

EDUCATION

(195.) Department.

MS.

SERIES.

G.O. NO. 2955, EDUCATION,

Dated

2ND NOVEMBER 1950.

[Despatch Abstract.]

THE MALLAS EDUCATIONAL INSTITUTIONS (TEMPORARY CONTROL OF
PROPERTY) ACT, 1949.

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

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



G.O. No. 25, 25th January 1950

Order—No. 25, Legal, dated 25th January 1950.

(By order of His Excellency the Governor)

To the Superintendent, Government Press.

to the Superintendent, Government Press.
 " Senior Translator to Government.
 " Education Department. ✓
 " Secretary, Madras Legislature.
 " Secretary to His Excellency the Governor.

The following Act of the Madras Legislature received the assent of His Excellency the Governor-General on the 25th January 1950, and is hereby published for general information.

An Act to provide for taking over for a temporary period the control of property used for educational purposes and certain other matters.

WHEREAS it is expedient to provide for taking over for a temporary period the control of property used for educational purposes under certain circumstances; It is hereby enacted as follows:—

- | | |
|--|--|
| 1. (1) This Act may be called the Madras Educational Institutions (Temporary Control of Property) Act, 1949. | Short title,
extent and
commence-
ment. |
| (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,—

(a) "educational institution" means any school, college or other institution for imparting education, which is managed by an individual, body or local authority;

(b) "Government" means the Provincial Government;

(c) "person interested" in relation to any property the control of which is taken over under this Act, includes all persons claiming an interest in the rent, damages or compensation payable in respect of the property;

(d) "prescribed" means prescribed by rules made under this Act.

Taking over control of property used for educational purposes.

3. (1) In any case where recognition is withdrawn from an educational institution by a competent authority or an educational institution is closed before the last working day of an academic year, if the Government consider it necessary to take over the control of any immovable property or any movable property such as furniture, books, apparatus, maps, equipment, registers or records, which before the withdrawal of the recognition or the closing of the institution was being used for the purposes of the institution or of any other institution connected therewith such as a hostel, quarters for the residence of teachers and servants, or a playground, then, notwithstanding anything to the contrary in any other law for the time being in force, the Government may, within three months from the withdrawal of the recognition, or the closing of the institution, as the case may be, take over the control of such property.

(2) The taking over of such control shall be effected by an order in writing addressed to the person who is deemed by the Government to be in possession of the property; and the order shall be served on such person in the prescribed manner.

(3) A copy of every order under sub-section (2) shall also be served in the prescribed manner on the owner of the property concerned, if he is not in possession thereof:

Provided that failure to comply with the provisions of this sub-section shall not affect the validity of the order.

(4) The Government may also make such further orders as may appear to them to be necessary or expedient in connection with the taking over control of any property under this Act.

(5) Where the control of any property, whether movable or immovable, is taken over under sub-section (1), the Government may—

(i) use or deal with such property themselves for any educational purpose which they think fit, or

(ii) by order, permit any other person or body including a local authority, to use or deal with such property for any such purpose, subject to the payment of such rent and other sums to the Government, and the observance of such conditions, as may be specified in the order:

Provided that such person or body shall be of the same religious denomination, if any, as that of the person or body from whom or from which, control of the property was taken over.

(6) The control over any property referred to in sub-section (1) shall, unless sooner relinquished, cease after the expiry of the academic year immediately following that in which the property is taken over:

Provided that the Provincial Government may, if in their opinion it is necessary so to do, by an order in writing published in the prescribed manner, direct that their control over such property shall continue for a further period not exceeding one academic year.

4. (1) Where any immovable property is taken over under section 3, the Government shall pay to the person interested, such rent as may be fixed by the District Collector:

Provided that where the property has been acquired with the aid of a Government grant, the rent shall be fixed by the District Collector after taking the amount of such grant into account in the prescribed manner.

(2) Where there is any dispute as to the title to receive the rent aforesaid or as to the apportionment of the amount of the rent, the District Collector shall decide the dispute.

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

(4) (a) Any person deeming himself aggrieved by an order of the District Collector under sub-section (1) or sub-section (2) may appeal against such order to the District Judge having jurisdiction over the area in which the immovable property is situated or if it is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court.

(b) Such appeal shall be preferred within sixty days from the date on which the order appealed against was communicated to the person concerned.

(5) The decision of the District or City Civil Judge on an appeal preferred to him under sub-section (4) shall be final and not be liable to be questioned in any Court of Law.

Compensation for movable property taken over.

Powers of entry, etc.

Summary power for taking possession of property.

Relinquishment of control.

5. Whenever any movable property is taken over under section 3, the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with such rules as may be prescribed; and where any such property has been acquired with the aid of a Government grant, such rules may provide for the manner in which the amount of the grant shall be taken into account in determining the compensation payable.

6. The authority prescribed in this behalf may, for the purpose of taking over any property under section 3 or determining the amount of rent or compensation payable under this Act, by order—

(a) authorize any person to enter and inspect any immovable property specified in the order and the movable property therein liable to be taken over under this Act;

(b) require any person to furnish to such authority as may be specified in the order, such information in his possession relating to the property, as may be so specified;

(c) direct that until the expiry of such period as may be specified in the order, the person in possession of the property shall not, without the permission of the Government, dispose of it or in the case of a building, alter it structurally or, in the case of movable property, remove it from the premises in which it is kept.

7. Any person remaining in possession of any property in contravention of an order issued under section 3 may be summarily dispossessed of the property by any officer empowered by the Government in this behalf, and in the case of a building, if free access to it is not afforded to such officer, he may after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

8. (1) Where the control of any property taken over under section 3 is to be relinquished, the Government may, after making such inquiry, if any, as they may consider necessary, by order in writing specify the person to whom possession of the property shall be given.

(2) The delivery of possession of any such property to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of such property which any other person may be entitled, by due process of law, to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any property referred to in sub-section (1) is to be delivered cannot be found or has no agent or other person empowered to accept delivery on his behalf, the Government shall cause to be published in the *Fort St. George Gazette* a notice declaring that the control of such property is relinquished; and in the case of any building or land, shall cause a copy thereof to be affixed on some conspicuous part of such building or land.

(4) When the notice referred to in sub-section (3) is published in the *Fort St. George Gazette*, the property specified in such notice shall cease to be subject to the control of the Government on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any rent, compensation or other claim in respect of such property for any period after the said date.

9. Whoever contravenes any order made under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

10. The Government may, by general or special order notified in the *Fort St. George Gazette*, direct that any power or duty which is conferred or imposed on them by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged by such officer or authority subordinate to the Government as may be specified in the order.

11. Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court of Law.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

13. (1) The Government may make rules for carrying out the purposes of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed;

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(b) the assessment and payment of compensation for any damage caused to any immovable property taken over under this Act or for any damage caused to, or loss of, any movable property so taken over ;

(c) the court-fees payable, and the procedure to be followed, in respect of the appeals referred to in section 4, sub-section (4) ;

(d) the payment of the costs incurred by the parties in connexion with such appeals.

Forwarded to the *Education Department*

(By order)

D. Balachandran
Superintendent.

20/5/48



D.O.

Director of Public Instruction,

M a d r a s, 7th May 1948.

Dear Mr. Subramanian,

Ref: Note dated 5-5-48 from the Hon'ble Minister for Education.

38769

I have been desired to offer my opinion on the draft bill to provide for the requisition of buildings used for educational purposes. I consider that this legislation is urgently required. There are managements against whom I would like to take drastic action for grave irregularities, involving in many cases, falsification of accounts etc., but except in rare cases, I am forced to allow recognition to continue because of the difficulty of providing for the pupils otherwise.

I have, however, one suggestion to make. The bill provides for the requisitioning of the buildings, land and equipment but not the registers and records. I suggest that a specific clause prohibiting the management from removing or tampering with the registers

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registers and for requisitioning them also may be included. Unless all the registers and records are handed over, it will be impossible to issue Transfer Certificates, original or duplicate, to pupils, (as a reference to their previous school record is necessary), to settle claims of salary by the members of the staff, to find out if the pupils have arrears of fees outstanding against them, to ascertain what items of equipment etc., have been purchased with Government aid etc. It may be desirable also to introduce a clause empowering the Magistrate to insist on the production of these registers if by any chance they have been removed by the management prior to the order of requisition.

Yours sincerely,

M. V. Subramanian

To M.V. Subramanian, Esq., I.C.S.,
Secretary to Government,
Edn & P.H., Dept., Fort St. George, Madras.

Letter No. 27345 c. / 18-9 Edn. & P.H. Dept. Madras

To the Hon'ble the Chief Justice,
High Court, Madras
(with copy of bill at A)

Despatched
15.5.48

Hon'ble Sir,

Sub:

Requisitioning of buildings
used for educational
purposes - Bill

I am directed to forward the enclosed draft bill and to request that the Hon'ble Judges may kindly favour the Bill with their views on the bill, particularly

on sections 4(3)(a) and 4(4)

8/5/58
J.S. 1/5/58
T.O.S.
J.S. 1/5/58

Original draft

Note for the Cabinet

Subj.:- Legislation - Bill to provide for the requisitioning of buildings used for educational purposes, under certain circumstances.

A on page 1 of

At the instance of H. M. (Edu.) ^{the} Legal Dept. ~~has~~ prepared a Bill which is intended to enable the Govt. to requisition buildings for use for educational purposes, when the building ceases to be used for such purposes on the withdrawal of recognition from the school by the authorities of the Education Department. When the Bill was circulated to H. M. (Edu.), he minuted as follows, explaining the reasons for, and the scope of the Bill, and requesting H. Pr. to agree to the Bill being taken before the ^{Cabinet} Committee for its consideration at its next meeting:-

pages 4-5 of

[H. E. H. M. Edu's minute on pages 4-5 of]

pages of

proposed

The Bill was then circulated to H. Pr. for orders and he agreed to the Bill. He signified his assent to the Bill of H. M. (Edu.) for the Bill to be taken to the next meeting of the Cabinet.

This note, with a copy of the Bill in the annexure, is accordingly ^{circulated} submitted to all H. M. for use, when the subject is considered at the next meeting of the Cabinet.

for

for

for

Annexure

[H. E. Bill at (A)]

for

Sub. Legislation - Madras (Regulation
of Edueal Buildings) Bill -
Enactment of.

[H.E. minialis at pp 10-11 NF]

With reference ~~at~~ to the minutes of ~~last~~ date 19.4.48, the H.P.R. has agreed to the bill going before the cabinet. The bill is accordingly placed before the cabinet for orders on the following points:—

2) whether as proposed by the
Hos (Edin), the scope of the bill
will be widened to enable Govt.
to requisition generally any building
for purposes of an educational
institution; and

3) whether after the bill has been finally re-drafted by the Legal Dept., it will be published for

cf section 32(6)

176 of Salt Lake Creek

(eliciting public opinion)
 for criticism and, if so, whether a period of
 one or one and a half months may be allowed
 for the receipt of suggestions and objections.

2/ A financial memorandum as required in
 Sectt. Instruction 32

Annexure
 [U. & bill at (A)]

is not annexed to this
 note, for the financial
 implications of the bill
 such as payment of
 rent, compensation etc.
 cannot be estimated
 now with any degree
 of accuracy.

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 implications of the bill
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 of accuracy.

Despatched to all
 Ministers C.S.
 P.S. to H.E.
 15/5/48

NOTE FOR THE CABINET.

SUBJECT:- Legislation - Madras (Requisition of Educational
 Buildings) Bill - Enactment of.

At the instance of the Hon'ble Minister for Education
 the Legal Department have prepared a bill which is intended
 to enable the Government to requisition buildings for use
 for educational purposes, when on the withdrawal of recog-
 nition from, or the dis-affiliation of, an educational
 institution, the buildings of the institution cease to be
 used for such purposes. A copy of the draft bill which
 the Legal Department advise, is intra-vires of the Provin-
 cial Legislature is annexed to this note. The Hon'ble
 Minister for Education has recorded the following minutes
 on the bill, on two different occasions:-

"Orders have been passed by Government regulating the
 salaries of teachers. Certain schools have not come in a
 line with these proposals. In the case of certain other
 schools, there is a great deal of corruption and falsification
 of accounts. The only power that the Government have,
 in these cases, is of withdrawing recognition. In many
 cases, they are not able to take this drastic step because
 the buildings belong to the managements and if the school
 in that locality is stopped, the Government or any other
 management will be unable to start another school and pro-
 vide education for the children who will be affected by
 this withdrawal of recognition. In these circumstances, the
 Government have found it very difficult to enforce their
 rules or even take disciplinary action in the face of even
 grave misdemeanour. And so, it is necessary for us to
 take power to requisition such buildings which were used
 for educational purposes; if we withdraw recognition to
 them. This does not take a general power for requisition-
 ing, but only such buildings as have been already utilised
 for educational purposes. When we do such requisitioning,
 provisions are being made to pay them reasonable rent.
 An appeal is also provided, so that no hardship need be
 caused to the management.

Many cases have come to our notice where such provi-
 sions are necessary and in the absence of these provisions
 the Government have felt helpless. And so, I had requested
 the Legal Department to prepare a Bill on these lines.
 They have prepared a Bill and it is submitted herewith.
 As the need for legislation is urgent, I would like H.E.
 to kindly put this up before the Cabinet for its next
 meeting. On his approval, copies of the Bill will be
 circulated to all."

T.S.A.
 19--4--48.

"It is also necessary to take power generally to
 requisition buildings for educational purposes. The Jt.
 Secretary, Legal, tells me that it can be done at the Select
 Committee stage, as the language of the preamble is wide
 and refers to the requisition of buildings used for edu-
 cational purposes in general terms. This may be included
 in the agenda of Cabinet meeting on the 18th."

T.S.A.
 11--5--48.

With reference to the minutes of date 19-4-48, the Hon'ble Premier has agreed to the bill going before the Cabinet. The bill is accordingly placed before the Cabinet for orders on the following points:-

(1) Whether the principles underlying the bill will be approved;

(2) whether as proposed by the Hon'ble Minister for Education, the scope of the bill will be widened to enable Government to requisition generally any building for purposes of an educational institution; and

(3) whether after the bill has been finally re-drafted by the Legal Department, it will be published for eliciting public opinion and, if so, whether a period of one or one and a half months may be allowed for the receipt of suggestions and objections.

2. A financial memorandum as required in Secretariat Instruction 32 is not annexed to this note, for the financial implications of the bill such as payment of rent, compensation etc. cannot be estimated now with any degree of accuracy.

M.V. Subramanian,
Secretary to Government.

Annexure.

P.T.O.

A Bill to provide for the requisition of buildings used for educational purposes and certain other matters.

WHEREAS it is expedient to provide for the requisition of buildings used for educational purposes and certain other matters; it is hereby enacted as follows:-

1. (1) This Act may be called the Madras (Requisition of Educational Buildings) Act, 1948.

(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 context --

(a) "educational institution" means any elementary school, secondary school, college, or other institution for imparting education, which is managed by a private person or body or by a local authority.

(b) "Government" means the Provincial Government;

(c) "prescribed" means prescribed by rules made under this Act.

Requisition of buildings, lands and equipment used for educational purposes.

3. (1) In any case where recognition is withdrawn from an educational institution by the authorities of the Education Department of the Government, if the Government consider it necessary to requisition any building, land or movable property such as furniture, books, apparatus, maps, equipment or registers and records which, before the withdrawal of the recognition, was being used for the purposes of the school or for any purpose connected therewith such as a playground, hostel or quarters for the residence of teachers and servants of the school, then, notwithstanding anything the contrary in any other law for the time being in force, the Government may, within three months from the withdrawal of the recognition, requisition such building, land or movable property.

(2) The requisition shall be effected by an order in writing addressed to the person in possession of the property and served in the prescribed manner.

(3) A copy of every order under sub-section (2) shall also be served in the prescribed manner on the owner of the property which has been requisitioned, if he is not in possession thereof.

Provided that failure to comply with the provisions of this sub-section shall not affect the validity of the order.

P.T.O.

(4) The Government may also make such further orders as may appear to them to be necessary or expedient in connection with the requisitioning.

