed form through the D.P.I., so as to reach him not later than the 1st August. The Director will forward them to Govt. with his remarks before the 1st October every year for consideration in connection with the budget estimates for the next year as a new scheme of expenditure.(Part II Scheme). The application will be liable to be rejected, if the detailed plans and estimates for the work have not been approved and accorded technical sanction by the competent authority and the

local

local body concerned is not in a position to meet its share of the cost. The payment of subsidy and loan will be restricted only to those schemes which are considered to be essential and urgent by the D.P.I. Orders sanctioning the payment of subsidies and loans are issued after the budget is passed. The subsidies are disbursed on the post-payment system in instalments on production of certificate of the expenditure actually incurred on the execution of the work every year. Subsidies exceeding one half of the cost are given only in very exceptional cases.

Secondary Schools under private managements.

Grants ~~are~~ not exceeding one half of the cost may be given for acquisition of land for school, hostel, or playground purposes, for purchasing or constructing or improving school houses or buildings or students' hostel. Applications for building grants should be submitted in the prescribed form through the D.E.O., accompanied by such outline plans and estimates as will enable the Director to judge the suitability of the proposal from an educational point of view. If the Director considers the scheme in general as essential and suitable, the Correspondent of the school should submit (for the approval of the DPI) detailed plans, specifications and estimates prepared by a recognised professional Architect or Engineer ~~from the approval of the D.P.I.~~ The D.P.I. will then recommend to Govt. the inclusion of the schemes in the list of approved works maintained by him. The inclusion of a work in the list implies no sort of liability on the part of Govt., legal or moral, for making a grant, though the management will not be precluded thereby from applying for a grant after buildings are completed. The D.P.I. recommends for the consideration of Govt. each year such new schemes out of the list as he considers deserving of grants in

connection

Rule 51 - Grant in Aid Code p7 of Bk no 40

Rules 3 p 8 of do

Rules 3.A - do.

connection with the budget estimates for the ensuing year. The grants are sanctioned by Govt. after the budget is passed. The D.P.I. authorises the payment of grants in each case out of the funds placed at his disposal for the purpose. When a grant is sanctioned, the management will be required to execute a deed of mortgage of the property concerned or deed of acceptance in respect of the grant payable in the appropriate form of deed prescribed. No payment of grant will be made before the Govt.Solicitor declares the title of the management to the property to be in order. The grant will be disbursed only after the work is completed on production of a certificate in the prescribed form signed by the Architect or Engineer in charge of the work to the effect that the building or buildings have been completed generally in accordance with the plans and specifications approved by the D.P.I. ~~+~~ another certificate signed by the Correspondent himself specifying the total amount actually spent on the buildings. In cases where no qualified Engineer was in charge of the work, the grant will be paid on production of the valuation statement of the Executive Engineer in charge of the Division. In the case of buildings or lands acquired, the grant will be based on the Collector's estimate of value or the actual of acquisition or purchase, whichever is less.

Rule 54 - p 9 of Bk no 40

Rule 61 of the Grant in Aid Code Bk no 40

The Manager of the institution receiving a grant will be required to refund the grant or a portion of it, if the land or building in respect of which the grant was made, ceases to be used for

educational

educational purposes approved by Govt, within ~~the~~ a ~~specified~~ specified period. The amount to be refunded shall bear the same proportion ~~of~~ to the total grant as the unexpired portion of the period for which the building or land is secured against diversion bears to the total period.

Colleges - under local bodies. - No subsidy towards the construction of buildings is admissible to any of the existing Municipal Colleges for boys, unless a special case is made out that a grant is essential i.e. the local body is not in a position to meet the entire cost even by raising a loan. There is no such restriction in respect of the colleges for women, but the Govt. have not so far made any subsidies to local bodies for the construction of buildings for colleges, as in their opinion, it is not a normal function of local bodies. They will not also make subsidies for the construction of buildings for colleges to be newly opened, unless they are opened in the interests of backward areas or backward communities, with the previous approval of Govt.

Colleges under private managements. - The procedure for building grants is the same as that followed for aided secondary schools, with the exception that in the case of first grade colleges, the application for grant may be submitted to the D.P.I. direct, instead of through the D.E.O. No building grant will be made for the existing colleges for boys, unless a special case is made out that a grant is essential, i.e. the management is not in a position to meet the entire cost from its own funds. No grant will be made for the construction of buildings for

new

new Arts Colleges or existing Arts Colleges designed to provide for an increase in the number of students who can be admitted to Universities, unless they are intended to serve the interests of backward areas or backward communities. There is no such restriction in regard to building grants for Arts and Training Colleges for women or for Technical or Professional Colleges for all.

10 of default the aggregate amount of the building grant advances by Govt. will be repayable to Govt.; the building site, if granted by Govt. may be resumed by Govt.; the buildings, if any, standing thereon, may be resumed by Govt. & may be used or disposed of by Govt. at its discretion for educational purposes, or if it does appear to Govt., for any other purposes. (vide Bombay Rules).

Cp. C.P. & Berar.

Grant are subject to the conditions of which Govt. will have the absolute right to purchase the building in preference to any other purchaser.

In respect of grants to be made in future we can make, by Executive order, to have conditions like these ordered as; but if we want them to operate in respect of grants previously sanctioned, we will have to legislate, & then points may be taken vide in connection with the piece of legislation already contemplated by us for putting in certain provisions on the British model.

1/7/47

H.M. (Edn.) 2/7/47

This is a short account of the various conditions attached by the various Governments on Capital grants to educational institutions. We have put in proposals for drafting a bill on the model of the English law saying that any educational institutions which have taken grants from Government should not be alienated or used for non-educational purposes except with the permission of the Government or on payment of the whole grant received by Government. It was necessary for us to study the position in other provinces which governs Capital grants and so, we wrote to the various Governments and have received the literature in this file. The literature has been analysed and tabulated and the Secretary's remarks above point out the salient suggestions which we may take from them.

I understand from the above that the rules in the North West Frontier Province are as follows:--

That the Government will retain the lien on the buildings on which Capital grants have been given by Government in case they are not used for educational purposes.

In Bombay the conditions are as follows:

(a) In case the buildings for which grants are received, are not used for educational purposes, the amount of the building grant advanced by Government shall be repayable to Government;

(b) The building site if granted by Government may be resumed by Government;

(c) The buildings if any standing thereon may be resumed by Government and may be used or disposed of by Government at their discretion for educational purposes, or, if it should appear to Government, for any other purposes.

The rules under the Central Provinces and Berar Government seem to be that if the conditions of grant are not satisfied, the Govt. will have the absolute right to purchase the building in preference to any other purchaser.

In view of these remarks, it is up to us to come to a conclusion as to what law we shall make with reference to Capital grants. It may be as follows:

(1) No buildings for which grants have been given shall be used for any non-educational purposes or kept closed without being used for educational purposes without the sanction of Government. If it

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so happens, it is open to Government to do either of the following things:

(a) To claim back the full grant that was given by Government for the building;

(b) The building site granted by Government may be resumed by Government;

(c) The Government will have the first claim to acquire the building for educational or any other purposes that they think fit paying the compensation for the other half invested by the managements.

(c) The buildings if any standing thereon, may be resumed by Government and may be used or disposed of by Government at their discretion for educational purposes or if it should appear to Government, for any other purposes;

(d) If the land is not given by Government and the Government had given only a half grant, the Government will have the first claim for acquiring the building for educational or any other purpose that they think fit, paying compensation for the other half invested by the management.

This may be sent to the Legal Deptt. and these clauses may also be asked to be incorporated in the draft of the new bill in this connection.

TSA
12-7-47

SECRETT. EDN. ARTS DEPT.
17 JUL 1947
GOVERNMENT OF MADRAS

This has been included in the draft Memorandum put up in Lf

Please see my note Secn.

29/7/1947

29/29

1/10 (Cr.)

(166) 162

This file may be put along with the Madras Education Buildings Amendment Bill file for ready reference about the conditions obtaining in other provinces.

ISA
24-1-48

ELEMENTARY SCHOOLS

MADRAS

Local Bodies — **Private management.**

1. Building grants are restricted to one half of the ~~estimated~~ actual cost. In the case of local bodies, the Govt. grant and the local bodies' share will be liable to revision with reference to the subscriptions realised from the Public.

2. Applications for building grants should be submitted to Govt. — Applications should be submitted to the D.P.I. through the D.E.O. or Inspectress.

3. The applications are considered as Part II Scheme proposals. — The D.P.I. Scrutinizes the applns. and submits proposals to Govt. for the inclusion of lump sum provision for bldg. grants.

4. The bldg. Subsidies are sanctd. by Govt. — The Director sanctions grant upto certain limit; in other cases, he will disburse the grant after getting the approval of Govt.

5. In the case of schools under Private Managements, the managements should execute a deed of mortgage in the prescribed form. Bldgs. constructed out of Govt. grant should be used for locating schools for atleast a period of 20 or 40 years according as the grant sanctd. is ~~below~~ 1000/- or more. In the case of local bodies, these conditions are not imposed.

6. In connection with the scheme of compulsory Edn. grants are given for erection of sheds for schools, at Rs 1000/- for 2 sheds. A shed should be constructed in consultation with the Inspecting Officers.

CENTRAL PROVINCES

Bldgs. grants are limited to one third of the cost.

Applns. for building schemes which do not cost Rs. 5000/- should be made to D.P.I. In other cases the approval of "Local Admn." is necessary.

Managements of school should execute a trust deed under which if a bldg. constructed out of Govt. grant is directed to other than edl. purposes, the management are liable to repay a portion of the grant.

BOMBAY

Grants are paid only to bldgs, erected in connection with compulsory education. The grant is limited to one half of th cost in Hl. areas and two thirds of cost in other are Payment of grants for bldgs. erecte in non-compulsory areas is left to e discretion of Gov

Managers shou enter into ag ment with Gov in the form p scribed by the fore the gran sanctd. Bldg receiving a from the Pro funds must i ably be insur against the fire.

Bihar

Grants for school bldgs. are ordinarily fixed at double the amount subscribed locally or alloted from the balance in hand of the school.

Applns. for grants should be made to the D.P.I.

Grants for the ely. school are sanctd. by the ~~Comnr.~~ DPI

Managements should execute an agreement, the terms ~~of~~ which are settled with reference to the merits of each case.

United Provinces.

Building grants to local bodies are given only in connection with the scheme of compulsory education The grant is limited to two-thirds of the estimated cost. As regard private schools, the grant is deter mind with reference to the needs of the case.

Applications should be made to the D.P.I.

Grants to Private schools are dist by the D.P.I. In the case of loc bodies, it appears that the subsidi are sanctioned by Government.

Managements of schools ~~and local~~ should enter into an agreement in to the receipt of the grant and sh abide by the rules in the Edl. cod If bldgs. erected out of govt. gra utilised for purposes other than the local Govt. have a right to re a portion of the grant

United Provinces.

Building grants to local bodies are given only in connection with the scheme of compulsory education. The grant is limited to two-thirds of the estimated cost. As regards private schools, the grant is determined with reference to the needs of the case.

Applications should be made to the D.P.I.

Grants to private schools are disbursed by the D.P.I. In the case of local bodies, it appears that the subsidies are sanctioned by Government.