(5) Where any property, whether movable or immovable, is requisitioned under sub-section (1), the Government may

(i) use or deal with such property themselves for any educational purpose which they think fit, or

(ii) permit any other person or body, including a local authority, to use or deal with such property for any such purpose, subject to the payment of such monthly rent and such other sums to the Government and the observance of such conditions as the Government may fix.

Rent for requisitioned buildings and lands.

4. (1) Where any building or land is requisitioned under section 3, the Government shall pay to the owner of the building or land such monthly rent as may be fixed by the District Collector and where the building or land has been acquired with the aid of any Government grant, the District Collector shall make a deduction on that account before fixing the monthly rent aforesaid.

(2) Every order passed by the District Collector fixing the monthly rent of a building or land under sub-section (1) shall, subject to the provisions of sub-sections (3) and (4), be final and shall not be liable to be questioned in any Court of law.

(3) (a) Any person aggrieved by an order of the District Collector fixing the monthly rent of a building or land under sub-section (1) may appeal against such order to the District Judge having jurisdiction over the area in which the building or land is situated or if the building or land is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court.

(b) Such appeal shall be made within sixty days from the date on which the order appealed against is communicated to the person concerned.

(4) The determination of the monthly rent by the District or City Civil Judge shall be final and shall not be liable to be questioned in any Court of law.

Compensation for movable property requisitioned.

5. Whenever any movable property is requisitioned under section 3, the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with such rules as may be prescribed; and where any such property has been acquired with the aid of any Government grant, such rules may provide for the making of a deduction on that account ~~from~~ the compensation payable.

Powers of entry, etc.

6. The authority prescribed in this behalf may, for the purpose of requisitioning any property under section 3 or determining the amount of rent or compensation payable under this Act, by order--

(a) authorize any person to enter and inspect any building or land specified in the order and the movable property therein liable to be requisitioned under this Act;

(b) require any person to furnish to such authority as may be specified in the order, such information in his possession relating to the property, as may be so specified;

(c) direct that the person in possession of the property shall not without the permission of the Government dispose of it or where the property is a building, structurally alter it or where the property is movable, remove it from the premises in which it is kept, until the expiry of such period as may be specified in the order.

Summary power for taking possession of requisitioned property.

7. Any person remaining in possession of any property in contravention of any order issued in respect thereof under section 3 may be summarily dispossessed by any officer empowered by the Government in this behalf, and in the case of a building, if free access to it is not afforded to such officer, he may after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

Release from requisition.

8. (1) Where any property requisitioned under section 3 is to be released from requisition, the Government may, after making such inquiry, if any, as they consider necessary, specify by order in writing, the person to whom possession of the property shall be given.

(2) The delivery of possession of the requisitioned property to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of such property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any requisitioned property is to be delivered cannot be found or has no agent or other person empowered to accept delivery on his behalf, the Government shall cause to be published in the Fort. St. George Gazette a notice declaring that such property is released from requisition and in the case of a building

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or of land, shall cause a copy thereof to be affixed on some conspicuous part of such building or land.

(4) When a notice referred to in sub-section (3) is published in the Fort St. George Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any rent compensation or other claim in respect of such property for any period after the said date.

Penalty.

9. Whoever contravenes any order made under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Delegation of powers and duties of the Government

10. The Government may, by general or special order, direct that any power or duty which is conferred or imposed on them shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged by any officer or authority subordinate to the Government.

Saving

11. Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court of Law.

Protection of action taken under the Act.

12. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything done or purporting to be done in pursuance of this Act or any order made thereunder.

Power to make rules.

13. (1) The Government may make rules for carrying out the purposes of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the determination of disputes as to the person to whom rent for any immovable property requisitioned under this Act is to be paid;

(c) the assessment and payment of compensation for any damage caused to any

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- 5 -
(12)
immovable property requisitioned under this Act, or for any damage caused to, or loss of, any movable property so requisitioned;

(d) the court-fees payable on the appeals referred to in section 4, sub-section (3)

(e) the procedure to be followed in respect of such appeals;

(f) the payment of the costs incurred by the parties, in connexion with such appeals.

STATEMENT OF OBJECTS AND REASONS.

The managements of some schools have not given effect to the orders of the Government regarding the salaries of teachers; and Government have credible information that there is a good deal of corruption and falsification of accounts in the case of some other schools. The only effective action which could be taken in these cases is to withdraw the recognition granted to the schools. But such a step cannot be taken in many cases as the school building belongs to the management and not other suitable building is available in the locality for housing a school. As withdrawal of recognition thus entails the loss of the educational facilities enjoyed by the children of the locality, Government find themselves precluded from taking the step even in cases of grave misdemeanour. To remedy this state of affairs, Government propose to take power by this Bill, to requisition any building or land which was used for the purposes of, or connected, with, a school, when recognition is withdrawn from it. Power has also been taken to requisition the furniture books, apparatus, maps, equipment and registers and records used for the purposes of the school.

The rent of any building or land requisitioned under the Bill will be determined by the District Collector subject to an appeal to the District Judge or the Principal Judge of the City Civil Court. The compensation for movable property requisitioned under the Bill will be determined in accordance with rules made under it for the purpose.

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(13)

Secretary, E. & P. H.

Please see herewith the opinions of the D.P.I. over our Bill to provide for the requisition of buildings used for educational purposes. That may be kept in the file and may be circulated to the Legal Department to make the necessary provision he has suggested.



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H.M. Education.

31537

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D.O.

Director of Public Instruction
M a d r a s, 7th May 1948.

Dear Sir,

Ref: Your note dated 5-5-48.

I am enclosing for your information copy of my letter to Mr. Subramanian, Secretary to Government, Edn., and P.H. Dept., in which I have offered my remarks on the draft bill which you so kindly sent to me.

Yours sincerely,

To
The Hon'ble Sri T.S. Avinashilingam
Chettiar, B.A., M.L.,
Minister for Education,
Fort St. George,
M a d r a s.

D.O.

Director of Public Instruction,

M a d r a s, 7th May 1948.

Dear Mr. Subramanian,

Ref: Note dated 5-5-48 from the Hon'ble Minister
for Education.

I have been desired to offer my opinion on
the draft bill to provide for the requisition of
buildings used for educational purposes. I consider
that this legislation is urgently required. There
are managements against whom I would like to take
drastic action for grave irregularities, involving
in many cases, falsification of accounts etc., but
except in rare cases, I am forced to allow recognition
to continue because of the difficulty of providing
for the pupils otherwise.

I have, however, one suggestion to make. The
bill provides for the requisitioning of the buildings,
land and equipment but not the registers and records.
I suggest that a specific clause prohibiting the
management from removing or tampering with the
registers

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registers and for requisitioning them also may be included. Unless all the registers and records are handed over, it will be impossible to issue Transfer Certificates, original or duplicate, to pupils, (as a reference to their previous school record is necessary), to settle claims of salary by the members of the staff, to find out if the pupils have arrears of fees outstanding against them, to ascertain what items of equipment etc., have been purchased with Government aid etc.

It may be desirable also to introduce a clause empowering the Magistrate to insist on the production of these registers if by any chance they have been removed by the management prior to the order of requisition.

Yours sincerely,

D. A. S.

To
M. V. Subramanian, Esq., I.C.S.,
Secretary to Government,
Edn & P.H., Dept., Fort St. George, Madras.

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To the D.P.I.

Please see herewith a draft Bill to provide for the requisition of buildings used for educational purposes and certain other matters. I shall be glad if you will send ~~me~~ your opinions on the Bill to the Secretary, E. & P.H. Dept. as soon as possible. *Within a week time or four days if possible, as I want the matter to come up in the next Cabinet.*

15A
H.M. Education. *5-5-48*

MEETING OF THE COUNCIL OF DISTRICTS HELD AT PORT ST. JOHN ON MONDAY
THE 7TH JUNE 1948.

The Hon'ble Premier presided.

PRESENT.

1. The Hon'ble Dr. T. T. S. Rajan.
2. The Hon'ble Sri K. Bhaktavatsalam.
3. The Hon'ble Sri B. C. S. Reddi.
4. The Hon'ble Sri T. S. Avinashalingam.
5. The Hon'ble Sri K. Madhava Varma.
6. The Hon'ble Sri Kala Venkata Rao.
7. The Hon'ble Sri A. S. Chetty.
8. The Hon'ble Sri V. Karmayya.

AGENDA.

3. Legislation - Madras (Requisition of Educational Buildings) Bill -
motion of.

ORDER:

It was decided that the principles underlying the Bill to provide for the requisition of buildings used for educational purposes should be approved and that the Bill after being finally redrafted by the Legal Department should be published for eliciting public opinion, a period of one or one and half months being allowed for the receipt of suggestions and objections. It was further decided that it was not necessary at present to widen the scope of the Bill to enable Government to requisition generally any building for purposes of an educational institution.

O.P. RAMASWAMY REDDY

Education and Public Health Department.

32

Received

Letter no. 27325 c/p 8-13 Ed. d 30-6-48 E. H.

To

(17)

The Honble the Chief Justice
High Court, Madras.

Recd
29/6/48

Honble Sir,

Sub: Madras (Requisition of
Educational Buildings) Bill

I am to enquire
when a reply to my letter no.
27325 c/p 8-9 Ed. d. 14-5-48 may
be expected

Yours faithfully

by
29/6/48

29/6/48
30/6/48

p3cf

Education and Public Health Department

35
01/11/18

P.T. Raman Nayar Esq., I.C.S.,
Registrar, High Court, Madras.

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

Dated 7th July 1948.

Sub: Bill - Requisitioning of buildings used for educational purposes - opinion -

Ref: Your letter 27345-C-1/48-9-Edn.(Edn. and P.H.) Dated 14-5-1948.

The Honourable the Judges have no objection to the provisions contained in Sections 4 (3) (a) and 4 (4) of the draft bill to provide for the requisition of buildings used for educational purposes. The other provisions of the Bill relate to matters of public policy on which the High Court as such has no opinion to offer.

51
P. J. Thompson
M. L. Thompson
REGISTRAR.

VSS

Bill

37

Message from His Excellency the Governor.

In pursuance of section ~~82~~⁸² sub-section (3) of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Assembly Council the consideration of the Madras Educational Institutions (Requisition of Property) Bill, 1948.

Dated (14.7.48)

(sd) Archibald Nye
Governor.

38

Madras Educational Institutions
(Requisition of Property) Bill 1948-
Introduction in the Legislature.

It is understood that the
HM (Edu) wanted a note on the question,
how soon the Madras Educational Institutions
(Requisition of Property) Bill could be
introduced in the Legislature. Accordingly
the following note is submitted:-

The Cabinet ordered that
the bill should be published in the
Gazette for eliciting public opinion. But
under the proviso to rule 113 of the Assembly
Rules, the bill has been published in ^{Council}
the Gazette of date 20.7.48 for general
information as distinct from publishing for
eliciting public opinion ordered by the
Cabinet. The reason why this has been
done is that with a popular ministry
in office, publication of a bill for
eliciting public opinion is not necessary.
However having regard to the
decision of the Cabinet, it has been
proposed that under rule 115 (1) of the
Assembly Rules, the HM (Edu) may ^{Council}
make a motion in the Legislature that
the bill be circulated for the purpose of
eliciting public opinion. Ordinarily the
motion can be made, at the earliest,
only, after the expiry of six days from
the publication of the bill, that is, it can
be made on the 26th. But under rule
112 of the Assembly Rules, the Speaker
may in his discretion allow the motion
without notice or with much shorter

p19/48
(not printed)

p19/48
(not printed)

p24/48

notice as he may think fit. This is the position according to the rules.

2/ However before the bill can be introduced in the legislature, a decision about the following points have to be settled:

1) whether H.E.'s previous sanction for the bill under section 299 of the Govt of India Act, has to be conveyed to the legislature.

2) whether as proposed (in the main file) the H.E. will make a motion in the legislature about the bill, be circulated for eliciting public opinion.

The main file has been sent to legal for advice on these points. After it is returned, it will be circulated for orders on these points as well as on the point whether

under rule 112 of the Assembly Rules, the Speaker will be moved to admit the motion for the introduction of the bill without notice or with shorter notice or whether the bill will be introduced in the normal course after the 26th i.e. 6 days after the publication.

21/7/48

21.7.48



2/2 20/7

D.O. Ref. No.

Dear Mr. President Mr. Speaker

Sub: The Madras Educational Institutions (Requisition of Property) Bill, 1948.

I am to enclose a message from His Excellency the Governor recommending to the legislative Council the consideration of the Madras Educational Institutions (Requisition of Property) Bill, 1948.

Yours sincerely

15/7/48

To The Hon'ble Mr. P. B. Ramakrishnaraju M.L.C. Pt. Madras Legislative Council (with message in engl)

The Hon'ble Mr. J. Siva Channuram Pillai M.L.A. Speaker, Madras Legislative Assembly (with message in engl)

Handwritten notes on lined paper, including the number 43 and various illegible cursive text.

43
MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.
In pursuance of section 299, sub-section (3), of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby accord my previous sanction for the introduction of the Madras Educational Institutions (Requisition of Property) Bill, 1948, in the Madras Legislative Council.
Assembly.
(Sd) Archibald Nye.
GOVERNOR.
Dated 26th July 1948.

Letter No. 27225 C/48-21 Edm

From

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

To

The Secretary,
Madras Legislative Assembly.

Dated 11th August 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 Educational Institutions (Requisition of Property) Bill, 1948, at the next meeting of the Legislative Assembly and to move that the Bill be referred to a *Select Committee.

2. The Bill together with the Statement of Objects and Reasons was published in the Fort St. George Gazette dated the 20th July 1948.

Yours faithfully,

Tc

MINISTER.

(F.c. attached) *[Signature]*

To be filled in by E.P.H.

[Handwritten signature]
4-40 P.M. 4/8/48

To be filled in by E.P.H.

*List of names will be furnished later.

uv. malis No. 273 ms⁴⁹ / u8 - 22 Ed d6. srs. C. dph (cr)

p 39 CR

DEST ~~100~~ 618

$\frac{6}{218 \text{ hrs.}}$

08/11/18

my bus

From

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

To

The Secretary,
Madras Legislative Assembly.

Dated the 11th August, 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 Educational Institutions (Requisition of Property) Bill, 1948, at the next meeting of the Legislative Assembly and to move that the Bill be referred to a Select Committee.*

2. The Bill together with the Statement of Objects and Reasons was published in the Fort St. George Gazette dated the 20th July 1948.

Yours faithfully,

T.S.A.
MINISTER.

*List of names on the reverse.

Deposited
11.8.48

*List of names.

1. Mr. M.A.Muhammad Ibrahim, Tanjore.
 2. Sri N.Sanjeevi Reddi.
 3. Sri K.S.V.Krishnan.
 4. Sri B.Pa rameswaran.
 5. Sri K.Nachiappa Gounder.
 6. Sri Pydha Venkatanarayana.
 7. Sri Alladi Aaron Rao
 8. Mr. Md. Rafeeudin Ahmad Ansari
 9. Sri M.P.Damodaran
 10. Srimathi C.Ammanna Raja
 11. Sri K.Bokkai Gowder
 12. Begum Sultan Mir Amiruddin
 13. Sri S.Chidambara Ayyar.
 14. Sri V.S.Sankarasubrahmanya Mudaliar.
 15. Mover.
-

SECRETARIAT OF THE MADRAS LEGISLATURE

D.O.No.5094/48-8 M.L.

Port St. George,

8th September 1948.

Dear Sir/Madam,

I am directed to inform you that the preliminary meeting of the Select Committee on the Madras Educational Institutions (Requisition of Property) Bill, 1948 will be held at 3 P.M. on Tuesday the 14th September 1948 in Room No.111 adjacent to the Chambers of the Hon. Minister for Education in Port St. George, Madras.

Yours faithfully,

D.K.V. Raghava Varma

(D.K.V. Raghava Varma)
Secretary,
Legislative Assembly.

To The Hon. Sri T.S. Avinashilingam Chettiyar.

Copy to the Legal and Education & Public Health Departments.

A.K.8/9

Collected
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1922

Special

59 T.H. (by post)

Expt. 10

Deposited
1921
29/8

To
The D.P.S.

Ref: Madras Educational Institutions
(Regulation of Property) Bill.

The H.E. (Edn) wants
information on the following points:-
(1) The conditions under which
withdrawal of recognition can be
ordered by the D.P.S.

(2) Number of aided institutions of
all categories

(3) The growth of schools and colleges
in the last five years and the number
of aided institutions in each category.

The D.P.S. Please furnish the information
required immediately enumerating

8/25/48

59/21

Office of the
Director of Public Instruction, Madras.

Post copy of Telephonic Message (By post) dated 22nd Sept. 48.

From

The Director of Public Instruction,
Madras.



To

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

-030-

71508

Sub: Madras Educational Institutions (Requisition of
property) Bill.

Ref: Your Telephonic message dated 20--9--1948
(by post).

-030-

The conditions under which withdrawal of recognition
can be ordered by the Director of Public Instruction are
as follows:

a. SECONDARY SCHOOLS:

1. Non compliance with departmental requirements in respect of
 - a) Organisation and development by approved methods and upon approved lines.
 - b) Educational needs of the locality
 - c) financial stability.
 - d) constitution of managing body.
 - e) Scale of fees charged as compared with those charged in other institutions in the same locality.
 - f) Introduction of approved Teachers' Provident Fund Scheme.
 - g) Compulsory medical inspection when insisted.
 - h) Compulsory physical training for all pupils except such as are declared unfit.
 - i) Admission of Harijan students in accordance with instructions.
 - j) Service conditions of teachers as determined by agreement terms.
2. Violation of rule 16 of the Madras Educational Rules i.e. employment of a teacher whose certificate has been cancelled or who has been declared unfit to be a teacher.
3. Presence of pupils unprotected from small pox. - HER 27(6)
4. Undue laxity in Granting promotion, if continued after due warning. - HER 30 - p9 05/11/51
5. In the event of any misconduct being persisted in and encouraged or permitted by the masters or the managing authorities. - HER 26/49 p23 05/11/51

b. SPECIAL SCHOOLS:

The conditions under which withdrawal of recognition
can be ordered by the Director in the case of special schools,
are in the same as those applicable to Secondary Schools.

/ PTO /

at the same time the conditions which
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c. ELEMENTARY SCHOOLS:

The recognition can be withdrawn from elementary schools for noncompliance with the Departmental requirements in respect of the following:

1. Location of the school in a building accessible to members of all castes or communities.
2. Adequately serving the educational needs of the locality.
3. Employment of qualified teachers as required by the Rules.
4. Employment of teachers declared unfit by the Director or whose certificates have been cancelled or suspended under 154 Madras Educational Rules or whose Teachers' Service Register has been withdrawn by the competent authority.
5. Where the school is under the management of a person declared unfit to be a manager or Correspondent by the Director.
6. Presence of pupils unprotected from small pox.
7. Refusal of admission to any pupil on grounds of caste or community to which he belongs.
8. Adoption of the Rules relating to the institution of Government Provident Fund and the Teachers Service Registers for teachers in respect of school under Private management.
9. Payment of salaries to teachers in accordance with the terms set forth in the Service Register for teachers.
10. Where the Director of Public Instruction considers in respect of a school in a locality where the system of Basic Education is introduced, that the school in question shall not be allowed to continue as an ordinary elementary school.
11. Where the school ~~is~~ violates any of the conditions of recognition as laid down in Chapter I of the Rules for Recognition in the Rules relating to elementary schools.

Reference ~~is~~ is solicited to rules 12, 16, 27(b), 30 and 99 of the Madras Educational Rules in regard to Secondary Schools.

The particulars called for under items (2) and (3) of the above message are furnished in the statement appended hereto.

S. Muthuswami

for Director of Public Instruction.

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TOTAL NO. OF ALL KINDS OF INSTITUTIONS UNDER ALL MANAGERIES.

	1943-44.	1944-45.	1945-46.	1946-47.	1947-48.
UNIVERSITIES:	3	3	3	3	3
Colleges Arts & Science:					
Men	60	60	66	68	72
Women	7	8	8	9	10
Professional:					
Men.	11	12	15	21	21
Women	4	4	4	5	4
Schools (High & Middle):					
Boys.	594	621	655	746	810
Girls.	164	179	200	216	223
Elementary:					
Boys	32228	31849	31729	31980	32216
Girls.	4186	4186	4200	4180	4177
Special:					
Men.	463	457	463	449	467
Women.	121	123	129	137	141

TOTAL NO. OF AIDED INSTITUTIONS ALONE.

Universities.	3	3	3	3	3
Colleges Arts & Science:					
Men.	44	45	49	52	58
Women.	5	5	5	5	6
Professional					
Men.	2	3	4	5	5
Women	2	3	3	3	6
Schools (High & Middle).					
Boys.	307	310	355	382	407
Girls.	111	124	144	148	242
Elementary:					
Boys.	16265	15814	15520	15539	15488
Girls.	1507	1531	1529	1529	1599
Special:					
Men.	125	137	138	137	140
Women.	77	81	85	91	93

NOTE: Figures for 1947-48 are only approximate.

A Bill to provide for the requisition of property used for educational purposes and certain other matters.

WHEREAS it is expedient to provide for the requisition of property used for educational purposes under certain circumstances ; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Educational Institutions (Requisition of Property) Act, 1948.
- (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 context,—

- (a) "educational institution" means any school, college or other institution for imparting education, which is managed by an individual, body or local authority ;
- (b) "Government" means the Provincial Government ;
- (c) "person interested" in relation to any property requisitioned under this Act, includes all persons claiming an interest in the rent, damages or compensation payable in respect of the property ;
- (d) "prescribed" means prescribed by rules made under this Act.

3. (1) In any case where recognition is withdrawn from an educational institution by a competent authority, if the Government consider it necessary to requisition any immovable property or any movable property such as furniture, books, apparatus, maps, equipment, registers or records, which before the withdrawal of the recognition was being used for the purposes of the educational institution or of any other institution connected therewith such as a hostel, quarters for the residence of teachers and servants, or a playground, then, notwithstanding anything to the contrary in any other law for the time being in force, the Government may, within three months from the withdrawal of the recognition, requisition such property.

(2) The requisition shall be effected by an order in writing addressed to the person who is deemed by the Government to be in possession of the property ; and the order shall be served on such person in the prescribed manner.

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(3) A copy of every order under sub-section (2) shall also be served in the prescribed manner on the owner of the property which has been requisitioned, if he is not in possession thereof:

Provided that failure to comply with the provisions of this sub-section shall not affect the validity of the order.

(4) The Government may also make such further orders as may appear to them to be necessary or expedient in connection with the requisitioning.

(5) Where any property, whether movable or immovable, is requisitioned under sub-section (1), the Government may—

(i) use or deal with such property themselves for any educational purpose which they think fit, or

(ii) by order, permit any other person or body including a local authority, to use or deal with such property for any such purpose, subject to the payment of such rent and other sums to the Government, and the observance of such conditions, as may be specified in the order.

4. (1) Where any immovable property is requisitioned under section 3, the Government shall pay to the person interested, such rent as may be fixed by the District Collector:

Provided that where the property has been acquired with the aid of a Government grant, the rent shall be fixed by the District Collector after taking the amount of such grant into account in the prescribed manner.

(2) Where there is any dispute as to the title to receive the rent aforesaid or as to the apportionment of the amount of the rent, the District Collector shall decide the dispute.

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

(4) (a) Any person deeming himself aggrieved by an order of the District Collector under sub-section (1) or sub-section (2) may appeal against such order to the District Judge having jurisdiction over the area in which the immovable property is situated or if it is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court.

(b) Such appeal shall be preferred within sixty days from the date on which the order appealed against was communicated to the person concerned.

(5) The decision of the District or City Civil Judge on an appeal preferred to him under sub-section (4) shall be final and not be liable to be questioned in any Court of law.

Rent for immovable property which has been requisitioned.

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5. Whenever any movable property is requisitioned under section 3, the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with such rules as may be prescribed; and where any such property has been acquired with the aid of a Government grant, such rules may provide for the manner in which the amount of the grant shall be taken into account in determining the compensation payable.

6. The authority prescribed in this behalf may, for the purpose of requisitioning any property under section 3 or determining the amount of rent or compensation payable under this Act, by order—

(a) authorize any person to enter and inspect any immovable property specified in the order and the movable property therein liable to be requisitioned under this Act;

(b) require any person to furnish to such authority as may be specified in the order, such information in his possession relating to the property, as may be so specified;

(c) direct that until the expiry of such period as may be specified in the order, the person in possession of the property shall not, without the permission of the Government, dispose of it or in the case of a building, alter it structurally or, in the case of movable property, remove it from the premises in which it is kept.

7. Any person remaining in possession of any property in contravention of an order issued under section 3 may be summarily dispossessed of the property by any officer empowered by the Government in this behalf, and in the case of a building, if free access to it is not afforded to such officer, he may after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

8. (1) Where any property requisitioned under section 3 is to be released from requisition, the Government may, after making such inquiry, if any, as they may consider necessary, by order in writing specify the person to whom possession of the property shall be given.

(2) The delivery of possession of the requisitioned property to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of such property which any other person may be entitled, by due process of law, to enforce against the person to whom possession of the property is so delivered.

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(3) Where the person to whom possession of any requisitioned property is to be delivered cannot be found or has no agent or other person empowered to accept delivery on his behalf, the Government shall cause to be published in the *Fort St. George Gazette* a notice declaring that such property is released from requisition; and in the case of any building or land, shall cause a copy thereof to be affixed on some conspicuous part of such building or land.

(4) When the notice referred to in sub-section (3) is published in the *Fort St. George Gazette*, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any rent, compensation or other claim in respect of such property for any period after the said date.

Penalty.

9. Whoever contravenes any order made under this Act shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Delegation of powers and duties of the Government.

10. The Government may, by general or special order notified in the *Fort St. George Gazette*, direct that any power or duty which is conferred or imposed on them by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged by such officer or authority subordinate to the Government as may be specified in the order.

Saving.

11. Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court of law.

Protection of action taken under the Act.

12. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything done or purporting to be done in pursuance of this Act or any order made thereunder.

Power to make rules.

13. (1) The Government may make rules for carrying out the purposes of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the assessment and payment of compensation for any damage caused to any immovable property requisitioned under this Act or for any damage caused to, or loss of, any movable property so requisitioned;

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(c) the court-fees payable, and the procedure to be followed, in respect of the appeals referred to in section 4, sub-section (4);

(d) the payment of the costs incurred by the parties in connexion with such appeals.

STATEMENT OF OBJECTS AND REASONS.

The managements of some schools have not given effect to the orders of the Government regarding the salaries of teachers; and Government have credible information that there is a good deal of corruption and falsification of accounts in the case of some other schools. The only effective action which could be taken in these cases is to withdraw the recognition granted to the schools. But such a step cannot be taken in many cases as the school building belongs to the management and no other suitable building is available in the locality for housing a school. As withdrawal of recognition thus entails the loss of the educational facilities enjoyed by the children of the locality, Government find themselves precluded from taking the step even in cases of grave misdemeanour. To remedy this state of affairs, Government propose to take power by this Bill, to requisition any building or land which was used for the purposes of, or connected with, an educational institution when recognition is withdrawn from it. Power has also been taken to requisition the furniture, books, apparatus, maps, equipment, registers and records used for the purposes of such an institution.

The rent of any building or land requisitioned under the Bill will be determined by the District Collector subject to an appeal to the District Judge or the Principal Judge of the City Civil Court. The compensation for movable property requisitioned under the Bill will be determined in accordance with rules made under it for the purpose.

T. S. AVINASHILINGAM CHETTIAR.

[Note for circulation] to the members
of the select committee

Sub: Legislation - Madras Educational
Institutions (Requisition of Property)
Bill

[12/12/48 to A 3 47]

The Select Committee sitting
on the Madras Educational Institutions
(Requisition of Property) Bill has asked
for information on the following points:-

(1) The conditions under which
withdrawing of recognition from educational
institutions can be ordered by the D.P.S.

(2) The number of aided institutions
of all categories.

(3) The growth of schools and colleges
in the last five years and the number
of aided institutions in each category.

2/ The various conditions under
which recognition can be withdrawn
from the different types of educational
institutions are given in Annexure I. The
information required regarding aided
institutions is given in Annexure II.

3/ As ordered by the H.R. (Edn)
copies of this note may be circulated
to all the members of the Select Committee.

29/12/48

DM
29/12/48

Annexure I

(a) ~~colleges~~ When the university disaffiliates
a college

(a) colleges It is the university which
affiliates and disaffiliates colleges. When
a college is disaffiliated by the university

Note for Circulation to the Members of the Select Committee.

SUB:- Legislation - Madras Educational Institutions - (Requisition of Property) Bill.

The Select Committee sitting on the Madras Educational Institutions (Requisition of Property) Bill has asked for information on the following points:-

(1) The conditions under which withdrawal of recognition from educational institutions can be ordered by the Director of Public Instruction.

(2) The number of aided institutions of all categories.

(3) The growth of schools and colleges in the last five years and the number of aided institutions in each category.

2. The various conditions under which recognition can be withdrawn from the different types of educational institutions are given in Annexure I. The information required regarding aided institutions is given in Annexure II.

3. As ordered by the H.M. (Edn.) copies of this note may be circulated to all the members of the Select Committee.

M.V. SUBRAMANIAN,
Secretary to Government.

ANNEXURE I

(a) Colleges:- It is the University which affiliates and disaffiliates colleges. When a college is disaffiliated by the University it automatically ceases to have the recognition of the Government.

(b) Secondary Schools:-

1. Non compliance with departmental requirements in respect of

- Organisation ~~with~~ and development by approved methods and upon approved lines.
- Educational needs of the locality
- financial stability.
- constitution of managing body.
- Scale of fees charged as compared with those charged in other institutions in the same locality.
- Introduction of approved Teachers' Provident Fund Scheme.
- Compulsory medical inspection when insisted.
- Compulsory physical training for all pupils except such as are declared unfit
- Admission of Harijan students in accordance with instructions.
- Service conditions of teachers as determined by agreement terms.

2. Violation of rule 16 of the Madras Educational Rules i.e. employment of a teacher whose certificate has been cancelled or who has been declared unfit to be a teacher.

3. Presence of pupils unprotected from small pox

p.t.o.

4. Undue laxity in Granting promotion, if continued after due warning.

5. In the event of any misconduct being persisted in and encouraged or permitted by the masters or the managing authorities.

(c) Special Schools:-

The conditions under which withdrawal of recognition can be ordered by the Director in the case of special schools, are the same as those applicable to Secondary Schools.

(d) Elementary Schools

The recognition can be withdrawn from elementary schools for noncompliance with the Departmental requirements in respect of the following:--

1. Location of the school in a building accessible to members of all castes or communities.
2. Adequately serving the educational needs of the locality.
3. Employment of qualified teachers as required by the rules.
4. Employment of teachers declared unfit by the Director or whose certificates have been cancelled or suspended under 154 Madras Educational Rules or whose Teachers' Service Register has been withdrawn by the competent authority.
5. Where the school is under the management of a person declared unfit to be a manager or Correspondent by the Director.
6. Presence of pupils unprotected from small pox.
7. Refusal of admission to any pupil on grounds of caste or community to which he belongs.
8. Adoption of the Rules relating to the institution of Government Provident Fund and the Teachers Service Registers for teachers in respect of school under Private management.
9. Payment of salaries to teachers in accordance with the terms set forth in the Service Register for teachers.
10. Where the Director of Public Instruction considers in respect of a school in a locality where the system of Basic Education is introduced, that the school in question shall not be allowed to continue as an ordinary elementary school.
11. Where the school violates any of the conditions of recognition.

p.t.o.

ANNEXURE II.