Managements of schools ~~and local bodies~~ should enter into an agreement in regard to the receipt of the grant and should abide by the rules in the Edl. code. If bldgs. erected out of govt. grants are utilised for purposes other than edn, the local Govt. have a right to recover a portion of the grant

Travancore

Building grants are limited to one third of the cost and are payable to managements of private schools. The

In the order sanctioning the grant a time limit is specified for the completion of the building. If the building is not completed within the time stipulated the grant will lapse.

Managers should enter into an agreement with the Govt. which will embodied the conditions under which the grant is given. The important condition is that if the Manager violates the terms of agreement within a period of twenty years, he will have to refund the grant.

Orissa

Building grants are given to schools subject to the following conditions:-

1. the school should be administered by a Governing body or a managing Committee;

2. the building should be erected to the satisfaction of the Supdtng. Engineer;

3. the school should be conducted in accordance with the rules framed by the Government;

4. the building for which the grant is sanctioned should be used for Edl. purposesfor a period of atleast 20 years.

North West Frontier Province.

Building grants are limited to one half of the cost of the schemes.

Applns. for grant should be made to the Inspector of Vernacular Edn. and the Deputy Commissioner.

The Govt. accords general sanction to the payment of the grants. The D.P.I. should call for from managements plans and estimates and obtain and undertaking from them that the management's share has been secured. Managers should execute an agreement with the Govt. in the form prescribed. The Govt. retain a prior lien on the bldgs in the case they are used for Edl. purposes.

North West Frontier Province.

Building grants are limited to one half of the cost of the schemes.

Applns. for grant should be made to the Inspector of Vernacular Edn. and the Deputy Commissioner.

The Govt. accords general sanction to the payment of the grants. The D.P.I. should call for from managements plans and estimates and obtain and undertaking from them that the management's share has been secured. Managers should execute an agreement with the Govt. in the form prescribed. The Govt. retain a prior lien on the bldgs in the case they are used for Edl. purposes.

MYSORE

Buildings grants are restricted to one-half of the estimated cost of the work. Managements should consult that the Deptt. and should submit plans and estimates for the approval of the Director.

The management should execute an agreement in the form prescribed.

The building should be completed within a period of two years. Grants can be claimed on works partially executed.

The grants are disbursed by the D.P.I. Buildings erected out of Govt. grants should be utilised for locating schools for a period of 40 years failing which the management is liable to refund a portion of the grant drawn for the bldgs. in proportion to the period of usage.

Grants are also paid for purchase of bldgs. on the same terms as for the construction of the buildings.

Objects of aid.	Madras.	Bombay.	Bihar.
	Grants may be sanctioned for. (1) Purchasing, erecting, enlarging or improving school houses or buildings or Students' hostels. (2) Executing extensive alterations & repairs to buildings (3) Acquiring land for school & hostel.	Grants may be given for (1) erecting, purchasing School buildings. (2) purchase of a site	Grants may given for the acquisition of land, for the preparation of the sites, & for the erection, extension or purchase of buildings — Grants may in exceptional Cases be made for paying debts incurred for school sites & buildings with the sanction of Govt.
Conditions of grant.	In the case of new buildings, extensions or alterations, must have been commenced of their necessity & have approved their character. Works commenced before obtaining special permission of the Director will not be eligible for grant. The buildings shall be devoted to educational purpose The designing & construction of buildings shall satisfy the sanitary & hygienic requirements laid down by the Department.	Before a building grant is sanctioned the following must be satisfied (1) that the means required have actually been raised & are available (2). that the building is intended for & will be devoted to educational purposes & that it is suited as to site & in part to secular education; character of the requirements of the locality where it is designed to build it (3) that the plans, estimates, & specifications are satisfactory (4) that the title of the managers to the site on which the building is to be erected is good & in order & (5) that the building will be constructed within a fixed time if the grant is given.	The managers must satisfy the sanctioning authority (1) of their ability to defray their share of the expenditure (2) that the building is intended for & will be devoted to an educational purpose and in part to secular education (3) that their title to the site on which the building is to be erected is in good order. (4) no steps should be taken to carry out the work for which a grant is required with out the sanction of the Dept
Procedure for submission of applications for grants	Applications in the prescribed forms should be sent through the DEO accompanied by such outline plans to enable the DPI to judge the suitability of the proposal from an educational point of view. If the Director considers the Scheme in general as essential & suitable	Applications for building grants must be made in the prescribed form to the DPI who will dispose of them in accordance with the provisions of the Code to meet & his disposal. The sums to be allotted annually is fixed from time to time for terms of five years. The allotment of the sum between the different classes of schools	Applications should be made in the prescribed form to the Inspector accompanied by full plans & estimates which must be signed by the person who has drawn them up & the correspondent of the school.

	United.	Baroda.
	Grants may be given for the purchase of sites, purchase, erection, improvement & enlargement of buildings for schools or additions to them.	
	Grant. General conditions on which grant is given are (1) The school must be under the management & inspection of a Committee which is approved by the Director (2) The building must be erected in accordance with the plans & estimates previously approved by the Director & shall be completed to the satisfaction of the Engineer & within a specified period (3) The school shall be open for the inspection by the officers of Govt & shall be managed in accordance with the rules & instructions of Govt (4) The school shall be conducted to the satisfaction of Govt	
	Applications for grant must be made to the Director of Public Instruction in the prescribed form. A formal written application must be made to the Director stating precisely what is required but need not be in any particular form. After obtaining the information required for a decision on the merits of the proposal the Director shall submit	

Limited Provinces.

Grants may be given for the purchase of sites, the erection, purchase, enlargement, improvement or repairs of schools or hostels attached to them.

p 105 of the book

Gen. Conditions on which grant is given are:

(1) The school shall be open to inspection by the inspecting officers of the Govt. or by any Sanitary or medical or other officers as may be authorised by Govt. to inspect.

(2) The school should be regd under the Societies Registration Act.

(3) Change in the Constitution of the body shd be done with the approval of the Inspector or Inspectress & shall make suitable arrangements for health, recreation & proper sanitation.

(4) Should keep accts of income & expen in the prescribed form & open to Exam by the auditors employed.

(5) Shall not appt untrained graduates permanently & keep a P.F. to teachers.

(6) If the building is used for purposes other than Schools the Govt shall have powers to recover such portion of the proportion the then market value of the bldg.

p 107 of the book — p 108 of the book.

Plans & estimates for the bldg shd be prepared by a designing agency approved by Govt or an Engr. or Architects with previous approval by Govt & should be sent with DPI

Travancore

page 73 (2nd)

Grants may be sanctioned for (1) Construction and extension of buildings;

(2) Construction and extension of gymnasium;

and (3) purchase and lay-out of Playgrounds.

(2nd) page 78

General conditions on which grant is given:-

(1) All grants should be given impartially and on principles of strict religious neutrality.

(2) No grant shall be given in consideration of a particular religious instruction.

(3) Grants will be withdrawn when the conditions of recognition are withdrawn or ceased to be fulfilled.

(4) The manager applying for a grant should declare to abide by the conditions relating to recognition

(5) No part of the income from the institution shall be utilized for other than Educl. purposes.

(6) The manager shd. not engage in any political agitation.

(7) Grants sanctioned to the institution do not become the manager's property until the grant is actually drawn from the treasury

(8) Grants to institutions will be made purely in consideration of merits.

pp 80-81 (2nd)

(9) Applications for grants for a scheme should be made to the sanctioning authority at any time in prescribed form accom

North Western Province.

99 (2nd)

Grants may be given for the purchase of land for ~~the~~ scheme or for purchase, construction and extension or improvement of buildings and hostels.

pp 99-98 (2nd)

General conditions on which grant is given:-

(1) Grants are given impartially, without reference to religious instruction imparted in schools.

(2) Grants may be reduced, suspended or withdrawn if the discipline, organisation or instruction in the institution is not satisfactory.

(3) Grants are liable to be withdrawn from a school if the management or the staff take part in an agitation directed against the Government.

The Govt. have empowered the DPI to reduce or disallow expenditure which is obviously inadequate or extravagant.

(4) The School receiving grant should be a recognised school.

107-108 (2nd)

Application for a building grant must be made through the Inspector of Vernacular Edn. and the deputy Commr.

Orissa

page 111 (2nd)

Grants may be given towards the creation, purchase, improvement or repair of buildings for schools.

page 111 (2nd)

General conditions on which grant is given:-

(1) The School shall be under a regular governing body or managing committee the constitution of which shall be approved by Govt.

(2) The buildings shall be maintained in good repair.

(3) The property shall yield no pecuniary returns & the School authorities have for the purpose of the school.

(4) The School shall be open to inspection by the officers of Govt.

(5) The school shall be managed according with the grant-in-aid rules and to the satisfaction of Govt.

(Information not available)

Mysore

64

Grants may be given to purchase, erect, or enlarge school buildings hostels and other buildings.

(2) to execute alterations or repairs to buildings

(3) to acquire land for school, hostel or playground.

pp 2-21-5

General conditions:-

(1) Grants will be given on principles of strict religious neutrality.

(2) Attendance at religious instruction to be voluntary.

(3) Schools to be open to all Communities

(4) School to be recognised

(5) Income to be of a permanent nature and to be devoted to Educl purposes only

(6) Staff not to engage in political agitation.

(7) Schools to be open to Inspection and audit

(8) The building should be erected in accordance with the plans and estimates approved by the Director.

page 112-1 in the book

Application for building grants in the prescribed form shall be submitted to the concerned Inspecting officer, accompanied by

Building grants - conditions.

	Madras.	Aided Secondary Schools Bombay		Central Provinces & Berar	Bihar.
Objects of aid.	Grants may be sanctioned for. (1) Purchasing, erecting, enlarging or improving school houses or buildings or Students' hostels. (2) Executing extensive alterations & repairs to buildings (3) Acquiring land for school & hostel.	Grants may be given for (1) erecting, purchasing enlarging or rebuilding school buildings. (2) purchase of a site for school buildings		Grants may be given to managers of recognised schools in aid of erecting, purchasing, enlarging or rebuilding school buildings, premises and hostels	Grants may given for the acquisition of land, for the preparation of the sites, & for the erection, extension or purchase of buildings - Grants may in exceptional cases be made for paying debts incurred for school sites & buildings with the sanction of Govt.
Conditions of grant.	In the case of new buildings, extensions or alterations, must have been commenced of their necessity & have approved their character. Works commenced before obtaining special permission of the Director will not be eligible for grant. The buildings shall be devoted to educational purpose. The designing & construction of buildings shall satisfy the sanitary & hygienic requirements laid down by the Department.	Before a building grant is sanctioned the Govt must be satisfied (1) that the means alleged to have actually been raised & are available (2). that the building is intended for & will be devoted to educational purposes & that it is suited as to site & character of the requirements of the locality where it is designed to build it (3) that the plans, estimates, & specifications are satisfactory (4) that the title of the managers to the site on which the building is to be erected is good & in order & (5) that the building will be constructed within a fixed time if the grant is given.		The managers must satisfy the sanctioning authority (1) of their ability to defray their share of the expenditure (2) that the building is intended for & will be devoted to an educational purpose and in part to secular education (3) that their title to the site on which the building is to be erected is in good order. (4) no steps shall be taken to carry out the work for which a grant is required without the sanction of the Dept	General conditions on which grants will be made & Govt are (1) the building shall be used for any other than educational purpose. power to the lapse of a period of 20 years from the date on which the grant is given (2) the school shall be under a regular management, a Committee the Constitution of which approved by the creator (3) the building shall be erected in accordance with the plans, estimates, & the Director & the inspection completed to the satisfaction of the Engineer & on behalf with a certificate (4) the School shall be open for inspection by the officers & shall be in charge of a teacher who will the grant-in-aid Code to the satisfaction of the Director. A formal application must be made in writing stating precisely what is required but need not be in any particular form. After obtaining such information as required for the proposal, the merits of the proposal & submit the Inspector shall through the Inspector with a report to the Director of Public Instruction who should state his opinion whether the proposal should be approved by the Director. Comments. The Inspector shall then forward the application to the Director with his recommendations. After the application
Procedure for submission of applications for grants	Applications in the prescribed forms should be submitted through the DEO accompanied by such outline plans to enable the DPI to judge the suitability of the proposal from an educational point of view. If the Director considers the scheme in general as essential & suitable the Correspondent will be required to detailed specifications & estimates in duplicate prepared by a recognised professional Architect or Engineer who will be responsible for the structural stability of the building. no building	Applications for building grants must be made in the prescribed form to the DPI who will dispose of them in accordance with the provisions of the Code & the amount to be allotted annually is fixed from time to time for terms of five years. The allotment of the sum between the different classes of schools is fixed for each year by the DPI with the sanction of Govt. Applications in each class of schools will be considered according to priority of receipt but the Director has reserves, to modify the fullest discretion in regard to proposing of them according to the		Applications should be made in the prescribed form to the Inspector accompanied by full plans & estimates which must be signed by the person who has drawn them up & the correspondent of the school. When the amount of grant does not exceed Rs 5000, the Inspector should forward the application to the DPI with his recommendations through the Dy Inspr. Commr. The DPI is empowered to sanction such grants	