TOTAL NUMBER OF ALL KINDS OF INSTITUTIONS UNDER ALL MANAGERMENTS

		1943-44.	1944-45.	1945-46.	1946-47.	1947-48.
UNIVERSITIES		3	3	3	3	3
Colleges Arts & Science						
Men	...	60	60	66	68	72
Women	...	7	8	8	9	10
Professional						
Men	...	11	12	15	21	21
Women	...	4	4	4	5	4
Schools (High & Middle)						
Boys	...	594	621	655	746	810
Girls	...	164	179	200	216	223
Elementary						
Boys	...	32,228	31,849	31,729	31,980	32,216
Girls	...	4,186	4,186	4,200	4,180	4,177
Special						
Men	...	463	457	463	449	467
Women	...	121	123	129	137	141

TOTAL NUMBER OF AIDED INSTITUTIONS ALONE.

Universities		3	3	3	3	3
Colleges Arts & Science						
Men	...	44	45	49	52	60
Women	...	5	5	5	5	8
Professional						
Men	...	2	3	4	5	5
Women	...	2	3	3	3	6
Schools (High & Middle)						
Boys	...	307	310	355	382	407
Girls	...	111	124	144	148	242
Elementary						
Boys	...	16,265	15,814	15,520	15,539	15,488
Girls	...	1,507	1,531	1,529	1,529	1,599
Special						
Men	...	125	137	138	137	140
Women	...	77	81	85	91	93

NOTE: Figures for 1947-48 are only approximate.

Special -
confidential

Letter No. 27345 27/12/26 Ed. 7 cont.

To

The ~~Advocate General~~ ^{Advocate} Gen. Solicitor,
High Court, Madras.
(with copy of bill)

Sir,

Sub: Madras Educational
Institutions (Requisition of
Property) Bill

I am directed to forward
a copy of the Madras Educational
Institutions (Requisition of Property)
Bill and to say that some doubts
have been ^{raised} ~~not~~ whether the bill
which empowers the Govt. to ~~requisition~~
requisition the movable property of
educational institutions, is intra vires
of the Provincial Legislature, when
"requisition of property" as such is
not covered by any of the entries in
the Provincial and Concurrent Legislative
List. But ^{it may be} ~~as has been~~ ^{it has been} ~~provided~~ ^{suggested} out
that movable property connected with an
educational institution may well be
said to fall within the scope of
entry 17 of the Provincial Legislative
List namely "Education" which
will include all ^{the} matters ancillary
to education and will therefore
be within the competence of the
Provincial Legislature. Where an
Act empowers a jurisdiction, it impliedly
also grants the power of doing all
such acts or employing such means
as are essentially necessary to

to execution In the same way,
when powers, privileges or property are
granted by statute, everything indispensable
to their exercise or enjoyment is
impliedly granted, also, as it would
be in a grant between private persons"
- vide Maxwell on Interpretation of
Statutes, 9th Edition pp 360-361. The
position would therefore appear
to be this: If it can properly be held
that the requisitioning of movable
property etc. used for the purpose of
education is essential to carry out
the policy of the Govt. in regard
to education, the act enactment
will be intra vires; otherwise not. The
Govt. consider that the requisitioning
of movable property used for the
purpose of education is essential
to carry out the policy of the Govt.
in regard to education - Cf. the
statement of objects and reasons of
the bill, but the point is whether
it can properly be so held. I am to
request you to be so good as to
obtain the opinion of the Advocate-
General in the matter and forward
it to Govt. before the next
meeting of the Select Committee
meeting on the bill which is on 18.10.48.

Yours faithfully
H. M. Small
6/10/48

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SPECIAL - CONFIDENTIAL.

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

To The Secretary to the Government
of Madras,
Education & Public Health Dept.,
Fort St. George, Madras.

13-OCT 1948

No. 3033 Dated 13th October 1948.

Sir,

75353 Madras Educational Institutions (Requisition of Property)
Bill.

With reference to your letter No. 27345 Cl/48-26, Education,
dated 7th instant with its enclosure I now enclose in original
confidential opinion No. 46 dated yesterday's date of the learned
Advocate-General on the points referred to him.

RV Yours faithfully,
H. M. Small,
Government Solicitor.

3033. Copy for information to The Secretary to the Government of Madras,
Legal Department,
Fort St. George,
Madras.

81
13-10-48 #
4x
SPECIAL

CONFIDENTIAL

No.46.

O P I N I O N .

Sub: Madras Educational Institutions (Requisition
of property) Bill
Letter R ef. p 69 and
Ref: ~~Memorandum~~ No.27345 C1, /48-26, Education
dated 7-10-1948, Education and Public Health
Department. ---

I am of the opinion that it will be possible to
successfully contend that an Act of the Provincial Legis-
lature empowering the Government to requisition moveable
property to effectuate its policy in regard to education
is intra vires. It is one of the principles of construc-
tion of the lists in the Government of India Act, 1935
that " the items in the lists are to be read in a broad
and comprehensive sense and not in a restricted sense.
Each general word should be held to extend to all
ancillary or subsidiary matters which can fairly or
reasonably be said to be comprehended in it". Vide 1940
F.C.R.110. I may also point out that furniture, books,
laboratory apparatus etc., are not to be found in the
Federal List. On ^{the} other hand 'books' is in the Concurrent
List and 'Libraries' is in the Provincial List. Of course,
if under the guise of educational policy, the Government
seek to requisition property not reasonably connected
with its objects, it may be open to the attack of
colourable legislation.

Madras

12-10-1948.

Advocate General
Advocate General.

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SECRETARIAT OF THE MADRAS LEGISLATURE

D.O.No.6277/48-3 M.L.

Port St. George,
22nd October 1948.

Dear Sir/Madam,

I am directed to forward herewith a copy each of the proceedings of the meeting of the Select Committee on the Madras Educational Institutions (Requisition of Property) Bill, 1948 held on the 18th, 19th and 20th October, 1948, in the Council Chamber, Fort St. George.

2. The next meeting of the Select Committee will be held at 4 P.M. on Tuesday the 26th October, 1948, in the Council Chamber, Fort St. George.

Yours faithfully,

J. Annamalai
For Secretary,
Madras Legislature.

To all Members of the Select Committee (by name)

Copy to Education and Public Health and Legal Depts.
A.K. 22-10-48.

CONFIDENTIAL

85
43 77
THE MADRAS EDUCATIONAL INSTITUTIONS (REQUISITION OF
PROPERTY) BILL, 1948.
(For the information exclusively of the members of the
Select Committee)

--
PROCEEDINGS OF THE SELECT COMMITTEE ON THE MADRAS
EDUCATIONAL INSTITUTIONS (REQUISITION OF PROPERTY)
BILL, 1948.

--
(As approved by the Chairman)

MONDAY, 18TH OCTOBER 1948.

28 84
The Select Committee appointed to consider the Madras
Educational Institutions (Requisition of Property) Bill, 1948,
met in the Council Chamber at 2 P.M. on Monday the 18th October
1948. The following members were present:-

1. The Hon. Sri T.S. Avinashilingam Chettiyar
(Chairman)
2. Sri N. Sanjeeva Reddi
3. Mr. Mohamed Rafceudin Ahmed Ansari
4. Sri K.A. Nachiappa Gounder
5. Mr. L.C. Pais
6. Sri K. Bhashyam
7. Mr. Alladi Aaron Rao
8. Sri M.P. Damodaran
9. Srimathi C. Ammannappa Raja
10. Sri K. Bokkai Gowder
11. Sri V.S. Sankarasubramanya Mudaliar.

The Secretary and Assistant Secretary to the Madras Legislature were
also present.

Rev. Fr. Xavier Mel (on behalf of the Bishop of Tuticorin),
very Rev. Mgr. G. Nedumparambi (on behalf of the Bishop of Cochin),
Rev. Dr. Isaac and Mr. J. Immanuel (on behalf of the Field Council
in Kistna and West Godavari Canadian Baptist Mission) appeared
before the Committee.

The Committee then adjourned to meet again at 2 P.M. on Tuesday
the 19th October 1948.

SUMMARY OF EVIDENCE

In the course of his evidence, Rev. Fr. Xavier Mel suggested
the following:-

1. That the Bill is not necessary. But if it is found necessary
the offences for which this Bill can be brought into effect, must be
specified in the Bill.

2. In any body which takes decision in the matter, there should
be representation from the Aided Management.

3. The Management must be given full hearing before any action
is taken.

4. If recognition is withdrawn and another school is to be
opened in that locality, that school must be entrusted to another
management of the same denomination.

5. If properties are requisitioned, fair compensation should
be given.

When further questioned, the witness said that in cases of very bad management, such a measure might be necessary. But/ wanted that all the existing remedies should be exhausted before any step under this measure was taken. He thought that generally institutions run by Missions or other associations would not be so bad.

Very Rev. Mr. G. Negumparambi, in his evidence, said that many schools were built on church property over which they had no power to alienate without authorisation from Rome but admitted at the same time that they did possess such power as to rent out a property for a time and under certain conditions.

He admitted the fact that theoretically the Bill might be good and necessary but at the same time expressed the practical difficulties in such a measure.

He also suggested the following amendments:-

1. Full opportunity must be given to institutions to give their explanation before any action is taken under this measure.
2. Institutions must be given due time after repeated warnings to set things right before any action is taken under this measure.
3. Other steps must be tried before this measure is adopted.
4. When requisition is to be done of a school and if it is to be entrusted with another management, that management must be an institution of the same denomination.
5. Preference must be given to a management of the same denomination and if such people are not forthcoming it may be given to other persons.

Rev. D.R. Isaac, when examined by the Committee, suggested the following:-

1. In very special cases when managements are very bad, this Bill may be necessary.
2. The causes for which this Bill should come into effect, must be only those mentioned in the Statement of Objects and Reasons.
3. Notice of requisition must be served on the rightful owner of the property and not on any other persons connected with it.

(In this connection, he revealed that the rightful representative of His Mission was in Canada).

4. Full opportunity must be given to the employer to rectify his mistake.

5. When school buildings are requisitioned, the requisition order should not apply to hostels, staff quarters, servants' quarters or any other building used exclusively for residence.

6. When buildings and lands are requisitioned, provision should be made to see that the rights and privileges enjoyed by the community or any section of it in regard to the use of such building or property for religious, social or cultural purposes, are not, in any way, interfered with.

This should apply specially to places of worship such as chapels, churches etc. situated in or near the premises requisitioned.
(As an alternative, notice may be given to the immediate owner but payment should be made to the rightful owner.)

7. When buildings are taken under the provisions of this Bill, Government alone should take the responsibility of running the institution.

8. Provision should be made for a right of appeal and an independent and impartial tribunal should be appointed by the Government.

9. The Bill should also specify the procedure to be followed before requisitioning.

10. The period of requisitioning must be limited to three years and after that period the matter should be reviewed.

Fort St. George,
 19th Oct. 1948

A.K.19/10

T. HANUMANTHAPPA,
 Assistant Secretary,
 Madras Legislature.

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88

Good and necessary
difficulties in such a measure.

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PROCEEDINGS OF THE SELECT COMMITTEE ON THE MADRAS EDUCATIONAL
INSTITUTIONS (REQUISITION OF PROPERTY) BILL, 1948.

(As approved by the Chairman)

TUESDAY 19TH OCTOBER 1948.

The Select Committee appointed to consider the Madras Educational Institutions (Requisition of Property) Bill, 1948; resumed its sittings in the Council Chamber at 2 P.M. on Tuesday, the 19th October 1948.

The following members were present:-

1. The Hon. Sri T.S. Avinashilingam Chettiyar (Chairman)
2. Sri N. Sanjeeva Reddi
3. " K.S.V. Krishnan
4. " K.A. Nachiappa Gounder
5. Mr. L.O. Pais
6. Sri K. Bhashyam
7. Mr. Alladi Aaron Rao
8. Sri M.P. Damodaran
9. Srimathi C. Ammannappa Raja
10. Sri K. Bokkai Gowder
11. Sri V.S. Sankarasubramanya Mudaliar.

The Secretary and the Assistant Secretary to the Madras Legislature were also present.

The Committee examined Rev. Fr. Jos. A.B. Coelho and Rev. Mother Eugenie (on behalf of the Managers and Headmasters of the Catholic Aided Institutions, South Kanara); Mr. G. Seshagiri Rao (on behalf of the District Elementary Teacher Managers' Association, Guntur); Rev. Fr. D'Souza (Principal, Loyola College, Madras); Mr. A.M. Gnanapragasam (on behalf of the Teachers' Association, Cuddalore); Mr. U. Kannappa (on behalf of the Catholic Association, Mangalore) and Mr. Madhava Rao (on behalf of the Managers and Headmasters of the Aided Secondary Institutions, Mangalore).

Rev. Fr. J.L.A. D'Souza and Rev. Sister Clarissa (on behalf of the Managers and Headmasters of the Catholic Aided Institutions, South Kanara) were also present.

The Committee then adjourned to meet again at 2 P.M. on Wednesday, the 20th October 1948.

SUMMARY OF EVIDENCE

In the course of his evidence, Rev. Fr. Jos. A.B. Coelho suggested the following:-

1. The causes for which this Bill should come into effect, must be only those mentioned in the Statement of Objects and Reasons and that they should be incorporated in the Bill.
2. As some of the educational institutions are intimately connected with churches etc. and to avoid difficulties in such cases when any action under this enactment is taken, they must be run either by the government or by any body of the same denomination.
3. An appeal should be provided for against the action of the Department to an independent Tribunal appointed by Government.
4. Full opportunity must be given to erring institutions to

82/ 90
- 2 -
to correct themselves before requisitioning.

5. Due provision should be made so that if the Government are satisfied with any assurance given by the institution even after requisition is made, they might restore the building.

6. Such steps as warning, cut in grants, withdrawal of grants etc. should be taken before any drastic action is taken and the period should be spread over a full academic year.

Rev. Mother Eugenie concurred with the suggestions made by Rev. Fr. Coelho.

Mr. G. Seshagiri Rao, in his evidence, made the following suggestions:-

1. Wherever Teacher Managers conduct ~~in~~ schools in their own houses and use a portion of them as living quarters, such quarters should not be requisitioned.

2. The requisition must be done after a decision by the Court.

He also pleaded for the withdrawal of the Bill as, in his opinion, it would discourage private schools being started.

Rev. Fr. D'Souza, when examined by the Committee, suggested the following:

1. The grounds for the requisition of a building should be clearly stated in the Bill

2. Action under this Bill must be taken only when there is corruption and such other grave moral turpitude.

3. All other steps as warning etc. must be restored to before final action is taken under this Bill.

4. An independent Tribunal should be appointed by the Government.

5. The requisition should be carried out in such a way as not to offend the religious susceptibilities of the people or diminish the religious facilities already existing.

6. Such monasteries and convents wherein certain teachers who are also managers at the same time reside and lead life under religious rule, should not be affected.

7. If a school is requisitioned, it must be run by the Government and not by any other denominational management.

8. An appeal to the Government to end the requisition must be provided for in the Bill.

Maximum time limit should be fixed.

Mr. A.M. Gnanapragasam agreed entirely with the suggestions made by Rev. Fr. ~~D'Souza~~.

When examined by the Committee, Mr. U. Kannappa suggested the following:-

1. If action is taken against an institution, the option to run that institution should be given to another management of the same denomination.

2.

91
- 3 -
2. An appeal to a Tribunal should be provided for in the Bill.

Mr. Madhava Rao suggested the following:-

1. The High Court should be given jurisdiction to decide the matter when requisition is made.

2. Full opportunity must be given to the institution to improve and set things right.

3. Proper warning should be given and other steps should be taken before action is taken against an institution. For this, provision should be made in the Bill.

Wednesday, 20th October 1948.

The Select Committee appointed to consider the Madras Educational Institutions (Requisition of Property) Bill, 1948, resumed its sittings in the Council Chamber at 2 P.M. on Wednesday, the 20th October 1948.

The following members were present:-

1. The Hon. Sri T.S. Avinashilingam Chettiar (Chairman).
2. Sri N. Sanjeeva Reddi.
3. Sri B. Parameswaran.
4. Sri K.A. Nachiappa Gounder.
5. Mr. L.C. Pais.
6. Sri K. Bashyam.
7. Mr. Alladi Aaron Rao.
8. Sri M.P. Damodaran.
9. Srimathi C. Ammanna Raja.
10. Sri K. Bokkai Gowder.
11. Sri V.S. Sankarasubrahmanya Mudaliar.

The Secretary and the Assistant Secretary to the Madras Legislature were also present.

Sri T.R. Venkatarama Sastri, (on behalf of the Association of Registered Managements of Aided Educational Institutions in the City), Mr. Korula Jacob and Mr. M.R. Pithavadian (on behalf of the Christian Educational Council of South India) appeared before the Committee.

Messrs. K. Kuruvilla Jacob, S. Natarajan and (on behalf of the Registered managements of Aided Educational Institutions in the City) N.K. Thirumalachari were also present.

The Committee then adjourned to meet again at 4 P.M. on Tuesday the 26th October 1948.

SUMMARY OF EVIDENCE

In the course of his evidence, Sri T.R. Venkatarama Sastri suggested the following:-

1. That the Bill is not necessary. But if it is found necessary to deal with very bad cases, an independent tribunal should be appointed to go into the matter and that body alone should decide whether such cases warrant any action under this Bill.

2. If the charge is corruption, mismanagement and misappropriation against the management, an Executive Officer should be appointed to deal with the financial side of the institution i.e. to collect funds and apply them for proper purposes with

88 92
-4-
interfering with other matters.

3. Colleges should not come within the scope of the Bill.

4. Clause 9 of the Bill should be replaced by making provision for civil proceedings only.

5. In clause 12, the words "suit or other legal proceeding" should be omitted.

6. That the appeal referred to in Clause 4(5) of the Bill should not be final and a further appeal to the High Court must be allowed.

Messrs. K. Kuruvilla Jacob, S. Natarajan and N.K. Thirumalachari concurred with the suggestions made by Sri T.R. Venkatarama Sastri.

Mr. Korula Jacob, in his evidence, suggested the following:-

1. The Bill is capable of being misused.

2. Clause 3(5) of the Bill must be made clear so that the requisitioned property might not be used for any other purpose but that for which it was used.

3. This Bill is likely to discharge private enterprise.

4. All facilities enjoyed by the institution before requisitioning must continue to be allowed.

5. The matter of appointing an Administrator before any action is taken under this Bill, should be examined.

6. Full and open enquiry by the Department should be conducted before action is taken under the Bill.

7. The circumstances in which the Bill will come into effect should be limited to such cases as falsification of accounts etc.

8. In cases where a wrong is committed by the employee, an opportunity must be given to the management to correct themselves before any action is taken.

9. In case an institution is requisitioned, the Government alone should run it and should not hand it over to any other private body.

10. A time-limit of three years should be fixed.

11. Clause 9 should be deleted.

12. After a certain period, the management must be given a chance to prove its competence to run the institution again.

13. A further appeal to the High Court should be provided for in the Bill.

Mr. Pithavadian, when examined by the Committee, suggested the following:-

1. The Bill should be dropped.

2. All other remedies should be exhausted before action is taken under the Bill.

3. A shorter time-limit (less than three years) should be fixed and a review should be made at the end of every year to consider whether the institution requisitioned cannot be handed back to

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-5-
the management.

4. In cases where the management is not in a position to pay the teachers the scale of salaries fixed by the Government, Government should not take action against them but should come forward to help the institution by enhancing their grant-in-aid.

5. If at all there is to be requisition, it should be done at the end of the academic year so that the education of the pupils might not be disturbed.

T. HANUMANTHAPPA,
Assistant Secretary,
Madras Legislature.

be allowed.

D.O.No.6277/48-4 M.L.

SECRETARIAT OF THE MADRAS LEGISLATURE

29 OCT 1948

Fort St. George,
28th October 1948.

Dear Sir/Madam,

I am directed to forward herewith a copy of the Proceedings of the Select Committee on the Madras Educational Institutions (Requisition of Property) Bill, 1948, held on Tuesday the 26th October, 1948, at 4 P.M. in the Council Chamber, Fort St. George. The next meeting will be held at 2 P.M. on Saturday the 20th November, 1948.

2. A summary of the points for decision at the next meeting is enclosed.

Yours faithfully,

Hammantharappan
Assistant Secretary,
Madras Legislature.

To all Members of the Select Committee
Copy to the Legal and Education and Public Health Departments
(with enclosure)

M. A. K. 29/10

Subd. for perusal. Will be added to the main file.

chance to prove its competence to run the institution again.

be allowed.

CONFIDENTIAL

(For the information exclusively of members of the Select Committee)

PROCEEDINGS OF THE SELECT COMMITTEE ON THE MADRAS
EDUCATIONAL INSTITUTIONS (REQUISITION OF
PROPERTY) BILL, 1948.
(As approved by the Chairman)

Tuesday, the 26th October, 1948

The Select Committee appointed to consider the Madras Educational Institutions (Requisition of Property) Bill, 1948, met in the Council Chamber, Fort St. George at 4 P.M. on Tuesday the 26th October, 1948.

The following members were present:-

1. The Hon. Sri T.S. Avinashilingam Chettiyar (Chairman)
2. Mr. Mohamed Raficudin Ahmad Ansari Sahib
3. Sri K.A. Nachiappa Gounder
4. Mr. L.C. Pals
5. Sri K. Bhashyam
6. Mr. Alladi Aaron Rao
7. Begum Sultan Mir Amiruddin

The Assistant Secretary to the Madras Legislature also

D.T.C.

be allowed.

present.

The Chairman at the outset summarised the evidence recorded at the previous meetings.

The first point whether the Bill was necessary or not was considered and the Committee decided that in as much as the Assembly had accepted the principle of the Bill, the Bill was necessary.

The other points were adjourned for consideration at the next meeting and it was also decided that the summary of the points on which a decision was to be taken should be circulated to the members of the Committee.

The Committee then adjourned to meet again 3 P.M. on Saturday the 20th November, 1948.

A.K. 29/10

T. HANUMANTHAPPA,
Assistant Secretary,
Madras Legislature

12. After a certain period, the management must be given chance to prove its competence to run the institution again.

SUMMARY OF EVIDENCE TAKEN BEFORE THE SELECT COMMITTEE ON
THE MADRAS EDUCATIONAL INSTITUTIONS
(REQUISITION OF PROPERTY) BILL, 1948.

1. The Bill is not necessary.

2. The causes for which this Bill should come into effect, must be only those mentioned in the Statement of Objects and Reasons and that they should be incorporated in the Bill.

3. As some of the educational institutions are intimately connected with churches etc. and to avoid difficulties in such cases when any action under this enactment is taken, they must be run either by the Government or by anybody of the same denomination.

4. (a) An appeal should be provided for against the action of the Department to an independent Tribunal appointed by Government.

(b) A judicial appeal must be provided. A judicial tribunal must be constituted to decide the question.

(5. Full opportunity must be given for institutions to make representation before any action is taken, and all other measures exhausted before action is taken under this bill.

6. Action must be taken only when there is corruption and
P.T.O.

be allowed.

such other proved acts.

7. The requisition should be carried out in such a way as not to offend the religious susceptibilities of the people or diminish the religious facilities already existing.

8. If a school is requisitioned, it must be run by Government and not be given to managements of any other denomination.

9. A timelimit for the period of requisition should be mentioned in the Bill.

10. The High Court must be given jurisdiction to decide the matter when requisition is made.

11. Clause 9 should be replaced by making provision for Civil Proceedings only.

12. In clause 12, the claim for damages must be retained.

13. An appeal must be provided for High Court also.

14. Any requisition must take effect at the end of an academic year.

15. Delete Colleges from the scope of the Bill.

16. In elementary schools, where they are run by teacher managers, as pial schools, such buildings should not be requisitioned.

12. After a certain period, the management must be

BY REGISTERED POST
Express delivery

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D.O.No.6277/48-5 M.L.

SECRETARIAT OF THE MADRAS LEGISLATURE

11 NOV

Fort St. George,
11th November 1948.

Dear Sir/Madam,

I am directed to inform you that the next meeting of the Select Committee on the Madras Educational Institutions (Requisition of Property) Bill 1948 will not be held at 2 P.M. on Saturday the 20th November 1948 as previously intimated in D.O. No.6277/48-4 M.L. dated 28-10-48.

The date and time of the next meeting of the Select Committee will be intimated to you in due course.

Yours faithfully,

Idammanthappa
For Secretary,
Legislative Assembly.

To all members of the Select Committee (by name)
Copy to Legal and Education and Public Health Department.

A.K.11/11

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Subd. for perusal. (This will be (C1)
added to the main file). The main file will
be added to H. M. 2 days earlier than the meeting
as desired by him.

11/11/49

11/11/49

12. After a certain period, the management must be

20 DEC 1949
SECRETARIAT OF THE MADRAS LEGISLATURE,
FORT ST. GEORGE
Madras Legis. L.S. 704-12-9-47.
dated the 19th December 1949

The decision of the Legislative Assembly on the following
bill of ~~the~~ Hon. Sri K. Madhava Menon is communicated to the
& Public Health, Legal Department. s & Secretary to His Excellency
the Governor.
Resolution/Bill/Motion

99272
The Madras Educational Institutions (Requisition of
Property) Bill, 1948 (L.A. Bill No. 25 of 1948)

Decision of the Assembly.

The motion that the Bill be passed into law was put
and carried in the Assembly on 17.12.1949.

U.C. NO. 9572-IML.
19.12.49

Maybe added to the main
file on return from the (C.L.)

21/12/49

T. Hanumanthappa,
For Secretary, Madras Legislative Assembly.

To

The Secretary to Government,
The Education & Public Health
Department.
The Legal Department.
The Secretary to His Excellency the Governor.

P.T.O.

Fort St. George,

From The Hon'ble Sri K. Madhava Menon,
Minister for Education.

To The Secretary,
Madras Legislative Council,
Fort St. George, Madras.

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 Educational Institutions (Requisition of Property) Bill, 1948 (L.A. Bill No.25 of 1948), as passed by the Legislative Assembly 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.

Yours faithfully,

[Signature]
Minister.

Forwarded/By Order.

A. J. Salsan
SUPERINTENDENT.

Tb/19.12.

*FC retained
in Assembly
Office
22/12/49*

ETPH. 8apl

*May be added to the main file
on return from M.C. (ELL)*

*22/12/49
op
22/12/49*

27/12/49

106

98/107
C1

Madras Legis II-8-204-12-9-47.

SECRETARIAT OF THE MADRAS
LEGISLATURE,

Fort St. George, dated the 23rd Dec. 1949..

29 DEC 1949

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

1. Hon. Sri K. Madhava Menon is communicated to the Education & Public Health, Legal Departments & Secretary to H.E. the ~~Department~~ Governor.

Resolution/Bill/Motion

The Madras Educational Institutions (Requisition of Property) Bill, 1948 (L.A. Bill No.25 of 1948)

10/742
May be added to the main file
22/12/49
MU
30/12/49

Decision of the Council.

The motion that the Bill be passed into law was put and carried in the Council on 22-12-49.

U.O.No.9834/49-1 M.L.
To 28-12-49.

M. SURYA RAO,
Secretary, Madras Legislative Council.

The Secretary to Government,

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

P.T.O.

From The Hon'ble Dr. T.S.S. Rajan,

Forwarded/By order.

J.N./28-12.

S. S. Sabesan
Superintendent.

REGD. POST.
IMMEDIATE

No. 17362-3.

GOVERNMENT OF MADRAS
Legal Department

From

Gri K.V. Rajagopalan, M.A., M.L.
Secretary to Government,
Legal Department.

To

The Secretary to the Government of India.
Ministry of Home Affairs, New Delhi (wit,

Dated, Fort St. George, the 5th January 1950.

Sir,

Sub: Bills - The Madras Educational Institutions
(Control of Property) Bill, 1949 - Reservation
assent of His Excellency the Governor-General

I am directed to say that His Excellency the Governor-General has reserved the Madras Educational Institutions (Temp Property) Bill, 1949, which was recently passed by the Legislature, for the consideration of His Excellency the Governor-General. The Authentic copy of the Bill bearing the appropriate signature made by the Speaker, the Deputy President and His Excellency the Governor is enclosed.

2. The subject matter of the Bill falls within the scope of Entry 17 of the Provincial Legislative list, namely, "Education" and "Requisitioning of land" a subject included in that list by notification of the Government of India.

3. The words "notwithstanding anything to the contrary in any other law for the time being in force" in clause 3 of the Bill have the effect of overriding laws in the concurrent field of the Indian Contract Act and the Transfer of Property Act and the subjects may therefore be said to be repugnant to existing laws.

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 report of the Select Committee on the Bill and the Bill as amended by it;
- (iii) the Bill as passed by the Legislature; and
- (iv) the proceedings of the Legislature relating to the Bill.

5. There is no provision in the Constitution of India in regard to the manner in which Bills passed by the Legislature are reserved for the consideration of the Governor-General. It is not given them before the new Constitution comes into force. Article 1 of the Constitution relates only to Bills which are pending before the Provincial Legislature immediately before the commencement of the new Constitution; and a Bill which has been definitely reserved for the consideration of the Governor-General cannot well be said to be "pending" within the meaning of this Article. It is therefore doubtful whether the President of India can accord assent to such Bills.

6. There is another difficulty in this case, arising from the probable emergence of a new Province for the Andhra area about the 20th of this month. As the Legislature of the present Province of Madras will then have ceased to exist, difficulties may arise if the assent of His Excellency the Governor-General is not given to the Bill before that date.

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I am accordingly to request that this Bill may be treated of the utmost urgency, and that the authentic copy thereof with the assent of His Excellency the Governor-General recorded hereon may be returned to this Government before the 20th January 1950.

Yours faithfully,

K. V. RAJAGOPALAN,
Secretary to Government.

Copy to the Secretary to H.E. the Governor.
Copy to E & P.H. Department. ✓

Forwarded/By order

A. Balachandran
Superintendent.

Maybe lodged and added to the
main file

11/1/50
dp
11/1/50

MM
11/1/50

MEMORANDUM.

The Madras Educational Institutions (Requisitioning of Property) Bill, 1949 - Passed by the Legislature.

The Bill was published in Part IV-A of the Fort St. George Gazette, dated the 20th July 1948. The Statement of Objects and Reasons appended to the Bill is reproduced below:--

"The managements of some schools have not given effect to the orders of the Government regarding the salaries of teachers; and Governments have credible information that there is a good deal of corruption and falsification of accounts in the case of some other schools. The only effective action which could be taken in these cases is to withdraw the recognition granted to the schools. But such a step cannot be taken in many cases as the school building belongs to the management and no other suitable building is available in the locality for housing a school. As withdrawal of recognition thus entails the loss of the educational facilities enjoyed by the children of the locality, Government find themselves precluded from taking the step even in cases of grave misdemeanour. To remedy this state of affairs, Government propose to take power by this Bill, to requisition any building or land which was used for the purposes of, or connected with, an educational institution when recognition is withdrawn from it. Power has also been taken to requisition the furniture, books, apparatus, maps, equipment, registers and records for the purposes of such an institution.

The rent of any building or land requisitioned under the Bill will be determined by the District Collector subject to an appeal to the District Judge or the Principal Judge of the City Civil Court. The compensation for movable property requisitioned under the Bill will be determined in accordance with rules made under it for the purpose."

2. On the 21st August 1948, the Hon'ble Sri Kala Venkata Rao, then Minister for Land Revenue, introduced the Bill in the Legislative Assembly on behalf of the Hon'ble Sri T.S. Avinashilingam Chettiar, then Minister for Education and moved that the Bill be referred to a Select Committee. After he had explained the scope of the Bill and the necessity for it, a number of members spoke on the provisions of the Bill. The Hon'ble Sri T.S. Avinashilingam Chettiar who entered the House at that stage, enlightened the members as to the reasons which impelled the Government to bring forward the measure. The Bill was generally

opposed by the members on the ground that the power vested on the Government to withdraw recognition from a school and to requisition its property might be misused and that the educational institutions which were run by some communities and which were not to the liking of the Government might be crushed. Another member while approving the general principle of the Bill was opposed to it fundamentally in the sense that it was doubtful whether the Provincial Legislature could be said to have the power to pass such a piece of legislation. After further discussion, the motion that the Bill be referred to a Select Committee was carried.