Limited P.

Grants may
purchase of sit
purchase, enl
improvement
schools or host
to them.

Gen. Conditions
is given are:
(1) The school shall
tion by the Inspecting
sanitary or medica
as may be authorised
Govt. (2) should be reg
Societies Registration
(3) Change in the Cons
shd be done with the ap
Inspector or Inspectress
make suitable arra
health, & a condition to pr
(5) Should keep accu
books in the prescribed fo
Scheme by the auditors
(4) Shall not appropriate
permanently or keep a
(5) If the building is no
other than schools the Govt
proceeds recovered shall not
of the then market value.

Plans & estimates
be prepared by a designing
Govt or an Engr. or Archite
grade approved by Govt & shall
the application for grant. The
channel. Before the plans
Asst Director of Pub. Instr. it should
whether the site is suitable
from the educational point of view. Plans &

United Provinces.

Grants may be given for the purchase of sites, the erection, purchase, enlargement, improvement or repairs of schools or hostels attached to them.

p 105 of the book

General conditions on which grants is given are:

(1) The school shall be open to inspection by the inspecting officers of the Dept. or by any sanitary or medical or other officers may be authorised by Govt. or the Dept. and should be regd under the Societies Registration Act.

(2) Any change in the constitution of the body to be done with the approval of the Director of Inspections & shall

(3) Should keep accts of income & expenditure in the prescribed form & open to examination by the auditors employed.

(4) Shall not appt untrained graduates assistant by & keep a P.F. to teachers.

(5) If the building is used for purposes other than Schools the Govt shall have a right to recover such portion of the proportion of the cost or market value of the bldg.

p108 of the book.

Plans & estimates for the bldg shall be prepared by a designing agency approved by Govt. or Architects in the pay of Govt & should be submitted with the application for grants through the proper channel. Before the plans & estimates are finally approved by the Director of Public Instruction it should be ascertained by him that the bldg is suitable from the point of view of sanitary requirements & that the plans & estimates also

PTO

Travancore

page 93

Grants may be sanctioned for (1) Construction and extension of buildings;

(2) Construction and extension of gymnasium;

and (3) purchase and lay-out of Playgrounds.

page 98

General conditions on which grant is given:-

(1) All grants should be given impartially and on principles of strict religious neutrality.

(2) No grant shall be given in consideration of a particular religious instruction.

(3) Grants will be withdrawn when the conditions of recognition are withdrawn or ceased to be fulfilled.

(4) The manager applying for a grant should declare to abide by the conditions relating to recognition

(5) No part of the income from the institution shall be utilized for other than Educl. purposes.

(6) The manager shd. not engage in any political agitation.

(7) Grants sanctioned to the institution do not become the manager's property until the grant is actually drawn from the treasury

(8) Grants to institutions will be made purely on consideration of merits.

pp 80-81

Applications for grants for a scheme should be made to the sanctioning authority at any time in prescribed form accompanied by plans and estimates of the scheme prepared by a competent draftsman in such a

North Western Province.

Grants may be given for the purchase of land for ~~[illegible]~~ for school or for purchase, construction and extension or improvement of buildings and hostels.

pp 97-98

General conditions on which grant is given:-

(1) Grants are given impartially, without reference to religious instruction imparted in schools.

(2) Grants may be reduced, suspended or withdrawn if the discipline, organization or instruction in the institution is not satisfactory.

(3) Grants are liable to be withdrawn from a school if the management or the staff take part in an agitation directed against the government. The Govt. have empowered the D.P.I. to reduce or disallow expenditure which is obviously extravagant.

(4) The school receiving grant should be a recognised school.

107-108

Application for a building grant must be made through the Inspector of Vernacular Edn. and the deputy Commr. of the Dt. in the prescribed form and show:-

(1) the necessity of the project

Orissa

page 111

Grants may be given towards the erection, purchase, improvement or repairs of buildings for schools.

page 111

General conditions on which grant is given:-

(1) The School shall be under a regular governing body or managing committee the constitution of which shall be approved by Govt.

(2) The buildings shall be maintained in good repair.

(3) The property shall yield no pecuniary return to the School authorities save for the purpose of the school.

(4) The School shall be open to inspection by the officers of Govt.

(5) The school shall be managed according with the grant-in-aid rules and to the satisfaction of Govt.

(Information not available)

Mysore

164

(a) Grants may be given to purchase erect, or enlarge school buildings hostels and other buildings.

(b) to execute alterations or repairs to buildings

(c) to acquire land for school, hostel or playground.

pp 2-21-5

General conditions:-

(1) Grants will be given on principles of strict religious neutrality.

(2) Attendance at religious instruction to be voluntary.

(3) Schools to be open to all Communities

(4) School to be recognised

(5) Income to be of a permanent nature and to be devoted to Schl. purposes only

(6) Staff not to engage in political agitation.

(7) Schools to be open to Inspection and audit

(8) The building should be erected in accordance with the plans and estimates approved by the Director.

page 117 in the book

Application for building grants in the prescribed form shall be submitted to the concerned Inspecting officer, accompanied by plans and estimates prepared by a competent draftsman in the same manner as detailed for buildings constructed by the Public Works Dept.

Madras

Building grant for schools. no building operations should be commenced before orders are issued on the suitability of the design & the reasonableness of the estimate from a technical point of view. works approved will be included (with the approval of govt) in the list of approved works. The inclusion in the list implies no sort of liability on the part of govt legal or moral for making a grant though managements are not precluded from applying for a grant after buildings are completed. The Director recommends for the consideration of govt each year such schemes out the list as he considers deserving of grant. After funds are provided ~~sanctions are accorded~~ grants are sanctioned. No distribution of grant is made in each case by the DPI out of the ~~funds~~ funds placed at his disposal for the purpose. A scheme included in the list will be expunged if it is not completed within three years from the date of its inclusion unless extension of time is granted in special cases for valid reasons.

Amount of grant The grant payable should in no case exceed in the case of buildings erected one half of the total cost of the work shown in the management's estimates as approved by the DPI & modified by the PWD or certified in the valuation statement of the Executive Engineer whichever is less and in the case of buildings or lands acquired on behalf of the Collector's estimate of the value of the same or the actual cost of acquisition or purchase whichever is less.

Bar

no building for which
is made should be
plans & estimates has
by the Educational, San

ay.

an application for grant
commenced before the
been approved in writing
tary & PWD Authorities.

Central Provinces & Berar.

on his own authority when the amount exceeds Rs 5000, the Inspector should forward the application to the DPI through the Deputy Commissioner & the Commissioner of the Division and the Director should apply for the sanction of govt. It will be open to the sanctioning authority to refer the plans estimates to the PWD for scrutiny & the managers should carry out the alterations considered necessary. The work should be completed within the period specified by the authority sanctioning the grant.

approved the draft terms of agreement, ~~the terms should be approved,~~ should be communicated to the school authority and it should be asked whether it accepts them. The accepted draft should be forwarded to the DPI through the Dt Magistrate & the Commissioner for sanction to the grant. The Director should apply for sanction of govt only in the following cases

(a) when the terms proposed differ in a very important particular from the general conditions subject to which grants are made

(b) if the amount of grant exceeds Rs 10,000

(c) if the grant will cause excess expenditure over the budget allotment for grants in aid.

Detailed estimates should be prepared only after rough plans & estimates have received administrative approval. ~~No detailed estimates should be~~ The Director should obtain from time to time fresh plans in cases, where the scheme has not been drawn up by an approved Architect.

Costing Rs. 2
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Engr. ... S
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& above
by the Dire
C.E., PWD.
or any point
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or C.E. as
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Dir. approve
plans & est
Govt. Dept. ex
as regards

p 53-55 (m)

p 24 of (m)

Grants may be given not exceeding one fourth of the total expenditure in the case of secondary schools or one half of the total expenditure in the case of technical schools (including hostels & workshops in connection with them. The maximum grant will not always be given & each case will be considered on its merits. For purposes of building grants, the maximum limits of costs per pupil to be accommodated and likely to be secured has been fixed as follows:-

(a). For each pupil in Standard I to Standard V of secondary schools or standards VI & VI of secondary English schools - Rs 100

(b) For each pupil in the upper standards of schools teaching secondary course full 150

These limits do not ... cost of land.

p 34 of (m)

The maximum building grant shall be one third of the total expenditure of no grant shall be ~~payable~~ less than Rs 100. It is not to be assumed that the maximum grant will always be given.

p 53 of (m)

Grants may not save under general or special sanction of govt exceed double the sums subscribed locally or allotted from the balance in hand of the school.

p 10b of

Grants sha
the total amou
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such as, prize
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etc. The above
in the case of g
convenience of
reasons. (Gra
are also eligible
grants for Hostels
conditions).

Para Code no. 110

Para Code no. 60

Para Code no. 109

U.P

Costing Rs. 20000/- prepare by persons not less than a qualified Engr. or Architect may be sent for advice to the Exe Engr. Similarly estimates costing Rs. between Rs. 20000/- & 1,00,000/- & above Rs. 1,00,000/- may be sent by the Dist otherwise Dy C.E. of the C.E, P.W.D, Bldgs & Roads for advice on any point if he desires. After getting the advice of the Dy C.E or C.E as the case may be or if the Project is one of which the Dir approves, he will send the plans & estimates to the Govt in the Edn. Deptt. with his recommendations as regards the making of a grant.

p 108 of the book

p 108 of the book

Grants shall not exceed the total amount contributed for the purpose from other sources, such as, private subscriptions, allotments from benevolent societies, etc. The above rule is relaxed in the case of girls' schools with the concurrence of Fin Deptt for special reasons. (Oriental institutions are also eligible for non-recurring grants for Bldgs on the same conditions).

p. 114 of the book

Travancore.

manner as will permit of their being scrutinized in every detail. Copies of contracts which the management wishes to enter for the work should also accompany the application. The plans and estimates will be scrutinised by the P.W. Department and the cost of the scheme should be certified by the Inspecting officers of the P.W.D. who have got power to suggest any alteration in the original plan. The Dpi can sanction on his own authority schemes involving below Rs. 1500/- Schemes involving an expenditure more than Rs 1500/- should be approved by Govt. A scheme approved by Govt should be completed before the date fixed by the sanctioning authority. Otherwise the scheme will lapse.

page 79 (TR)

Grants may be given not exceeding one-third of the total expenditure in case of Secy. Schools and one-half of the total expenditure of the scheme is intended exclusively for the teaching of scientific subjects. In the case of construction of gymnasium or purchase of playgrounds grants may be given not exceeding one-third of the total cost.

N.W.F. Province.

(2) the cases involving the purchase of land, the approximate area to be acquired and its estimated cost.
(3) the approximate dimensions and the estimate of cost.
(4) the estimated amount of contributions from private sources.

If general approval to the issue of grant is accorded by the Govt. detailed plans and estimates of the project must be submitted to the Director together with a guarantee that the remainder of the cost will be met by the private resources and also a certificate attested by the Dy. Commissioner that one-half of the guaranteed contributions is already in hand. The Director shall refer the plans and estimates to the P.W.D. and the managers carry out alterations suggested by the Deptt.

page 107 (TR)

The amount of the building grants shall not as a rule exceed half of the total cost of the project in aid of which it is sanctioned.

Orissa

(Information not available)

so as to facilitate their scrutiny in every detail in order to determine the suitability of the proposal from an Edul. point of view. It shall be open to the Director to make alterations in such plans. Copies of contracts which it is proposed to enter into for the work must also accompany the petition. The order sanctioning the grant shall specify the date by which the building shall be completed. The grant will lapse if the building is not completed by that date.

page 6 in the book

The amount of Building grant shall not exceed one third of the cost of the completed work in the case of High and Middle Schools and one half in the case of other institutions. In the case of hostels, grant may be given at half the estimated cost of the building subject to the maximum limit of Rs 25000/-

Madras

Conditions to be fulfilled before the grant is disbursed.

whenever a scheme is approved and Govt sanction a grant, the management should execute a deed of mortgage of the property concerned or a deed of acceptance in respect of the grant payable in any one of the appropriate forms of deed prescribed. Except in cases where exemption from execution of the mortgage or deed of acceptance is given, the management should furnish to the satisfaction of Govt Solicitor its title to the property & its right to mortgage the same to Govt. The grant will be disbursed by the Director only after completion of the work on production of (1) a certificate signed by the Architect or Engineer in charge of the work to the effect that the building or buildings have been completed generally in accordance with the plans & specifications approved by the DPI & another signed by the correspondent specifying the total amount actually spent on the building. In cases where private qualified professional advice was not available the grant will be disbursed only on production of the valuation Sft showing the actual amount expended in completing the work purchase or acquisition or on production of vouchers in support of the expenditure.

Procedure same as that prescribed for aided Secondary Schools with the exception that in the case of first grade Colleges the applin for grant should be sent to the DPI direct instead of through the DEO. No building grants will be made for the existing colleges.

Bombay

No portion of a build... to the managers of ... execute a trust deed ... embodying the cond... grant has been san... should be made ... that in the event o... managers of any ... the building grant or so much of it as shall not yet have been paid shall lapse

(2) the aggregate amount of the building grant or grants ... repayable to Govt ...

(3) the building site ... be resumed, that ... standing thereon ... may be used or ... discretion for edu... or if it shall appear ... any other purpose ...

... grant should be paid ... school unless & until they ... agreement in such form ... his subject to which the ... framed. and provision ... every such trust deed ... default by the ... the Conditions thereof ... shall be ... exceed by Govt shall be ...

... if granted by Govt may ... the building if any ... may be resumed by Govt ... disposed of Govt at its ... national purposes ... expedient to Govt for ...

Rule 90 p 27 g (m)

Colleges.

The Govt will consider applications for grants in aid of building colleges provided funds are available & subject to such conditions imposed in respect of buildings to Secondary Schools as may be declared applicable or to any Others that may be imposed. The grants

Central Provinces & Berar

Before payment of the grant or any portion thereof the managers may be required to execute a trust deed in the prescribed form providing that in the event of the building being diverted to any purpose other than that of the School for which the grant was sanctioned or the other conditions subject to which the grant was sanctioned are not satisfied, the Govt will have absolute a right to purchase the building in preference to any other purchaser. In cases where no trust deed has been executed, the managers of the School shall be liable to refund the whole amount of the grant or such portion of it as may be determined by the Sanctioning authority.

The grant will be disbursed on production of a certificate of Executive Engineer or other competent officer of the P.W.D that the work has been completed in accordance with the sanctioned plans and that its value is at least three times the amount of the grant claimed.

p 73 g (m)

The rules relating to building grants to Secondary Schools are applicable to Colleges also.

The management will be required to execute an agreement in the prescribed form. The Govt reserves to themselves the powers, in the event of any of the a breach of the conditions to resume the land & recompense only for the grant of the money.

An instalment of one half of the total amount of grant may be paid when the work is about to be executed by the School authority. After half the work is executed one quarter of the entire amount due may be sanctioned and the remaining sum may be paid after the completion of the work.

p 108 opp Rule

p 417 (m)

Grants will not ordinarily exceed double the sum ... or allotted ... subscribed locally in hand ... from the balance ... of the College. ... to the DPI ... must be made ... that is ... Obtaining previously ... plans ... required. After ... received ... testimates ...

... no grant will be ... managers early to ... sources are ... to be secured to ... close the account. ... may proceed with ... on his own responsibility ... subsequent ... grant will not be ... work is completed ... be granted from ... if the Dir is ... is progressing ... Excess advance ... be liable to be ... not executed within ... time. When the ... the manager gives ... a certificate that ... done in accordance ... designs & specifications ... ficate should be accepted ... for payment gives ... Adjustment or recovery ... give work by the date ... At the time the payment ... Gr officer ... shall sign a written ... the grant is made & a ... the conditions in the ... A draft give above ... sent to the Dir & no ... finally executed until ... approved by the Dir ... with the Govt Sanction. Add ...

The rules relating ... grants to Secondary ... applicable to Colleges ...

p107 grt code

no grant will be sanctioned till the managers certify that the funds from other sources are sufficient with the grant to be sanctioned to meet all claims to close the acct. A manager of the school may proceed with the construction of his own responsibility & risk and subsequent prejudice to the applcn. p108 grt code

Grant will not be paid in full until the work is completed & advances may be granted from the Board. and if the Dir is satisfied that the work is progressing satisfactorily. Excess advance if any, made will be liable to be recovered if the work is not executed within a reasonable time. When the work is completed the manager of the school shd submit a certificate that the work has been done in accordance with the appd designs & specifications & this certificate shd be accepted provisionally for payment of the grant subject to adjustment or recovery after inspection of the work by the departmental officers. At the time of the payment of grant, the Grantee & the officer making the grant shall sign a written agreement that the grant is made & accepted subject to the conditions in the Code & to the rules of the grant & the above agreement shd be sent to the Dir & no agreement shd be finally executed until it has been approved by the Director in Consultation with the Advocate-Genl. Advocate.

The rules relating to building grants to Secy schools are applicable to colleges also.

pp 79-80 (Ins)

Travancore

Managers drawing a grant shall be required before the disbursement of the grant, to execute an agreement with the Govt. in a prescribed form embodying the conditions on which the grant is given. Grants shall only be disbursed on receipt of a certificate from the public works Deptt stating that the work has been completed in accordance with the plans and estimates originally approved and also stating the amount of savings, if any, on the original estimate. Vouchers for all expenditure incurred in connection with the work must be forwarded. The certificate and vouchers should be forwarded within the period allotted for the completion of the work, otherwise the grant lapses.

par (7)

The rules relating to bldg. grants to Secondary schools are applicable to colleges also. The only thing is the colleges are controlled by the University

page 108 (NW)

N.W.F. Province

Of the detailed proposals are approved by the local govt. the managers will be required to execute and register a bond securing to govt. a prior lien on the buildings for the recovery of the amount paid by Govt. for the land & building. When the bond has been duly registered and accepted by the Deptt; the managers are entitled to draw the moiety of the grant. The remainder of the grant may be drawn when the Deptt is satisfied that the whole of the private contributions have been collected and when the building has been completed to the satisfaction of the Inspector of Vernacular Education.

The rules relating to bldg. grants to Secondary Schools also apply to colleges. The Colleges are recognised by the Punjab University

Orissa (In) 113

The buildings shall be erected in accordance with plans and estimates to be approved by the D.P.I and shall be completed to the satisfaction of the Engineer appointed in that behalf. ~~The school authority shall pay a specified rent per annum in the case of a lease.~~

Before grant is paid the management should execute a mortgage ~~and bond with lapse after a period of 20 years~~, executed an agreement promising for a mortgage for 20 years in case of grant of land & of money for building and for 30 years in case of grant of money for building

pp 111-113 (In)

The same rules apply also to colleges.

pp 16-17 Mysore 166

Before the sanction of grant, satisfactory assurance must be given that the funds at the disposal of the management and the amount of the grant will be sufficient to enable the construction to be completed before the specified period. No portion of any grant shall be paid until the management of the school has executed a bond in the prescribed form.

Part payments may also be made if the Director is satisfied with the progress of the works on the bills supported by certificates of the P.W.D. The building grant shall be disbursed fully only on receipt of a certificate from an officer of the P.W.D. stating that the work has been completed to his satisfaction in accordance with the plans and estimates originally approved, together with vouchers for all expenditure incurred in connection with the work.

Colleges

2 forms also are available

N.P. Travancore Travancore Mysore Mysore

457

Rs under local bodies	Building grants	Bihar.	United Provinces.	N.W.F.	Travancore	Orissa	Mysore
bay	Central Provinces & Berar						
ilable)	(no information available)		do.	(50)	(50)	(50)	(50)

Subsidies not exceeding one half of the cost may be given towards the acquisition of sites & construction of buildings for secondary schools under the control of local bodies opened prior to 1930. Loans are also granted to local bodies for meeting their share of the cost of approved building schemes. In the case of secondary school for boys, no subsidy will be paid unless a special case is made out that a subsidy is essential i the local body is not in a position to finance the scheme entirely from its own funds even by raising a loan the restriction does not apply to building schemes for secondary schools for girls.

(pre information)

Applications for subsidy & loan should be submitted to govt through the DPI with plans & estimates in time for their scrutiny & transmission to govt before 1st October. ~~no local body~~ no local body should apply for a subsidy or loan for any scheme unless detailed plans & estimates for the scheme have been prepared & technical sanction by competent authority has been accorded. Provision for payment of subsidy or loan will be made only after examining the financial position of the local body applying. The subsidies will be disbursed on the post payment system and in instalments on production of a Certificate of expenditure actually incurred on the execution of the work every year.

169

J.S

A draft note is ~~sent~~ attached.

29/5/1/48. I got this about half an hour ago. I have suggested some alterations in the drafts suggested, and modified the note a little. The English Act covers only a part of the ground, and the Bill makes big alterations and additions ~~to the English law~~.