3. The Select Committee which was appointed to consider the Bill made certain changes in the Bill after hearing evidences from a number of persons connected with various educational institutions. The more important among the changes are to the effect—

(i) that the person permitted to manage the institution taken over by the Government should as far as possible be of the same religious denomination as that of the person from whom control of the property was taken over as far as possible;

(ii) that control over the property should, unless sooner relinquished, cease after the expiry of the academic year immediately following that in which the property was taken over, but if the Government consider it necessary, they may, extend the continuance of the control for a further period not exceeding one academic year;

(iii) that the Bill should apply also to institutions closed before the last working day of an academic year.

4. On the 16th December 1949, the Hon'ble Sri K. Madhava Menon, Minister for Education and Law, presented the report of the Select Committee on the Bill before the Legislative Assembly and moved that the Bill be taken into consideration. He said that the Select

Committee had considered the various objections raised by the members to the Bill at the time of its introduction and made the Bill acceptable as far as possible. A number of members took part in the discussion on the Bill. The members generally pointed out that the measure, if not worked with vigilance might prove to be an instrument for doing injustice to the people concerned. Replying to the debate, the Hon'ble Minister for Education assured the House that the Bill was necessary in the interests of education, as several managements had closed down their schools all on a sudden without sufficient reason, and it was against such people that the powers under the Act would be enforced. The Bill was then taken up for consideration clause by clause. An amendment moved by a member to omit the words "as far as possible" occurring in the proviso to clause 3(1) which was accepted by the Hon'ble Minister was carried. Certain amendments moved by some members to the other clauses of the Bill were not accepted. After some discussion, the Bill was passed into law.

5. On the 22nd December 1949, the Hon'ble Sri K. Madhava Menon moved in the Legislative Council that the Bill as passed by the Legislative Assembly be taken into consideration. After he had explained the scope of the Bill, a number of members spoke on the provisions of the Bill. The Hon'ble Minister replied suitably to the points raised during the debate. The Bill as passed by the Assembly was then passed into law.

(True Copy)

D. Balachandran
Superintendent.

114
115 (49)
Copy of telegram from the Government of India. 4.22.1.50

TELEGRAM ENCLAIR

Secretary to Government of Madras,
Legal Department,
Madras.

IMMEDIATE

17/8/50-Judicial - Your letter No.17362-3 dated 5th January
Madras Education Institutions (Temporary Control of Property)
Bill, 1949 STOP Since assessment and payment of compensation
have not been fully provided for in Bill itself, it is presumed
that no institutions will be taken over before rules in regard
to compensation are framed STOP Government of India would be
grateful for specific assurance that draft rules will be shown
to them before promulgation STOP

HOMEIN

/True Copy/

dated 23/1/50.
Copy of telegram from Legal Department

Telegram

IMMEDIATE

HOMEIN

NEW DELHI

Reference your immediate telegram dated twenty-second
January regarding Madras Educational Institutions (Temporary
Control of Property) Bill, 1949 stop This Government give
assurance that no institutions will be taken over before rules
regarding compensation framed stop Draft rules will be sent
to Your Government for approval before promulgation.

MADRAS LEGAL

(Sd) C.S.RAMACHANDRAN,
For Chief Secretary to Government.

(The issue of the telegram as Immediate authorized by
the Chief Secretary)

117
Copy of Letter from the Deputy Secretary to the Government of India, to the Secretary to the Government of Madras, Legal Department, No.17/850-Judicial, d.25-1-1950.

Subject: The Madras Educational Institutions (Temporary Control of Property) Bill, 1949.

Sir,

With reference to your letter No.17362-3, dated the 5th January, 1950, on the subject noted above, I am directed to say that the Governor-General has, under the provisions of sub-section (1) of section 76 of the Government of India Act, 1935, assented to the Bill. The authentic copy of the Bill with His Excellency's assent signified thereon is returned herewith.

2. I am to add that since the assessment and payment of compensation have not been fully provided for in the Bill itself, no institutions should be taken over before the rules in regard to compensation are framed. With effect from the 26th January, 1950, the present enactment will have effect subject to the provisions of the new Constitution and any adaptations made therein.

/True Copy/

DEPUTY SECRETARY TO GOVERNMENT.

r.m.l.l.

Copy of telegram from the Government of India.

116
TELEGRAM SECRETARY
Secretary to Government of Madras,
Legal Department,
Madras.

URGENT

17/850-Judicial - Your letter No.17362-3 dated 5th January 1950 regarding Madras Educational Institutions (Temporary Control of Property) Bill, 1949. Since assessment and payment of compensation have not been fully provided for in Bill itself, it is suggested that no institutions will be taken over before rules are framed for compensation. The Government of India would be grateful for specific assurance that draft rules will be shown to them before promulgation.

URGENT

True Copy

Copy of telegram from Legal Department
17/850-Judicial

Telegram

URGENT

URGENT

NEW DELHI

Reference your immediate telegram dated twenty-second January regarding Madras Educational Institutions (Temporary Control of Property) Bill, 1949. This Government give assurance that no institutions will be taken over before rules regarding compensation framed. Draft rules will be sent to your Government for approval before promulgation.

MADRAS LEGAL

(25) C. S. RAMANUJAM
For Chief Secretary to Government

(The name of the telegram is immediately sent to the Legal Department)

118

Special.

Secretary, E. & P. H.

119

(29)

We have issued directions that at least local board scales of pay should be given in secondary schools and for that purpose we give them two-thirds of the ^{net} ~~gross~~ expenditure. Cases have come to our notice that some institutions have refused to abide by these directions. In those cases, we have to withdraw the recognition, but we are not able to undertake this last and final punishment because we have the responsibility of providing for the students studying in these schools. In the absence of school buildings, we are not able to start alternative schools or help aided managements to start alternative schools. In these circumstances, I feel why we should not take power to requisition the buildings for the schools. The D.P.I. has brought to my notice some instances in which this has been imperatively necessary.

I wonder whether any provision like this can be made in our Bill, now before the legislature (~~Aided~~ Aided Institutions (Prohibition of Transfer of Property) The provision may be on the following lines:-

"Any buildings that have been used for recognized school purposes may, if the recognition ^{has been} ~~is~~ withdrawn, be requisitioned by Government for school purposes".

This matter may be put up before the Legal Dept. and they may be asked to give us their views in the matter.

I shall be glad if the note of the Legal Dept. can be got ready by the 7th and placed on my table when I come to office on the 7th morning.

TSA
3.3.48
H.M. Education.

This was sent to Legal Dept.
on 1/4/48
1/4/48
1-4-48

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

ASSISTANT SECRETARY
4-50
1 - APR 1948
LEGAL DEPT.

Edn. no. 60216/1-4-48

LEGAL DEPARTMENT.

If the school building or the land on which it stands had been constructed or acquired with the aid of a Government grant, or from the Government, it would be open to Government under the Bill to insist that it should be used for the purposes of the school or purposes similar thereto, and that it should not be kept vacant. Therefore, if, in the cases referred to by H.M.(Edn.), the recognition is withdrawn from the school, the managers of the school will perforce be compelled to let the Government have the use of the building for use as a school at a reasonable rent, for otherwise the drastic powers conferred on Government by the Bill to take possession of the building etc. may be invoked. No further provision seems to be necessary in these cases.

Where however the building or land is not acquired with the aid of a Government grant or from the Government - and this is perhaps the case which H.M.(Edn.) has in mind - an amendment on the lines suggested will be completely outside the scope of the present Bill, as set out in the preamble, and cannot therefore be moved at this stage.

Independent legislation is therefore necessary in this case. It should not be difficult to draw up a short Bill for the purpose.

Handwritten: The file may be circulated to H.M.(Edn.)

The matter is urgent as some cases have come to our notice in which managements are recalcitrant and we are not able to withdraw recognition for them merely for the reason that they have no place to run the schools. Legal may kindly examine whether independent legislation is necessary or whether in the bill that we have proposed for amending House Rent Control legislation, this can be provided.

Handwritten: Legal No. 3931/48-1. 2.4.48.

Handwritten: E.P.H. Dept.



Submitted that the proposed provision in the House Rent Control Act amending legislation referred to by H.M. at X on p. 2 above would hardly be appropriate in a bill which as its very title suggests deals only with rents. It is presumed that what Legal have said at 'T' at p. 2 above would apply here also, and that independent legislation will be necessary.

Dev. and Legal may see before re-circulation.

Handwritten: 21/4/48, 9/4/48, 21/4/48, 12/4/48

Handwritten: 42076/48, 12.4.48

Please see pages 1-3 above. The file has been sent to this Dept with reference to the minute of H.M.(Edn.) at 'X' on p. 2 above. This Dept may agree with the view of Legal expressed at 'T' on p. 2 above and with the view of E.P.H. above and the file may be passed on to Legal through Public (Genl) who deal with requisitioning of buildings and accommodation control.

Handwritten: CAP, 12.4.48, Pub (Genl) / Legal

Handwritten: No. 42076/48, 12.4.48



Handwritten: Sec. 3(a) of the Act.

Handwritten: (Not put up)

Public (General-C) Department.

Please see H.M.(Edn.)'s note and further notes of the departments on pp. 1-3 above.

2. It is submitted that under the provisions of Section 3 of the Madras Buildings (Lease and Rent Control) Act, 1946, as at present, it is possible only to take over private buildings for Governmental purposes or for use by any public institution under Government control or any officer of the Government. Amendments to the section in the Draft Bill, now under circulation, contemplate all possible circumstances under which they can be taken over not only for Provincial Government purposes but also for purposes of other Govts., educational institutions, other

A.S.I.

H.M.(Edn) wants a short Bill to be drafted enabling Government to requisition buildings for use for educational purposes when the building ceases to be used for such purposes on the withdrawal of recognition from the school by the authorities of the Education Department. A short Bill may be drafted for this purpose. Very special. May be made ready on Wednesday.

K.V.R

12.4.48

Discussed with the Joint Secretary.

The following points arise for consideration in the first instance:

(1) A school may have attached to it a playground or a hostel.

There may also be quarters for the residence of teachers and servants of the school. It is presumed that the power of requisitioning should extend to these also.

(2) It is also presumed that furniture, black-boards, maps, books and other equipment used for the purpose of the school should also be capable of being requisitioned.

(3) There should be a time-limit within which the power of requisition may be exercised. This limit may perhaps be fixed at three months from the date of the withdrawal of recognition from the school.

(4) As regards compensation, provision may be made to the effect that where the amount of rent or compensation can be settled by agreement between the owner and the Government, the rent or compensation agreed upon should be paid. In the absence of agreement, the amount of the rent or compensation will have to be determined either by an arbitrator as in section 19 of the Defence of India Act or by referring the matter to the decision of the District Judge in the mufassal and the Principal Judge of the City Civil Court in the City of Madras. The latter course seems to be preferable.

(5) In determining the amount of compensation for movable property requisitioned, regard should be had to the damage caused to the furniture, maps, etc. during the period for which they are under requisition.

8/ 126
(6) Power should be taken to dispossess summarily any person continuing in possession of the building, furniture, etc. in contravention of the requisitioning order. In the absence of such a power, possession of the building can only be obtained by getting an order of the Court directing delivery of possession and this will lead to considerable delay.

(7) Power should also be taken for any officer authorized by the Government to enter and inspect the building etc. with a view to requisitioning it under the provisions of the Bill.

(8) The officer should also have power to require the owner or other person in charge of the building to furnish such information relating to the property as may be required by the officer.

(9) The owner or other person in charge of the building should also be directed not to dispose of it or make any alterations therein till the expiry of a specified period. Cf. Rule 75-A(5) of the Defence of India Rules.

(10) There should be a provision for release from requisition on the lines of section 4 of the Requisitioned Land (Continuance Powers) Act, 1947 (Central Act XVII of 1947).

(11) The contravention of any order issued under the Bill may be made punishable with imprisonment which may extend to one year or with fine which may extend to Rs. 1,000/- or with both.

(12) Provision may be made to the effect that no decision or order made in the exercise of any power conferred by or under the Bill can be called in question in any Court.

(13) Officers of the Government should be protected against suits, prosecutions or other legal proceedings for anything which is in good faith done or intended to be done in pursuance of the Bill or any order made therein.

2. E. & P.H. may consider the above and say —

(i) whether provisions may be included in the Bill on the lines indicated;

PTO

- (ii) what modifications, if any, are necessary in them;
(iii) what additional provisions, if any, need be made in them.

3. It may also be pointed out that recently this Department scrutinized proposals for legislation in regard to the requisitioning of lands and buildings for certain essential purposes. That file is now in the Revenue Department. It is for consideration whether there should be 2 Bills, one in respect of educational buildings, and the other in respect of buildings used for other purposes.

14/4/48

J.S.

I am afraid that a somewhat ^(more) elaborate Bill will be required than I, at first, considered sufficient.
2. When H.M. (Eds) spoke to me on Monday, the fact that legislation on similar lines was being contemplated in another Dept. escaped my attention.

3. As H.M. is anxious to introduce this Bill at the ensuing meeting of the Assembly E & P.H. may please treat this as very special, and let me have the file back with their remarks by tomorrow afternoon. I have spoken to Secy, E. & P.H., about this case. 14.4.48.

E. & P.H. Dept.

Legal no. 4469/48-1

14.4.48.

Subd. to Secy. for orders.

Recd at 5.45 PM.
14/4/48.

27345



4513

provisions as proposed at H. 1-2 ante with
in clause 9 have no modifications or
additions to suggest.
15/4/48
Legal.

Legal Department

A Bill, on the lines indicated in the notes at pages 1-2 ante, is placed below. The Bill gives rise to several

questions which have to be considered carefully by the administrative departments concerned.

Attention is invited to paragraph 3 on page 3 ante. It is for consideration whether there should be two Bills, one for educational buildings and another for buildings used for other purposes.

mlu
19/4/48 J.S.

H.M. (Eds.) may see the Bill below in the first instance. It may then be considered by E. & P.H. & the other departments, if any, concerned very urgently.
K. Rajagopalan
19.4.48

H.M. (Eds.)

Orders have been passed by Government regulating the salaries of teachers. Certain schools have not come in a line with these proposals. In the case of certain other schools, there is a great deal of corruption and falsification of accounts. The only power that the Government have, in these cases, is of withdrawing recognition. In many cases, they are not able to take this drastic step because the buildings belong to the managements and if the school in that locality is stopped, the Government will be unable to start another school and provide education for the children who will be affected by this withdrawal of recognition. In these circumstances, the Government have found it very difficult to enforce their rules or even take disciplinary action in the face of even grave misdemeanour. And so, it is necessary for us to take power to requisition such buildings which were used for educational purposes, if we withdraw recognition to them. This does not take a general power for requisitioning, but only such buildings as have been already utilized for educational purposes. When we do such

requisitioning, provisions are being made to pay them some reasonable rent. An appeal is also provided, so that no hardship need be caused to the management.

Many cases have come to our notice where such provisions are necessary and in the absence of these provisions, the Government have felt helpless. And so, I had requested the Legal Dept. to prepare a Bill on these lines. They have prepared a Bill and it is submitted herewith. As the need for legislation is urgent, I would like H.Pr. to kindly put this up before the Cabinet for its next meeting. On his approval, copies of the Bill will be circulated to all.

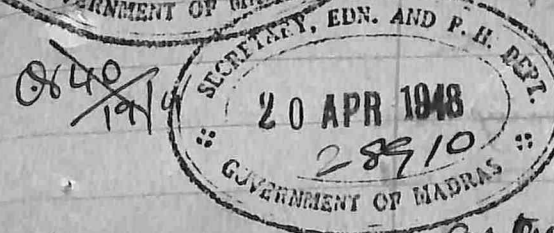
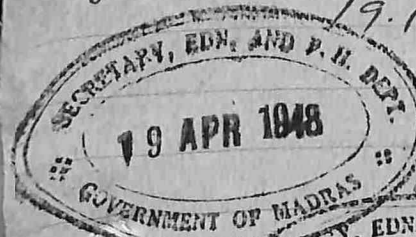
T.S.A.
19.4.48

Secy, E. & P.H. may circulate the case to H.Pr. for orders on M above.
K.R. 19.4.48.