H.M.
5/1/48

S/

LEGAL DEPARTMENT.

According to the Cabinet decision, the scope of the Bill should be widened so as to include other public institutions like hospitals receiving capital grants. The object in view may be achieved by amplifying the definition of "institution" in clause 2(2) of the Bill so as to bring within its scope hospitals or dispensaries also. Power may also be taken by Government to notify any institution other than an educational or medical institution, so that the provisions of the Bill may be applied to any such institution, if necessary. The definition may be amplified as follows:--

"(2) "institution" means any college, school, patasala, madarasah, hospital, dispensary or other educational or medical institution in the Province of Madras , or any other class of institution in the ~~said~~ Province ~~not being an educational or medical one, which~~ notified by the Government ~~may by order notify~~ in the Fort St.George Gazette;"

2. With reference to the decision that provision should be included in clause 6 for the punishment of persons who refuse to surrender possession or obstruct the act of taking possession, the following may be inserted as sub-clause (3) of that clause, existing sub-clause (3) being renumbered as sub-clause (4):-

"(3) ~~If any person opposes or impedes~~ Whoever obstructs the Collector in taking possession under this Act of any land or building, ~~he~~ shall be punishable with imprisonment ~~for a term~~ which may extend to ..... or with fine which may extend to ..... rupees or with both."

3. Necessary alterations have ~~also~~ been indicated in red ink in the draft Bill and the Statement of Objects and Reasons .

4. As regards the law in England relating to parliamentary building grants, attention is invited to paragraph 281 on pp.131-13

R

2.C.

For perusal in taffal.
This was the file about which Secy spoke to T.S this afternoon
Draft 23/12/47 T.S. Ks
23/12/47
T.S. said that this may await
23/12/47
23/12/47
S/C. (Sri N. Swaminatha Aiy may deal with this very quick
23.12.48 P/23/12 S
I would like to see it on Monday if possible

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D/8CF

(Part II at page below)

Bill based on Eng Act
Rele provisions as follows:-
It will be observed that the offence
has hitherto been provided for in our Bill
The Eng Act D 18 CF does not deal with the specific offence
Need a

by him in this behalf

Fixed provisionally. May be varied in

* To be filled by E.& P.H.

Section 186 I.P.C. - 3 months or Rs 500 or both

× (Shown in pencil)

of Halsbury's Laws of England (extracted below for convenience of reference):

"281. Where a parliamentary grant has been made in aid of providing, altering, repairing or equipping school premises, or a teacher's house, and the conditions providing for the inspection of the school upon which the grant is made have not been inserted in the conveyance of the site or in the trust deed, these conditions, if they have been put into writing and signed by a majority of the trustees or in the case of a voluntary gift, by the persons conveying, bind the trustees or managers of the school for the time being as though they had been inserted in the conveyance or trust deed, and personal convenants for the purpose are made null and void.

Trustees of schools subject to charitable trusts for the education of the poor, acting by their majority, are authorised, subject to certain conditions, to apply for a parliamentary grant to alter or repair school premises, and to assent to inspection as a condition of the grant being made, and if the grant be made accordingly, the school is open to inspection by His Majesty's inspectors of schools.

The statutory power of grantees to sell or exchange land granted under the School Sites Acts for other land is subject, in the case of schools erected with aid from moneys provided by Parliament, to the consent of the Board.* There is in addition a general provision in the School Grants Act, 1855, as amended by the Education (Administrative Provisions) Act, 1907, that wherever any parliamentary grant has been made towards the provision, repair, or furnishing of any school premises with the consent of the trustees or holders of the legal estate, no sale, exchange, or mortgage can be validly made of the premises, subject to certain exceptions, without the consent of the Board, unless the grant be repaid to the Treasury." 'A'

* now Ministry of Education

It will be seen from A above that (in England) a transfer of property is permitted either with the permission of the Ministry of Education or on repayment of the ~~full~~ grant. This provision has (however) been ~~introduced~~ modified in the Bill, ~~in a modified form~~. While under the English law it is possible for an institution to make a transfer of property in respect of which it has received Government aid on repaying the full grant, the Bill makes it necessary for ~~an~~ the institution in any such case to obtain the permission of Government invariably, before (effecting) such (a) transfer. Provision has, however, been made ~~to enable~~ (for) Government ~~to give~~ in such permission, if they think fit to do so, on repayment of the full grant or a portion thereof. Such permission will ordinarily be given by Government, whenever the management gives convincing

Kathleen Lewis

So far as hospitals are concerned, there appears to be no provision similar to that in the case of educational institutions. Halsbury's Laws & Lees looked into.

cl. see clause 8 of the Bill below

reasons for the transfer of (the) property. ~~Although~~ this provision ~~may~~ is no doubt ~~be said to be~~ a departure from the English law, (but) it has been made solely with a view to ensure that the taxpayer's money is utilised (to prevent profiteering and) for the purposes for which the aid ~~was~~ (has) given (in the first instance).

For the same reason, the scope of the Bill has also been made comprehensive ~~enough~~ (as) to enable its application to any institution which may receive Government aid.

The other provisions in the Bill, viz. transfer of ownership of property to Government or recovery of the amount of Government grant, in cases where a transfer is made without the requisite permission of Government, are necessary ancillary provisions for giving effect to the main object of the Bill.

DS 5/1/48

The Bill goes much further than the English Act, but its provisions cannot be said to be reasonably open to objection. They are all intended to ~~not~~ serve the main object of the Bill (in the ~~present~~ circumstances which now prevail). Clear and specific provisions have been made for all the cases which may arise. It is not possible to rely on the English Act except for the principle.

MD. 5/1/48

Transfer - includes exchange, lease etc.

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(2) "institution" means any college, school patasala, madarasah, hospital, dispensary or other educational or medical institution in the Province of Madras, or any institution in the said Province ~~not being an educational or medical one, which~~ the Government ~~may by order notify~~ in the Fort St.George Gazette;

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(otherwise of) (institutions of) (notified by)

Legal Department

Discussed with the Secretary. (176, 173)

2. The Cabinet decision that the scope of the Bill should be widened so as to include other public institutions like hospitals receiving capital grants, may be implemented by amplifying the definition of "institution" in clause 2 (2) of the Bill as follows:-

"(2) 'institution' means-- (of Madras in the Province)

(which is) (a) any college, school or other place intended for an educational purpose, and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(in the Province) (b) any hospital, dispensary or nursing home and includes quarters for the residence of doctors, nurses and servants;

(c) any other institution or class of institutions in the Province notified by the Government in the Fort St. George Gazette."

(177 174

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " Government " means the Provincial Government ;

(2) " institution " means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants ;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants ;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette* .

(3) " manager " means the owner, trustee or other person who has power to transfer any land or building belonging to an institution ;

(4) " transfer " includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where, before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed

of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for improving, altering or repairing or constructing the land or building;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

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Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4 shall be final and shall not be liable to be questioned in any Court of Law.

Property to vest in Crown absolutely, on possession being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 may be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

STATEMENT OF OBJECTS AND REASONS.

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains

in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, for example, a hospital, should be treated in regard to this matter in the same manner as an educational institution. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, *either* to direct the manager to repay the entire grant or the entire market value of the property granted *or* to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to pay to the institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for purposes similar to those for which it was being used before it vested in the Government.

T. S. AVINASHILINGAM CHETTIAR.

THE MADRAS LEGISLATIVE COUNCIL

LIST OF BUSINESS FOR THE MEETING OF THE COUNCIL TO BE HELD IN THE LEGISLATIVE COUNCIL CHAMBER, FORT ST. GEORGE, AT 11 A.M. ON MONDAY, THE 23RD FEBRUARY 1948.

I. QUESTIONS AND ANSWERS.

II. BUSINESS LEFT OVER FROM THE AGENDA FOR 21-2-1948.

= III. GOVERNMENT BILLS.

ASST. SECRETARY TO GOVERNMENT EDUCATIONAL AND PUBLIC HEALTH DEPTT. 28 FEB 1948

The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948. (L.A.Bill No.1 of 48)

--

The Hon. Sri T.S. Avinashilingam Chettiar will move that this House concurs in setting up a Joint Select Committee of the two Houses consisting of 12 members (8 members from the Assembly and 4 members from the Council) to consider the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948, and that the following members of this House be nominated to the said Joint Select Committee.

(List to be given in the Council)

The Motor Vehicles (Madras Amendment) Bill, 1948.
(L.A.Bill No.8 of 48)

The Hon. Mr. Daniel Thomas will move that this House concurs in setting up a Joint Select Committe of the two House consisting of 21 members, 14 members from the Assembly and 7 members from the Council to consider the Motor Vehicles (Madras Amendment) Bill, 1948 and that the following members of this House be nominated to the said Joint Select Committee.

(List to be given in the Council)

M. SURYA RAO,
Secretary to the Legislative Council

(180) 1775

Education and Public Health Department.

NOTE FOR THE ~~INFORMAL MEETING OF THE HON'BLE MINISTERS~~ Cabinet

.....

Seen by
Lt M (Home)

Sub: Legislation - Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intra vires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Education) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules ~~which~~ the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home.) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam)
13-11-1947.

On behalf of H.M. (Home)
O.P.R(amaswamy Reddy)
20-11-47

A note was circulated for consideration at the informal meeting for orders whether the draft bill might be proceeded with. Subsequently H.M (Edn) has minuted that he has had a talk with the Hon'ble Premier and that this may be included in the Agenda for the next meeting of the Cabinet to be held on the 17th. The point for orders is whether the draft bill annexed may be proceeded with.

ETD
23/11/47

K.V. Subramaniam,
Secretary to Government.
9-12-47.

(181) 178

A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

...

WHEREAS it is expedient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:-

Short title, extent and commencement.

1(1). This Act may be called the Madras Educational Institutions (Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context--

(1)"Government" means the Provincial Government as defined in section 3, clause (43 a), of the General Clauses Act, 1897; Central Act X of 1897.

(2) "institution" means any college, school, patasala, madarasah, or other educational institution in the Province of Madras;

(3) "manager" means the owner, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3.(1) Where before or after the commencement of this Act--

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be

P.T.O.

transferred without the permission of the Government under sub section (2); nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion-

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or as the

(12) 179

option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Government shall recoup to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6(1). Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or building, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for educational purposes.

Sums due under Act to be recovered as arrears of land revenue.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

...oOo...

STATEMENT OF OBJECTS AND REASONS:

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some edu-

179(a)

educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, either to direct the manager to repay the entire grant or the entire market value of the property grant or to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to recoup to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

...oOo...

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48—22-1-48.

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Government" means the Provincial Government;

(2) "institution" means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*

(3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be ;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for improving, altering or repairing or constructing the land or building ;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely on possession being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building, under this Act, he shall if he is a Magistrate, enforce the surrender of such land or building to himself ; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 may be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

STATEMENT OF OBJECTS AND REASONS.

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, e.g., a hospital, should be treated in regard to this matter in the same manner as an educational institution. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the institution ; and (2) where some other valid reason justifies the

transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded ; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened, in any case, Government have been given the option, *either* to direct the manager to repay the entire grant or the entire market value of the property granted *or* to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to pay to the institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for purposes similar to those for which it was being used before it vested in the Government.

T. S. AVINASHILINGAM CHETTIAR.

(By order of His Excellency the Governor)

K. V. RAJAGOPALAN,
Joint Secretary to Government, Legal Department.

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To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
MADRAS.

THE JOINT SELECT COMMITTEE appointed to consider the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No. 7 of 1948) has the honour to make the following report.

2. The Bill was published in English in the *Fort. St. George Gazette*, dated the 13th January 1948.

3. The Joint Select Committee was appointed on the 24th February 1948.

4. The Joint Select Committee met in the Council Chamber, Fort St. George, at 2 p.m. on Monday, the 8th March 1948 and at 2 p.m. on Thursday, the 8th April 1948, and concluded the consideration of the provisions of the Bill.

5. The following are some of the more important decisions arrived at by the Joint Select Committee :—

In clause 2, sub-clause (3), the definition of ' Manager ' has been so amended as to include local boards, panchayats and municipalities.

Clause 3, sub-clause (2), has been amended so as to provide that in cases where the entire assets were used in furtherance of the purposes of the institution or purposes similar or cognate to the original purposes, no repayment need be made to the Government, and where the entire proceeds were not devoted to such purposes, giving power to the Government to impose conditions regarding the investment of monies realized, etc., before they were utilized in furtherance of the purposes of the institution.

In clause 5, provision has been made for an appeal with regard to the quantum of amount to be paid to the Government on lines similar to those in the Land Acquisition Act.

6. The Joint Select Committee decided that in view of the minor character of the changes made in the Bill, it was not necessary to republish the Bill.

7. A copy of the Bill as amended by the Joint Select Committee is annexed.

FORT ST. GEORGE, T. S. AVINASHILINGAM CHETTIYAR,
8th April 1948. *Chairman.*

ANNEXURE.

[*Note.*—The changes made by the joint Select Committee are shown in clarendon type and the portions ommitted are shown by dots.]

(L.A. BILL No. 7 OF 1948.)

A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " Government " means the Provincial Government;

(2) " institution " means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*;

(3) " manager " means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, **and includes a local authority**;

(4) " transfer " includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, **or** altered . . . for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) The transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes ;

(ii) the transfer is made **only in part** in furtherance of the purposes **aforesaid,** provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(iii) the transfer is made for any other valid reason, provided repavment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

Explanation.—**When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses ; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.**

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for

the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for improving, altering . . . or constructing the land or building;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Effect of orders under sections 3 (2) and 4.

5 (1) Every order passed by the Government under section 3 (2) or 4 shall, **subject to the provisions of sub-sections (2) and (3),** be final and shall not be liable to be questioned in any Court of law.

(2) (a) The Manager of Institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated or if the property is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or 4, as the case may be.

(b) Such application shall be made within sixty days from the date on which the order is communicated to the manager.

(3) The District or City Civil Court Judge shall determine the amount which is properly repayable or payable by or to the manager in accordance with the provisions of section 3 (2) or 4, as the case may be, and such determination shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely on possession being taken.

6 (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of

1884

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any land or building under this Act, he shall if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, . . . to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, **without prejudice to any mode of recovery provided in any other law for the time being in force,** be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

Rules.

8 (1) The Government may, by notification in the *Fort St. George Gazette*, make rules not inconsistent with this Act for carrying into effect the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the court-fees payable on the applications referred to in section 5, sub-section (2);

(*b*) the procedure to be followed in respect of such applications;

(*c*) the payment of the costs incurred by the parties, in connexion with such applications.

8pc.

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Post Copy of Telephonic Message dated 18-3-1948.

From the Director of Public Instruction, Madras.

To the Assistant Secretary to Government,
Education and Public Health Department, Madras.

ASST. SECRETARY TO GOVERNMENT
20 MAR 1948
EDUCATION AND PUBLIC HEALTH DEPT.

Ref: Your Telephonic Message dated 17-3-1948 regarding alienation of land-conditions.

21176

With reference to the instructions contained in G.O.No.Ms.1423 Edn., dated 31-7-1940, applications for alienation of Government lands are being sent to the Collector by the Director and by the Divisional Inspector in respect of Boys School.

2. The conditions prescribed in the order of alienation based on the recommendations of the Revenue Department. There appears to be no definite conditions laid down for the purpose. The conditions prescribed vary with the merits of the case, as recommended by the Revenue Department. However reference is invited to the following:

i. G.O.No.Ms.872 Rev.Department dated 17-5-1933.
ii. G.O.No.Ms.588 Rev.Department dated 7-3-1946.
iii. Board of Revenue R.C.S(RT) No.3295 dated 21-6-46.

CTD 20/3/48

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for Director of Public Instruction.
19/3

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A Bill to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Government" means the Provincial Government;

(2) "institution" means—

(*a*) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(*b*) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(*c*) any other institution or class of institution in the Province notified by the Government in the *Fort St. George Gazette*.

(3) "manager" means the owner, trustee or other person who has power to transfer any land or building belonging to an institution;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where, before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(*b*) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed

of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for improving, altering or repairing or constructing the land or building;

(*b*) if the land, or the land in which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4 shall be final and shall not be liable to be questioned in any Court of Law.

Property to vest in Crown absolutely, on possession being taken.

6. (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Crown free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

Recovery of sums due under Act.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 may be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

STATEMENT OF OBJECTS AND REASONS.

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains

in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, for example, a hospital, should be treated in regard to this matter in the same manner as an educational institution. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, *either* to direct the manager to repay the entire grant or the entire market value of the property granted *or* to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to pay to the institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for purposes similar to those for which it was being used before it vested in the Government.

T. S. AVINASHILINGAM CHETTIAR.

Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (191) 188

Draft Speech.

At present, the Government give grants for school buildings, building sites and play-grounds. Chapter VIII of the Grant-in-aid Code lays down the rules to be observed in this connection. Rule 54(i) of the Code says: "Whenever a scheme is approved and Government sanction a grant, the management shall be required to execute a deed of mortgage of the property concerned or a deed of acceptance in respect of the grant payable in any one of the appropriate forms of deed prescribed in the Appendices. The Director of Public Instruction may however grant exemption from the execution of the deed in cases where the grant does not exceed Rs.10,000 if he considers that the execution of the deed is unnecessary."

Rule 56 says: "The Manager of any institution receiving a grant shall refund the grant or a portion of it as specified below, if the land or building in respect of which the grant was made ceases to be used for educational purposes approved by Government within a period of thirty years from the date of payment of the grant where the grant does not exceed fifty thousand rupees; fifty years from the date of payment of the grant where the grant exceeds fifty thousand rupees but does not exceed one lakh; and 99 years from the date of payment of the grant where the grant exceeds one lakh of rupees. The amount to be refunded shall bear the same proportion to the total grants as the unexpired portion of the period for which the building or land is secured against diversion bears to the total period. If the Manager fails to make such refund, the Government may recover the amount by such means as they think fit."

Certain cases have come to the notice of Government in which educational institutions which have received Government grants for acquisit of lands as well as for putting up buildings have later on tried to se these lands because of the high prices that are obtaining now. It is common knowledge that the price of lands and buildings have gone up abnormally high in the last few years. Lands which have cost Rs.500 15 years back in the neighbourhood of towns, now cost nearly Rs.50,00 per acre. Generally there has been an enormous increase in the cost lands. Some of the managements have sought to take the benefit of t rise and sell the lands which were acquired through Government grant At present, under the existing rules, the Government can insist only upon a return of a proportionate amount of the grant given i.e. if

Rs.20,000 have been given as grant, 20 years back, the land may now be worth nearly Rs.2 lakhs. But if the managements choose to sell it, they have to return to the Government only Rs.6,600 and odd. If the period exceeds thirty years, even that amount need not be paid and the property originally purchased or built for educational purposes can be sold to anybody or put to use in a manner not contemplated when the grant was given. Under the existing law, the Government do not have the power to prevent such sales from taking place to the disadvantage of the educational institution. And so, it is ~~to be~~ necessary that the law should be changed so that educational and other institutions which receive Government grants may continue to utilize the lands and buildings for which grants were received for purposes for which they were received.

The main objects of the Bill as may be seen from the Bill itself, is to provide that where an educational or medical institution has received Government aid for acquiring any land or constructing any building, the management of the institution should not transfer the land or building without the specific permission of Government. This only brings our rules with regard to grants in a line with English practice as provided in the English School Grants Act, 1855. The relevant portion of Section 1 of the English Act states:

"1. Where any grant hath been made or shall hereafter be made out of any sums of money heretofore granted or hereafter to be granted by Parliament for the purposes of education in Great Britain, under the advice of any Committee of the Council on Education for the time being, to the trustees, managers or other persons applying on behalf of any school with the consent of the trustees or persons holding the legal estate thereof, for or towards the purchase of the site, or the erection, enlargement, or repair of the school, or the residence of the master, or mistress, or the furnishing such school or residence, no sale, exchange, or mortgage of the premises in respect of which such grant hath been or may hereafter be made, in exercise of any power contained in the conveyance or other deed relating thereto, or under any other legal authority, shall be valid unless either the consent of the Secretary of State for the Ministry of Education for the time being in writing under his hand be given to the same, or the amount of the grant which shall have been made as aforesaid shall be repaid to the Treasury. . . "

The House is aware that of late, there has been a ban on capital grants to schools and colleges. The present revenues of Government do not allow a large amount of grants being given for this purpose out of revenue

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account. Suggestions have been given on the floor of the Legislature whether these capital grants which are for permanent lands and buildings for the benefit of generations, could not be met from loans. Whether these grants for permanent properties such as lands and buildings of institutions can be met out of loans, is now under consideration of Government. This practice of meeting capital expenditure out of loans is prevalent in other countries also. But when it is to be met out of loans on the ground that the benefit of these buildings is shared by more than one generation, it is also necessary for us to see that these buildings are continued to be used for purposes for which these loans have been borrowed and distributed. When the matter was put before the Auditor General, he pointed out that unless in every institution for whose buildings or lands grants were given, Government have an interest to see that the lands and buildings will not be alienated, he will not be in a position to approve loans being taken for the purpose. He was perfectly correct in his opinion that when loans were floated for a particular purpose, it was necessary that it was ensured that the purpose was properly served. If the purpose of these loans is to be properly served, we must take steps to see that the institutions which receive these capital grants for lands or buildings are continued to be used for the purpose for which grants are given and are not alienated, transferred or mortgaged without the permission of Government. The object of this bill is to provide for these safeguards.

There are certain other provisions in the Bill which I may explain while passing. While the corresponding English Act refers only to educational institutions, this Bill extends it to medical and other institutions also. Power has been taken to apply the provisions of this bill to any other institutions for which capital grants will be given by Government. The Bill also covers cases in which lands or buildings belonging to Government have been transferred to institutions for educational or medical purposes.

Section 3(2) provides the conditionsunder which the Government may grant permission for the alienation of properties for which capital grants have been given, which are:

(i) If the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion if any, as the Government may deem proper in the circumstances of the case, of the grant referred to in sub section (1), clause (a), or of the current market value of the

land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(ii) If the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

In the working of the House Rent Control Acts, cases have been found that the issue of a mere order has not always served the purpose in tacking over possession of property. Penal clauses have been found to be necessary for the enforcement of these orders and consequently penal provisions have been incorporated in clause 6, sub-clause 3 of this Bill.

These are in main the provisions of the Bill. I do not like to take the time of the House by referring to the similar powers laid down in the Grant-in-aid Codes of some of the other provinces in this country. These provisions are necessary and healthy for the proper growth of our institutions and I hope the House will approve of them. Sir, I move that the Bill be referred to a Joint Select Committee consisting of members of both the Houses.