Secy, E. & P.H.

May be circulated to H.Pr. for use in 'H' above.
G.P.R.
19/4/48

Legal no. 4513/48-1
19.4.48.



under Sect. 32(6), the draft Bill should be circulated to every Minister for orders. As, however, H.Pr. has agreed to H.M. (Eds.) with at 'M' alone, the matter may be taken to the Cabinet straightaway. A note for the Cabinet is accordingly ruled below. It may be circulated to H.M. (Edu.) for approval, before copies are taken and circulated to all H.M.'s.

It may, in this connection, be pointed out that Legal have not prepared the Statement of Objects and Reasons for the Bill - vide Sect. 32(4). For orders whether Legal may be consulted on this point before circulation to H.M.'s.
K.R. 19/4/48



Ed. no. 27345 c/p 2
20-4-48

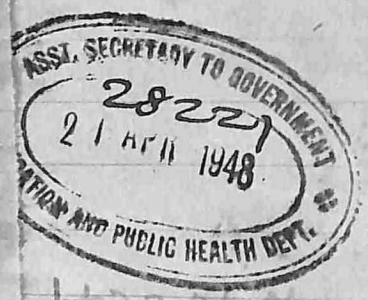
A statement of objects & reasons has been prepared and added to the Draft Bill

21/4/48 JS. K.M. 21.4.48.

E. Q.P. # Sept

C1 Legal M.O. No. 4757/48-1 21.4.48.

Please see the note of this Dept. at p. 10 ante, and the note of Legal at p. 10. Before the draft Cabinet note is sent to the C.S. for approval, it seems necessary to consider the following point - This present bill is a Cont. bill and the instructions in Chapter II-A of the Sectt. of Instructions have therefore to be followed. But on the orders of H.M. (Edn), the procedure prescribed in Sectt. instruction 32 (1) to (3) has been dispensed with and the Legal Dept. have straightaway prepared a draft bill under instruction 32 (4). With reference to instruction 32 (5), the draft bill has now to be examined by all the concerned administrative departments. The file may therefore be sent to Rev, Home and Fin. (Rev. + Fin. re. the q. of compensation and Home re. the q. of penalties) for remarks on the points concerning them.



21. As regards the point raised in para 3 of Legal's note at p. 9 ante, and 'B' of the note of Legal at p. 10 ante, attention is invited to the note of Pub (Genl) at pp 3-4 ante, in the circumstances stated therein, a separate bill is necessary. Legal may kindly advise the requested to advise on this point further, after the return of the file from Rev, Home & Fin.

22/4/48 S1



JS. K.M. 22.4.48. 5:50 PM

To AS

Please see the minutes of H.M. (Edn) on p. 10-11 ante, the orders in circulation on p. 11 ante, the subsequent notes on p. 11-12 ante, the note for the Cabinet and the draft Bill below.

21. With reference to h on p. 12 ante, it is submitted that the provision made in section ^{clause} 4 of the draft Bill below appears to be sufficient.

31. With the above remarks the file may be passed on to Home.

31. This dept file requested by Legal at '2' on p. 9 ante relates to the question of undertaking legislation in regard to the requisitioning of lands and buildings for the storage of food grains and for the accommodation of refugees. The ^{Memorandum} for legislation has been approved by H.M. (R.), H.M. (Food), H.M. (Prodn.), H.M. (Fin), H.P. and S. H.E. It is proposed to circulate copies of the Memorandum to the other depts. On return of the copies from the H.M.s., the file will be sent to Legal for preparing a draft Bill. In the present case a Bill has already been prepared in view of an extreme urgency of the matter. Further power is being taken in the present case to requisition any building or land which was used for the purpose of, or connected with, a school, when recognition is withdrawn from it. This Dept. may ^{thereon} agree with Legal, though not for the reasons urged by them in para 2 of their note on p. 12 ante, that a separate Bill is necessary.

41. With the above remarks, the file may be passed on to h. The bill for consideration in the Dept.

mainly intended for storage of food grains
+ for accommodation for refugees. The bill
dealt with in this file is for requisitioning
buildings which were used for the purpose
of school when requisition is withdrawn from
it. ~~It may be that a separate bill may be
taken up for the purpose in this file.~~

Office with H. K. Chell
by wire + put up a copy
of the memorandum for
the Ministry of P. W. D.
22/4/48

Subd. to
Commissioner
is with D. S.
H. K. Chell
23/4/48

23/4/48

ML
23/4/48



Home Dept. No. 238734/48
23448

Please see The Madras (Requisition
of Educational Buildings) Bill, 1948 at PP1-7
of A and the statement of objects and
reasons on p 8 ibid. This dept. is concerned
with clauses 4(4) and 9 on pp 326 respectively
of the Bill. ~~This dept may suggest that the High Court be consulted with reference
to clauses 4(3a) and 4(4). No other remarks are called for.~~
The case may be passed as follows



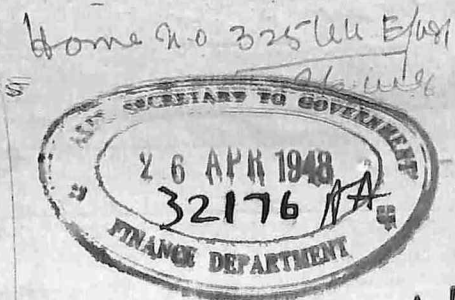
Finance Dept.
24/4/48

24.4.48

26/4

Fin. (A. A.)

Through D.
24.4.48



Fin. 32176 AA-1
26/4/48



The draft Bill and Statement of
Objects & Reasons may be perused. No
special remarks are called for. [clauses 4 & 5
are of special interest to Finance].

26.4.48

H. K. Chell
E. P. H.

Please see the note prepared
The following remarks are offered
on the draft bill:-

1/ The draft bill refers to schools,
but there is no definition of schools as
such in the bill. In the absence of
such a definition, the various kinds of
general and special schools mentioned
in chapter I of the H. E. R. and other
types of schools like the European school,
will come under the scope of the bill,
excepting those under Govt. management.
But this does not appear to be the intention.
The H. E. R. minutes at p 10 would seem
to refer only to aided secondary and
aided elementary schools and particularly
to aided secondary schools. Neither does
it appear that the scope of the bill
should be widened to include any other
type of school. Perhaps a definition
may be inserted in the bill that a
'school' means an aided secondary
school or an aided elementary school.
The definition may also say that school
means any other type of school notified
as such by Govt. in the Gazette. This will
enable the Govt. to widen the scope of
the bill, if and when they deem it necessary.

2/ In this connection, it seems necessary
to consider whether the bill should apply
to schools under local bodies (known as
schools under public management). The draft
bill provides against a contingency where
managements of schools fail to give
effect to the orders of Govt. regarding
salaries of teachers or falsify accounts
and vices and indulge in other corrupt practices.

p 8 of A

and as a sequel, the Edu. Dept. has to withdraw recognition from the schools concerned; the point is whether in the case of schools under local bodies such a contingency will arise. The ~~schools~~ ^{salaries} of pay of teachers under local bodies are prescribed under section 70(3) of the M.D.M. Act and section 67(3) of the M.L.B. Act. Where the local bodies refuse to implement the scales, the Govt. need not have recourse to the process of withdrawing recognition as a means of enforcing their decision; they can take action under section 39 of the M.D.M. Act and section 44 of the M.L.B. Act. Where the local bodies school authorities falsify accounts or indulge in other corrupt practices, the local body can be got to take disciplinary action against them. The contingency referred to, will not arise in the case of schools under local bodies. The bill need not be made applicable to them.

3). The statement of objects and reasons put up at p 2 of (A) does not make it quite clear how the buildings requisitioned under the proposed Act will be used. The purpose for which the ~~two~~ requisitioning is made, should after all, be held as the object of the bill. Presumably, when once a building is requisitioned under the bill, the Govt. will start an alternative school in the building or lease out the building to a local authority or a private person or association who wants to run a school. This may be made clear in the statement of objects and reasons of the bill. It may be mentioned in this connection that where the school concerned is an elementary school

the Govt. will have to ask a local authority or a private person or association to run a school, for as a matter of policy of the Govt. have not so far undertaken to run elementary schools.

4). Section 4(1) of the draft bill provides that the rent for the building requisitioned should be paid from the provincial funds. It is presumed that where the building is leased out to a local body or a private person or association, rent should be recovered from the lessee at the same rate as it is payable to the owner, and credited to provincial funds.

5). Section 5 deals with the compensation payable for the immovable property such as furniture, books, apparatus etc. But some of these may have been purchased from Govt. grants. It is a point whether in cases where the inspecting officers are able to say that a particular article was purchased with a Govt. grant, it should be provided in the bill, that the Govt. grant also shall be taken into account in calculating the compensation payable.

6). Some have suggested that the High Court be consulted regarding sections 4(3)(a) and 4(4). This may be done. This will take some time and the time may be utilized to consult the J.P.S. also. A copy of the draft bill may be sent to him and he may be asked to state whether he would like to suggest any modifications or additions.

7). In para 3 of their note at p 13 and Rev have noted that a separate bill is necessary. This Dept. may agree.

136/48
of L.A. Finance and Legal may see the file with reference to the above note. After return of the file, the High Court and B.E.S. the D.P.S. will be consulted as suggested above.

L.A. Dept

This dept. may agree with the views expressed by E & P.H. in para 2 on Mr 15-16 above.



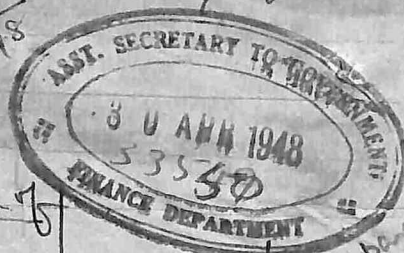
See
28.4.48

Finance (Sub A) Dept.

(Previously seen in Finance at page 11 above.) Please see the notes and P.H. on pp 15-18 above.

Finance may agree with the views expressed above. It seems desirable to

make specific provisions in the body of the bill regarding matters dealt with in paras 3 and 4 on pp 16 to 17 above as is proposed with regard to the matter dealt with in para 5 on p. 17 above.



Through Exp A
15.48

2. Ed. and P.H. may be requested to add a financial memorandum to the note for the Cabinet with reference to Secretariat Instruction

32 as amended in G.O. No. 2631 Pub (Genl. B) of 3.12.46.

15.48
Abs

Para 3 on lines 16-17 above would seem to be covered by clause (5) of Sec 3 of the Bill. As regards para 4.

Probably it is desirable to

15.48

on P. 17 above, E & P.H. and Legal may consider. It is desirable to make specific provision in the proposed enactment or in the rules or orders to be made to safeguard the interests of the school. covered under clause (4) of Sec 3 of the Bill will presumably apply only to property up to the stage of requisitioning and not to action taken in respect of the use of the requisitioned property. If necessary, a similar provision may be made for the latter purpose.

15.48 Legal

Dr 33550

1/5/48

5451



I have gone through the notes above. The points for clarification are:-

'Z' at page 15. Yes. The school may be defined as mentioned there. The definition may be as broad as possible, so that it may include elementary schools, secondary schools and colleges not only for purposes of the school proper but also for purposes of hostel, play-ground, etc., as these are also important aspects of the school. They may be so framed, so that they may cover also aided, local board or municipal managed or Government schools.

'B' on page 16. The position mentioned there expresses the real position. That may be made clear, if necessary, in the Bill.

'A-2' on page 17. Provision may be made as suggested therein.

'A-3' on page 17. The suggestion there may be incorporated in the Bill.

'X' on page 17. If a reference to the High Court is necessary, that may be done but the matter may be expedited, so that the reply of the High Court may be received as soon as possible. As the reply will be largely formal, they may be asked to expedite and let us have an early

reply, but I believe, even if it takes a little time, the Bill may be put before the Cabinet and there will be sufficient time for us to get the reply of the High Court before the Bill is introduced in the House.

'Y' on page 17. A copy of the Bill may be sent to the D.P.I. and he may be asked to send his opinions as soon as possible. To expedite matters, I am myself sending a copy to the D.P.I. and asking him to send his opinions to the Secretary, as soon as possible.

In view of the opening of the schools coming up very soon, I expect certain problems to come up and I shall be glad if the Bill can be introduced in the next session. And so, as agreed to by H.Pr. earlier, this may be included in the agenda of the next meeting of the Cabinet.

ISA

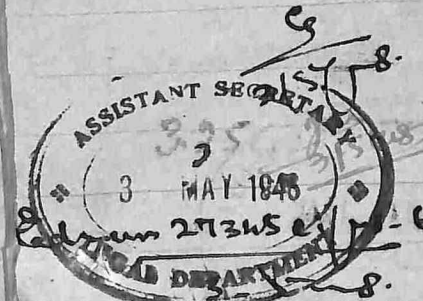
2-5-48

H.M. (Edn.) desires that if possible the Bill for requisitioning school buildings for school purposes should be put up to him today.

M.V.S.
3-5-48.

Edn. (c)

The file was sent to L.A. (H.M.) legal dept. with the dept. no. 27345 of us - 4. Edn. dated 29.4.48. It is understood that the file is with legal now. That dept. may see, and if convenient return the file immediately.



8502

Legal dept
The file ref'd to by E.P.H. is linked below. The file was rec'd late in the evening on Saturday (1.5.48) and is has not been found possible to deal with the file so far. Some of the points
3/5/48 J.S.

to the D.P.I. and asking him to send his opinions to the

require careful considⁿ. It will be an advantage
if H.M. (Edⁿ) passes orders on the points raised, before
the Bill is redrafted.

K.M. 3/5/48

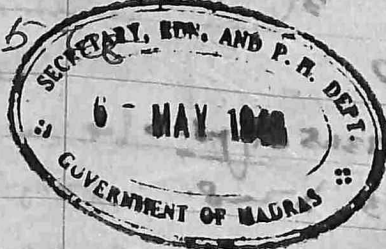
By G. Gindas ~~to~~ to E & P. H. Dept

H.M. (Edⁿ) in the main file is
linked below.

See notes in linked file

T.S.A.

5-5



Please see the notes from p.15 only with
reference to the various points raised in the notes, the
following remarks have appeared:-

A/1
1) Paragraphs 1 & 2 at pp.15-16 and 'P' at
p.19 only. The word schools occurs only once
in the bill, that is in section 3(1). With
reference to the orders of H.M., this may
perhaps be replaced by the words 'educational
institution' and a definition inserted in the
bill that 'educational institution' means
an elementary school, or secondary school
or college under private and local bodies'
management, but not under Govt. management.
H.M. has noted that the definition should
be wide enough to cover hostels, playgrounds
etc. attached to the educational institution.
Apparently the idea is, that the Govt.
should have the powers of requisitioning
in respect of these also. This appears does
not appear necessary, for there is already
provision in the bill for this. Further such
a broad-based definition, with in the
context of section 3(1) mean, that recognition
is granted and withdrawn in the case of
playgrounds etc. The definition may be
as at 'X' above.

2) Paragraphs 3 to 5 at pp.16-17 and 'Q', 'R' & 'S'
at p.19 only. Necessary provision may be made
in the bill.

3) Para 6 at p.17 and 'T' at p.22 only. The H.M.
may be consulted. The draft letter below is
for approval.

4) Not at p.19. This seems unnecessary in view
of section 13(1).

5) D.P.I.'s letter at p.18. It will be enough if
school records and registers are specifically
mentioned as one of the items of movable

properly reported to in Section 3(1)

2). The following additional points also are submitted for orders: -

1) The draft Bill as it stands empowers Govt. to requisition movable and immovable property in all cases where recognition is withdrawn. But the recognition of schools may be withdrawn for a variety of reasons. Please see rules 26-28 in Chapter I of Rules of Recognition relating to elementary schools and the corresponding rules for other type of schools. It is for consideration whether the Govt. should have the proposed powers of requisitioning in all such cases of withdrawal of recognition. If so, the statement of objects and reasons at p 8 of (A) will have to be recast, for it gives the impression, that the Govt. will have requisitioning powers only in the cases referred to there, that is, where managers of schools refuse to implement the orders of Govt. regarding salaries of teachers or where they falsify accounts or indulge in other corrupt practices.