(193) 190

LEGAL DEPARTMENT.

The Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948.

Yesterday, H.M.(Edn) wished two points to be made clear in the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948. In clause 3 (2)(i), he wanted it to be made clear that Government should have power to permit a transfer in furtherance of the purposes of the institution without insisting on the repayment of any portion of the grant or of the current market value of the land or building. This object will be secured by adding the words "if any" after the words "such portion" in line 3 of clause 3(2)(i).

2. In the second place, H.M. wanted that it should be made clear that avenue trees and the like which are growing on the land for the acquisition of which a grant has been made etc. should be capable of being leased without permission ~~of~~ from the Government. Clause 3 (1) of the Bill only prohibits the transfer of the land or building without the permission of the Government, and a transfer of the usufruct of trees growing on the land will not be within the scope of the prohibition imposed by clause 3(1). The following generalised Explanation may however be added to clause 3 (1):--

"Explanation.- This sub-section shall not be deemed to apply to —

(i) trees, plants, timber, crops or grass growing on the land and agreed to be severed from it before transfer or under the contract of transfer; or

(ii) any portions or products of trees or plants growing on the land, ~~if the portions or products of trees or plants growing on the land~~ if the portions or products are agreed to be severed from the ~~trees~~ plants before transfer or under the contract of transfer."

This does not appear to be very necessary: but there is no harm in the making amendment

P.2 of (Y)

P. 1 Para (3)

(A)

Kud 29/11/48

S/

A on the previous page - Leave A.

the whole of this please copy
and do not [illegible] Act will be
inserted as clause 3 in the bill
the need for the elaborate explanation
now proposed to be added is not
very clear

[illegible]

Legal U.O.No.975/48-1
27.1.48

E.H.P.H. Deptt.
C1

6327

The file may be circulated
to H.D. (Edn)

27/1/48. S/ [illegible]
H. (Edn.)

The main file is with H.D.

(194) 191

LEGAL DEPARTMENT.

A NOTE ON THE MADRAS AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) BILL, 1948 AND THE ENGLISH LAW.

The main object of the Bill is to provide that where an educational or medical institution has received Government aid for acquiring any land or constructing any building, the management of the institution should not transfer the land or building without the specific permission of Government. This provision is based on the English School Grants Act, 1855 (18 & 19 Vict.c.131) which was passed for securing effective enforcement of the conditions upon which money was advanced out of parliamentary grants for the purposes of education. The relevant portion of section 1 of the English Act is extracted below for facility of reference:

Restriction on sale, etc. of premises, for purchase of which a grant has been made out of money granted by Parliament for education.

"1. Where any grant hath been made or shall hereafter be made out of any sums of money heretofore granted or hereafter to be granted by Parliament for the purposes of education in Great Britain, under the advice of any Committee of the Council on Education for the time being, to the trustees, managers or other persons applying on behalf of any school with the consent of the trustees or persons holding the legal estate thereof, for or towards the purchase of the site, or the erection, enlargement, or repair of the school, or the residence of the master, or mistress, or the furnishing such school or residence, no sale, exchange, or mortgage of the premises in respect of which such grant hath been or may hereafter be made, in exercise of any power contained in the conveyance or other deed relating thereto, or under any other legal authority, shall be valid unless either the consent of the Secretary of State for the Home* Department for the time being in writing under his hand be given to the same, or the amount of the grant which shall have been made as aforesaid shall be repaid to the Treasury; ....."

* Now the Ministry of Education.

2. It will be seen that under the English Act any sale, exchange or mortgage of property for acquiring which a parliamentary grant has been made will be valid ~~under the English law~~ only in two cases, viz., (a) when the consent of the Ministry of Education is given to such transfer; ~~and~~ or (b) when the amount

of the grant is repaid to the Treasury.

3. Clause 3 (1) of our Bill provides that where any land or building is acquired, altered, etc., with Government aid, or has been made over by Government to any institution, it should not be transferred without the permission of the Government. Our Bill is far more comprehensive than the English Act.

4. In the first place, the English Act invalidates only a sale, exchange or mortgage of the premises, and does not cover leases or gifts. Our Bill covers leases and gifts also - See the definition of "transfer" in clause 2 (4).

5. Secondly, the English Act does not contain any specific provision prohibiting the management from diverting the premises for purposes alien to those of the institution or keeping the premises vacant. Clause 3 (1) of our Bill provides for these matters specifically.

6. Thirdly, the scope of the English Act is confined to educational institutions, Our Bill deals not only with educational, but also with medical institutions. Power has also been taken to apply our Bill to any other institution or class of institution - see the definition of "institution" in clause 2(2). This is clearly a desirable and reasonable extension.

7. Fourthly, our Bill will apply not only where a grant is made by Government but also where any land or building has been transferred by them to an institution. This is also clearly necessary.

8. Fifthly, - and this is the most important point - the English Act gives an option to the management of the institution either to get the consent of the Ministry of Education or to repay the grant, before permitting a transfer. Where

however the value of the land or building has appreciated considerably after the making of the grant, the management may decide to repay it, and yet make a profit - and a handsome profit too - out of the transaction. The fundamental purpose of our Bill is to prevent such profiteering - See the Statement of Objects and and Reasons. This is secured by clause 3 (1) of our Bill which makes it incumbent on the management to obtain the permission of the Government in all cases.

9. Government may grant such permission in two cases viz., (1) where the ~~grant~~ alienation is in furtherance of the purposes of the institution ~~and~~ or (2) where some other valid reason justifies the transfer. In the first case, a refund of only a proportionate part of the grant or of the market value of the property granted by the Government is to be required. In the second case, however, permission will be given only on payment of the entire grant or of the entire market value. The English Act which requires the entire grant to be repaid in all cases is harsher than our Bill.

10. Sixthly, The English Act merely declares that a transfer in violation of its provisions shall not be valid, without specifically stating what should be done when such a transfer is made. Clause 4 of our Bill gives power to the Government in such cases (a) to take possession of the land or building or (b) to direct the manager of the institution to repay the entire grant or the entire market value of the property. Where however the land or the building-site was not given to the institution by the Government but was acquired by ~~it~~ the institution, if the Government decide to take possession of the property, the ~~management~~ Government are to refund to the institution the amount spent by it in acquiring the land and constructing the building.

11. To sum up, our Bill is based on the English Act, but covers wider ground. It contains fuller and more detailed provisions than are found in the English Act, and is specially designed to prevent profiteering in times of high prices like the present.

KMP. 6/1/48

MS 7/1/48

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Supplementary note

The main provisions of the Bill involve little more than a natural adaptation to altered conditions and times of principles running through our own legal system. In the days before British rule, Indian Rajahs and Nawabs made on numerous occasions grants which we call Inams for the upkeep of various institutions including choultries and darmasalas and for the rendering of services beneficial to the community as a whole. A common example of the latter type of inam is that granted for the repair of works of irrigation. A usual condition of such grants was that they were not to be alienated. It was a further common condition that the grants were to be enjoyed only so long as the services were properly performed. In case of default, the Inams would be either resumed absolutely or resumed and regranted to suitable persons. In the present Bill we are doing nothing than apply these principles. We are not interfering with the grants made periodically to enable an institution to meet its current expenses; but only with grants of a capital nature. In principle there can be no difference between a case where Government has made an assignment of land or granted a sum of money with which the property was purchased. In both cases it is a gift or Inam for a particular purpose. The Bill only makes provision for dealing with cases where that purpose is sought to be defeated. In other words, it is an application of the principles which regulate the resumption or regrant of ~~Inams of a particular description.~~ a certain type of Inam

MS 2/1/48

HM Fawcett

The Existing practice with regard to giving of grants as laid down in Chapter VIII of the Grant-in-aid Code.

With regard to grants for buildings, building sites and playgrounds, Chapter VIII.

Forthe purpose of this Bill, Rules 54(i) and 56 are the relevant rules. These are extracted below:

"54(i). Execution of mortgage.

Whenever a scheme is approved and Government sanction a grant, the management shall be required to execute a deed of mortage of the property concerned or a deed of acceptance in respect of the grant payable in any one of the appropriate forms of deed prescribed in Appendices O, P and PP, Q and R. Forms in Appendices O, P and PP shall be used when the grant exceeds Rs.1,000; form Q when the grant exceeds Rs.500 but does not exceed Rs.1,000; and form R when the grant does not exceed Rs.500. The Director may however grant exemption from the execution of the deed in cases where the grant does not exceed Rs.10,000 if he considers that the execution of the deed is unnecessary."

"56. Claims of the Government.

The manager of any institution receiving a grant under this chapter shall refund the grant or a portion of it as specified below, if the land or building in respect of which the grant was made ceases to be used for educational purposes approved by Government within a period of thirty years from the date of payment of the grant where the grant does not exceed fifty thousand rupees; fifty years from the date of payment of the grant where the grant exceeds fifty thousand rupees but does not exceed one lakh; and 99 years from the date of payment of the grant where the grant exceeds one lakh of rupees. The amount to be refunded shall bear the same proportion to the total grants as the unexpired portion of the period for which the building or land is secured against diversion bears to the total period. If the manager fails to make such refund the Government may recover the amount by such means as they think fit.

A Bill to prohibit transfers of certain lands and buildings by managers of educational (and other) institutions in the Province of Madras.

WHEREAS it is expedient to prohibit transfers by managers of educational (and other) institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:-

Short title, extent and commencement.

1.(1) This Act may be called the Madras Aided Educational Institutions (Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context--

(1) "Government" means the Provincial Government; as defined in section 3, clause

Central

"(2) 'institution means--

(a) any college, school or other place in the Province of Madras which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;

(b) any hospital, dispensary or nursing home in the Province and includes quarters for the residence of doctors, nurses and servants;

(c) any other institution or class of institution in the Province notified by the Government in the Fort St. George Gazette."

to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3. (1) Where before or after the commencement of this Act--

(a) any land or building has been acquired, improved, ~~extended~~, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used for any purpose ~~other than an educational~~ purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if ~~in their opinion~~--

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section

(1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations ~~, if any,~~ in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order--

(a) if the land, or the land on which the building stands, ~~as the case may be,~~ belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current (market) value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Government for ~~the purpose~~

of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land in which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Government shall recoup to the manager any amount spent by him or his predecessors-in-title for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6. (1) Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act, of any land or building, he shall,

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if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police and

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

it was being used before such vesting.

Sums due under Act to be recovered as arrears of land revenue.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall (may) be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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P. 7

STATEMENT OF OBJECTS AND REASONS.

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit ~~from~~ out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution; and (2) where some other valid reason justifies the transaction.

The Government also consider that any other public institution which has received aid from them, e.g. a hospital, should be treated in regard to this matter in the same manner as an educational institution.

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Education and P.H. Department.

NOTE FOR THE CABINET.

Sub: Legislation re: Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was ultra vires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Edn.) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill had already been approved in circulation by all Hon'ble Ministers.

T.S.A(viswanathan) 13-11-47 — On behalf of H.M.(Home) C.P.(economy Body) 20-11-47.

A note was circulated for consideration at the informal meeting for orders whether the draft bill might be proceeded with. Subsequently H.M.(Education) has minuted that he has had a talk with the Hon'ble Premier and that this may be included in the Agenda for the next meeting of the Cabinet to be held on the 17th. The point for orders is whether the draft bill annexed may be proceeded with.

K.V. Subramaniam,
Secretary to Government -9-12-47

ANNEXURE.

A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

Whereas it is expedient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; it is hereby enacted as follows:-

Short title, extent and commencement.

1(1). This Act may be called the Madras Educational Institutions (Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.
(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context--

(1) " Government" means the Provincial Government as defined in section 3, clause (23 a), of the General Clauses Act, 1897. | Central Act X of

(209/208)

(2) "institution" means any college, school, patasala, madarasah, or other educational institution in the Province of Madras;

(3) "manager" means the owner, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Govt:

3.(1) Where before or after the commencement of this Act—

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or (b) any land or building has been transferred by the Govt. ment to the manager of any institution for the purposes thereof, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2); nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion—

(i) the transfer is made in furtherance of the purposes of institution, provided repayment is made to the Govt. of such portion as the Govt. may deem proper in the circumstances of the case, of the grant referred to in sub-section(1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section.

(4). If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order,—

3.

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Govt. and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Govt. for the purpose of constructing, improving, extending, altering or repairing the building

(b) if the land, or the land on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Govt. or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, granted

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any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6(1) Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or building, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for educational purposes.

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7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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STATEMENT OF OBJECTS AND REASONS

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits(except with Government Permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where these provisions have been contravened in any case, Government have been given the option, either to direct the manager to repay the entire grant or the entire market value of the property (such as to claim possession and ownership of the property. There, however, the

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second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to recoup to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

...c/o....

In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened, in any case, Government have been given the option, either to direct the manager ~~or~~ to repay the entire grant or the entire market value of the property granted or to claim possession and ownership of the property. (The second of these options is exercised but) Where, however, the land or the building site did not originally belong to the Government, an obligation is laid on them to ~~recoup~~ (pay) to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes. similar to those for which it was being used before it vested in the Government.

19/9/47 K.R.Rajagopalan 19.9.47

(5) 205 206 13

Education and Public Health Department.

NOTE FOR THE ~~INFORMAL MEETING OF THE HON'BLE MINISTERS~~ cabinet

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Sub: Legislation - Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intra vires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Education) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules ~~which~~ the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home.) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam) On behalf of H.M.(Home)
13-11-1947. O.P.R(amaswamy Reddy)
20-11-47

A ~~The~~ note ~~is now~~ was circulated for consideration at the informal meeting for orders whether the draft bill ~~may~~ might be proceeded with.

M.V. Subramaniam
~~Secretary to Government~~

H.M. (Edn) has minuted subsequently that he has had a talk with the Hon'ble Premier and that the matter be included in the Agenda for the next meeting of the Cabinet to be held on the 8th. the point for order is whether the draft bill annexed may be proceeded with.

ANNEXURE.

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A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

...

WHEREAS it is expedient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; It is hereby enacted as follows:-

Short title, extent and commencement.

1(1). This Act may be called the Madras Educational Institutions (Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context--

(1)"Government" means the Provincial Government as defined in section 3, clause (43 a), of the General Clauses Act, 1897; Central Act X of 1897.

(2) "institution" means any college, school, patasala, madarasah, or other educational institution in the Province of Madras;

(3) "manager" means the owner, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Government.

3.(1) Where before or after the commencement of this Act--

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be

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transferred without the permission of the Government under sub-section (2); nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion-

(i) the transfer is made in ~~furtherance~~ furtherance of the purposes of the institution, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section(1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order--

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land ~~on~~ on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their

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option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Government shall recoup to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6(1). Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or building, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for educational purposes.

Sums due under Act to be recovered as arrears of land revenue.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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STATEMENT OF OBJECTS AND REASONS:

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some edu-

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educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits (except with Government permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, either to direct the manager to repay the entire grant or the entire market value of the property grant or to claim possession and ownership of the property. Where, however, the second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to recoup to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

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Education and P.H.Department.

NOTE FOR THE CABINET.

Sub: Legislation ~~Bx~~ Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intravires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act, 1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Edn.) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if it it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam) 13-11-47 — On behalf of H.M.(Home) O.P.R(amaswamy Reddy) 20-11-47.

A note was circulated for consideration at the informal meeting for orders whether the draft bill might be proceeded with. Subsequently H.M.(Education) has minuted that he has had a talk with the Hon'ble Premier and that this may be included in the Agenda for the next meeting of the Cabinet to be held on the 17th. The point for orders is whether the draft bill annexed may be proceeded with.

M.V. Subramaniam,
Secretary to Government -9-12-47

ANNEXURE.

A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

Whereas it is expedient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; it is hereby enacted as follows:-

Short title, extent and commencement.

1(1). This Act may be called the Madras Educational Institutions (Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.
(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " Government" means the Provincial Government as defined in section 3, clause (43 a), of the General Clauses Act, 1897. | Central Act X of 1897.

(2) "institution" means any college, school, patasala, madarasah, or other educational institution in the Province of Madras;

(3) "manager" means the owner, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Govt:

3.(1) Where before or after the commencement of this Act—

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2): nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion—

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Govt. of such portion as the Govt. may deem proper in the circumstances of the case, of the grant referred to in sub-section(1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section.

(4). If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to ~~file~~ make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Govt. and was transferred by them for the purposes of the institution, direct the Collector or to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land(together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Govt. for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Govt. or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Govt. shall recoup to the manager

second of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to recoup to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government and which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

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Education and P.H.Department.

NOTE FOR THE CABINET.

Sub: Legislation ~~xx~~ Draft Bill to prohibit transfers of lands and buildings of educational institutions.

A copy of a draft bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province, with the statement of 'Objects and Reasons' is appended. The Principle of the legislation has been accepted by the Hon'ble Ministers, the Hon'ble Premier and His Excellency. The Legal Department, while preparing the draft bill, stated that it was intravires of the Provincial Legislature, but they suggested a reference to the Advocate-General on the point whether the provisions of the draft bill contravene Section 299 of the Government of India Act,1935. The Advocate General has opined that the draft Bill did not contravene this provision. When the file was circulated prior to the draft Bill being placed before an informal meeting of the Hon'ble Ministers, H.M.(Edn.) and Hon'ble Premier minuted as follows:-

" The Bill has been made necessary because certain managements of schools have come forward to sell their property. Under the present rules the Government can claim only a portion of the grant that has been paid on the land or school building, even that cannot be done if ~~it~~ it is over some years. In the present state of affairs money has depreciated and so, what they have to pay to the Government under the present rules is a very paltry sum, only a small fraction of what they will get by sale. Recently, cases have come to my notice that some institutions are resorting to this step. With a view to prevent these things being done, this bill is being introduced.

This Bill only puts our law in a line with English law and cannot be said to cause hardship to any body. As cases have come to our notice that such things are taking place, the bill may be introduced as soon as possible. On the approval of the bill by H.M.(Home) the matter may be brought before the informal meeting of Ministers as soon as possible. The principle of the bill has already been approved in circulation by all Hon'ble Ministers.

T.S.A(vinashilingam) 13-11-47
On behalf of H.M.(Home)
O.P.R(annaswamy Reddy) 20-11-47.

A note was circulated for consideration at the informal meeting for orders whether the draft bill might be proceeded with. Subsequently H.M.(Education) has minuted that he has had a talk with the Hon'ble Premier and that this may be included in the Agenda for the next meeting of the Cabinet to be held on the 17th. The point for orders is whether the draft bill annexed may be proceeded with.

M.V. Subramaniam,
Secretary to Government -9-12-47

ANNEXURE.

A Bill to prohibit transfers of certain lands and buildings by managers of educational institutions in the Province of Madras.

Whereas it is expe/dient to prohibit transfers by managers of educational institutions in the Province of Madras, of lands and buildings acquired with the aid of Government grants, or from the Government; it is hereby enacted as follows:-

1(1). This Act may be called the Madras Educational Institutions(Prohibition of Transfers of Property) Act, 1947.

(2) It extends to the whole of the Province of Madras.
(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or content.--

(1) " Government" means the Provincial Government as defined in section 3, clause (43 a), of the General Clauses Act, 1897. | Central Act X of

(2) "institution" means any college, school, patasala, madarasah, or other educational institution in the Province of Madras;

(3) "manager" means the owner, trustee or other persons in whom the power to transfer any land or building belonging to an institution vests;

(4) "transfer" includes sale, exchange, mortgage, lease or gift.

Prohibition of transfer of lands and buildings by managers, without permission from Govt:

3.(1) Where before or after the commencement of this Act—

(a) any land or building has been acquired, improved, extended, constructed, altered or repaired for the purposes of any institution by the manager thereof, with the aid of any grant made from the revenues of the Government, or

(b) any land or building has been transferred by the Government to the manager of any institution for the purposes thereof, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2): nor shall the land or building be used for any purpose other than an educational purpose, or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, permit the transfer of any such land or building if in their opinion—

(i) the transfer is made in furtherance of the purposes of the institution, provided repayment is made to the Govt. of such portion as the Govt. may deem proper in the circumstances of the case, of the grant referred to in sub-section(1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

(ii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section.

(4). If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations, if any, in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(a) if the land, or the land on which the building stands, as the case may be, belonged to the Govt. and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land(together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by Govt. for the purpose of constructing, improving, extending, altering or repairing the building;

(b) if the land, or the land on which the building stands, as the case may be, did not belong to the Government, direct the manager to repay in full the grant made by the Govt. or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, provided that in the latter case, the Govt. shall recoup to the manager

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any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Orders under section 4 not to be questioned in Courts.

5. Any order passed by the Government under section 4, shall be final and shall not be liable to be questioned in any Court of Law.

Land or building to vest in Crown absolutely, on possession being taken.

6(1) Upon the receipt of an order under section 4 directing the Collector to take possession of any land or building, it shall be his duty to take such possession with the least possible delay; and the land or building shall, upon such possession being taken, vest absolutely in the Crown free from all encumbrances, other than encumbrances existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector is opposed or impeded in taking possession under this Act of any land or building, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate or within the presidency-town of Madras to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Any land or building which vests in the Crown under sub-section (1) shall be used by the Government, so far as may be, only for educational purposes.

Sums due under Act to be recovered as arrears of land revenue.

7. Any sum required to be paid or repaid to the Government in pursuance of section 3 or section 4 shall be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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STATEMENT OF OBJECTS AND REASONS

Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. Clause 3 of the Bill accordingly prohibits(except with Government Permission) any transfer of the property, or its use for other than educational purposes, or its being kept vacant. A transfer will be permitted by Government only in two cases (1) where it is in furtherance of the purposes of the educational institution; and (2) where some other valid reason justifies the transaction. In the first case, only a proportionate part of the grant of the market value of the property given by Government will have to be refunded; but in the second case, the entire grant or the entire market value will have to be refunded.

Clause 4 of the Bill makes provision for the enforcement of the provisions of clause 3. Where those provisions have been contravened in any case, Government have been given the option, either to direct the manager to repay the entire grant or the entire market value of the property (grant or to claim possession and ownership of the property. There, however, the

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...ond of these options is exercised but the land or the building site did not originally belong to the Government, an obligation is laid on them to recoup to the educational institution the amount spent by it in acquiring the land and constructing the building.

Any property of which possession is taken by Government which will vest in them under the provisions of the Bill should be used, so far as may be, only for educational purposes.

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