2) Buildings and lands, constructed or acquired with the aid of Govt. grants can be dealt with under the Madras Ancestral Limitations (Prohibition of Transfer of Property) Bill. ~~They may therefore be~~

~~into~~ please see the note of Legal at-
p 2 and. They may therefore be excluded
from the scope of this bill.

3) It is for consideration whether a chapel or any other place ^{not} of worship attached to a school should be excluded from the operation of the bill.

This seems to
be sufficient.

over the art
is self an
check in an
loss of individual
of education;
time is never
to amplify the
powers of dis-
t. names.
by

I don't see
 why; it may
 be for the
 us to act under
 like.

2
W. Wemyss;
his words & his
See p. 3, & in
the history of the
Scott. art by
John Wemyss
with "wells & rivers"
include the 3
the 1st. 2nd & 3rd
in the 1st. 2nd & 3rd
vol. 1. 2. 3.

4) When such recognition is withdrawn from an educational institution, most probably the buildings of the school will become vacant. The buildings may then come under the purview of the Madras Buildings (lease and Rent Control) Act 1946. In that case it is not clear how the Govt. can proceed to requisition the buildings under this bill. Perhaps an amendment to the Rent Control Act will be necessary in this regard or perhaps it will be enough if a provision is made in this bill ^{not} ~~not~~ notwithstanding anything to the contrary in any law for the time being in force or in any document relating to the land or building, an order under section 3(2) shall take effect. Such

a provision will ^{also} enable Govt. to take requisition any movable or immovable property endowed in the name of the school, ~~with~~ not withholding any condition attached to the endowment.

5) It is presumed that nothing in the bill will prevent, immovable property requisitioned under the bill, from being acquired by Govt. under the Land Acquisition Act or being purchased by private negotiations and that on and from the date of such requisition or purchase, the requisitioned immovable property, will vest absolutely in the Provincial Govt. free from all encumbrances and the period of requisition of such property will end. Perhaps this may be provided for, specifically in the bill.

6) Section 5 provides for the suspension of payment of compensation, for the movable property repositioned under section 3

Give at-
tence of this
Letter my
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have broken
downward
in this way.

I do w.
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being
at all.
A/3

A/2

Section 8(1) provides for the requisitioning of movable as well as immovable property requisitioned under section 3. It is therefore presumed that what is proposed to be paid under section 5 is the rent or the hire for the movable property and not the original or the depreciated value of the article. Perhaps this may be made clear in the bill.

7) It is presumed that nothing in the bill will stand in the way of the Govt. purchasing any movable property which they have requisitioned under section 3. In the case of equipment purchased with Govt. grant, the Govt. may pay compensation under section 5, as indicated in para 5 at p 17 ante or as in rule 60 of the Grant-in-aid code purchase the articles, towards the supply of which the grant was given, at a valuation to be made by an officer to be deputed by the Govt. for the purchase. When the Govt. purchase the articles at the valuation so fixed, the amount to be paid to the management may be only the excess of the valuation over the amount already given as grant towards their original purchase. Alternatively, the Govt. may arrange for the articles to be sold in auction, in which case the proceeds may be paid into the Govt. treasury, provided that if the proceeds exceed the amount of grant already paid towards the school purchase of the articles the difference may be paid to the management of the school. This may be provided for in the bill.

8) Attention is invited to para 2 of the memorandum put up at ①. Presumably this bill is so far as it relates to the requisitioning of immovable property

for com. to de. requisitioning movable property or what has been said. No. 11 would be this. IX

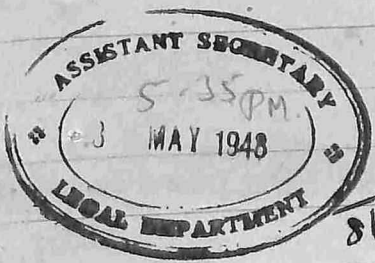
The payment of compensation under section 5 in this case. A/B

The Govt. to be deputed in the rule by the Govt. for compensation. 11-11 of P.R.

No need: keep see above. 2

is ultra vires of the Provincial Legislative. It is not clear however whether the portion relating to the requisitioning of movable property is also ultra vires of the Legislature. This advice of legal may be taken.

3) In view of the various points which have been raised in connection with the bill, it seems necessary to draw up a memorandum as required in sect. instruction 32(2), setting forth the points at issue and the manner in which it is proposed to deal with them, and circulate the file to the strength together with the memorandum to H.E. through the H.M.O concerned, for orders what principles should be embodied in the legislation and then take the case for discussion before the Cabinet. After the draft letter to the H.C. has been issued, the file may be circulated to the H.C. (Edn) for orders whether the various points raised in the file may be examined in consultation with the depts. concerned and then a draft memorandum prepared and the file circulated for orders as noted above.



Edu. no. 2735C/ps-7 8-5-48

5755

5:30 PM

I on page 23 ante: A new definition of "educational institution" in the following terms may be added as clause 2 (a) of the Bill: "educational institution" means any elementary school, secondary school, college, or other institution for imparting education, which is managed by a private person or body or by a local authority;"

II and III on p. 17 ante: Clause 3(5) may be amplified as follows:--

LEGAL DEPARTMENT.

146
"3 (5). Where any property, whether movable or immovable, is requisitioned under sub-section (1), the Government may —

(i) use or deal with such property themselves for any educational purpose which they think fit, or

(ii) permit any other person or body, including a local authority, to use or deal with such property for any such purpose, subject to the payment of such monthly rent and such other sums to the Government and the observance of such conditions as the Government may fix."

The rent recovered by the Government need not be at the same rate as that payable to the owner by the Government. It will be open to the Government to charge a lower or a higher rate.

IV on p. 17 ante. Clauses 4 (1) and 5 may be amplified as follows:—

"4 (1) Where any building or land is requisitioned under section 3, the Government shall pay to the owner of the building or land such monthly rent as may be fixed by the District Collector; and where the building or land has been acquired with the aid of any Government grant, the District Collector shall make a deduction on that account before fixing the monthly rent aforesaid."

"5. Whenever any movable property is requisitioned under section 3, the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with such rules as may be prescribed; and where any such property has been acquired with the aid of any Government grant, such rules may provide for the making of a deduction on that account from the compensation payable."

V, VI and VII on page 24 ante: I agree with the view expressed by the Secretary, E. & P.H.

VIII on page 25 ante: The words ^(them) "notwithstanding anything to the contrary in any law for the time being in force" may be added before "the Government may, within three months from the withdrawal of the recognition" in clause 3 (1).

147
IX on page 26 ante. The position is as stated by the Secretary, E. & P.H.

X on page 27 ante. The requisitioning of the furniture etc. may be regarded as falling within the scope of the provincial subject of "Education" and consequently to be intra vires the Provincial Legislature.

The alterations suggested above have been embodied in red ink in the Bill. The Statement of Objects and Reasons does not require any change.

E. & P.H. will no doubt satisfy themselves before circulation that all the points raised by them have been adequately covered.

The Bill may require slight revision here and there from the drafting point of view. This will be attended to, after the principles of the

Bill have been accepted by the Cabinet and before the Bill is published in the Gazette.

A
It is also necessary to take power generally to requisition buildings for educational purposes. The Jt. Secretary, Legal, tells me that it can be done at the Select Committee stage, as the language of the preamble is wide and refers to the requisition of buildings used for educational purposes in general terms. ~~Stamp this matter~~ This may be included in the agenda of Cabinet meeting on the 18th.



SA
11.5.48
Secy, E. & P. H.
E. & P. H.
The draft letter to the E. & P. H. may now be issued. A draft revised draft note for the Cabinet is also submitted. The point at 'A' above, has been included in the note for orders. ~~It may be sent to the E. & P. H. for approval~~ For. have requested at p. 18 and, the

148

80

a financial memorandum should be annexed to the cabinet note. But the financial implications of the bill, such as payment of rent and compensation etc. cannot be estimated with any degree of accuracy. For this reason, the Fin. Dept. have agreed to the financial memorandum being dispensed with in the case of the bill for requisitioning buildings for ^{refugees} ~~refugees~~. The financial memorandum may therefore be dispensed with in this case also. Fin. and C.S. may see the draft cabinet note.

2/ Section 2(1) of the bill reads,

"In any case where recognition is withdrawn from an educational institution by the authorities of the Edu. Dept. ...". Here 'educational institution' includes colleges also - please see definition - section 2(a). But in the case of colleges, there is no question of the Edu. Dept. granting and withdrawing recognition. It is the university which affiliates and disaffiliates colleges. If the intention is that when the university disaffiliates a college the Govt. should have powers to requisition the buildings of the college, section 3(1) will have to be modified. And it is a point whether before this is done, the universities of the Province should not be consulted.

I think in position is that a check is applied to the university which disaffiliates a college. The Govt. should have powers to requisition the buildings of the college, section 3(1) will have to be modified. And it is a point whether before this is done, the universities of the Province should not be consulted.

36822
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13/5/48



93 Fin (Exp. C.)

(Previous Finance note on top 18-19 above)

The further notes and the from page 19 above and the revised draft note for the Cabinet below may be perused. With reference to K on p. 30 above, perhaps, a para. may be added to the note for the Cabinet to the effect that no separate financial memorandum is attached as the financial implications of the bill, such as payment of rent, compensation etc., cannot be estimated with any degree of accuracy now.

The case may be passed on to the Chief Secretary.

12.5.48

12.5.48

C.S.

13/5

13/5

Ed. H. (C.)

With reference to the note of Fin. above, a para. has since been added to the draft cabinet note. The draft note as added to, may be circulated to the H. (Edu) for approval. After H. has seen, copies of the draft bill at (A) will be taken, and the letter to the H.C. and the note for the cabinet will be issued.

13/5/48

13/5/48

T.S.A.

13-5-48

The letter to the H.C. and the note for the Cabinet have been issued. Six copies

p.t.o.

interest in the building or land. "Person interested" has also been defined in clause 2.

Provision has also been made that where there is any dispute as to the title to receive the rent payable for the requisitioned property or as to the apportionment of the amount of the rent, the District Collector should decide the dispute -- see new sub-clause (2) of clause 4.

It has been made clear that in cases where immovable property has been acquired with the aid of any Government grant, the deduction to be made on account of the grant should be calculated in the manner prescribed by the rules -- see the proviso to clause 4(1).

2. The Bill falls within the scope of entry 17 of the Provincial Legislative List, namely, "Education" and under "Requisitioning of land" a subject recently included in that list by a notification of the Government of India and is intra vires the Provincial Legislature.

3. As the Bill provides for the modification of rights in land within the meaning of section 299(5) of the Government of India Act, 1935, it requires the previous sanction of the Governor under section 299(3) of that Act.

4. The Bill, if enacted and brought into operation would involve expenditure from the revenues of the Province and consequently the recommendation of the Governor under section 82(3) of the Government of India Act, 1935 is necessary.

5. As the India (Provisional Constitution) Order, 1947 has omitted section 108(2) of the Government of India Act, 1935 which contained the only provision making the previous sanction of the Governor-General requisite for Provincial Bills, no question of obtaining the previous sanction of the Governor-General arises.

26/6/48
28/6/48
Legal U.O. NO. 7294/48-1.
28.6.48.

Please see the note of Legal above and the revised bill put up below.

47840



The Bill may now be recommended for a reply to the letter at p 3 of the draft below is for approval.

2) After issue of the draft, the file may be circulated to the H.O.s (Edu) and (Agriculture) for orders whether the Bill as re-drafted by Legal will be approved and to H.C. for orders with reference to paragraphs 3 and 4 at p 33 and for orders under the proviso to rule 43 of the Rules for the Madras Legislative Assembly whether the Bill may be published in the F.S. Co. in English. The order of H.O. (Edu) may also be taken whether the Bill may be published in Tamil, Telugu, Kannada and Malayalam. H.P.R. may also see to it.

20/6/48
30/6/48
[Drafted by Legal, 29/6/48, 30/6/48]
G.P.R. 5/7
3.7.48
K.M.
29/7/48

Governor's Secretariat

Routine.

Legislation - Madras (Requisition of Educational Buildings) Bill - Enactment.

E. & P.H. may be requested to put up the necessary message forms of/according sanction and recommendation for His Excellency's signature, in consultation with Legal.

Norman Nair
8.7.48. E&PH u.o.

From the High Court Memo: 3658/48-Bld. 7.7.48.
The H.C. has said that it has no objection to clauses 4(3)(a) and 4(4) of the original bill at (A) corresponding to clauses 4(1)(a) and 4(5) of the revised bill put up below.

2]. With reference to the above routine note, a draft message which conveys the recommendation of H.E. under sub-section (3) of section 82 of the Govt. of India Act 1935, is put up submitted for H.E.'s signature. As regards a message for conveying the previous sanction of H.E. under section 299(3) of the Govt. of India Act 1935, it is understood, but this not necessary. Legal may advise.



Edn. no. 273 1501/48-11
10.7.48

LEGAL DEPARTMENT.

The alterations indicated in red ink on the draft message recommendation of H.E. the Governor may be made. Separate messages may be prepared one for the Assembly and the other for the Council.

L 8429

17

No special form of message in regard to the previous sanction is necessary.

10/7/48 E&PH

E&PH(c)



With reference to the note of Legal above, a draft message to the Assembly and a draft message to the Council are placed below for H.E.'s signature. The file may now be sent to the Governor's Secy.

13/7

Edn. no. 273 1501/48-15
13.7.48.

P.S.G.

H.E. has signed the messages below.

16/7/48

E&P.H.

E&PH(c)



Legal have said that no special form of message in regard to the previous sanction is necessary. On the presumption that the previous sanction of H.E. which has been accorded in the notes at p 34 and need not be communicated to the Legislature, no message has been put up for H.E.'s signature. The message of H.E. conveying his recommendation under section 82(3) of the Govt. of India Act 1935, may now be communicated to the Pt. of the Legislative Council and the Speaker of the Legislative Assembly. The draft

Legal seems to have said of the two parts of the bill, the first part is adopted, I am not sure whether the second part is being or not. Very kindly clarify.

d.o. below is for approval

2/ At p23cf, the Cabinet has ordered that the bill should be published for eliciting public opinion, a period of one or one and a half months being allowed for the receipt of suggestions and objections. H.M.(Edu) has now decided that the bill should be published immediately in a Gazette Extraordinary if necessary so that it may be introduced in about 3 days or so of publication.

3/ The Assembly and the Council Rules do not appear to contemplate the publication of a bill for eliciting public opinion before introduction in the Legislature. Legal have given a ruling that with a popular ministry in office, bills need not as before under the section 93 situation, be published for eliciting public opinion as distinct from publishing for general information which has necessity to be done. Rule 15(1) of the ^{Council} Assembly Rules says that at any time after the expiry of six days from the publication of a bill in the Gazette, the member in charge of the bill may ~~make~~ ^{make} a motion to circulate the bill for eliciting public opinion. Having regard to the expressed desire of H.M.(Edu) and the orders of the keeping in view the orders of the Cabinet at p23cf, the following procedure may be followed:-

Legal may order publication of the bill immediately in a Gazette Extraordinary and as soon as may be after the expiry of six days from the publication

H.M.(Edu) may make a motion for with Legislature for circulating the bill for eliciting public opinion.

4/ Legal may see.

Edu. no. 27325 of 16
16.7.48



Legal Department.

A on p.36 ante:- The present practice is -

(a) to send a formal message to the Legislature where the Governor makes a recommendation under section 82(1) or 82(3) of the Government of India Act, 1935; and

(b) not to send such a message, where the Governor accords his previous sanction under section 299(3) of the same Act.

This differentiation may be sought to be justified on the ground that section 299(3) only provides that no Bill or amendment of the nature referred to therein shall be introduced or moved in a Chamber of the Provincial Legislature without the previous sanction of the Governor, and does not expressly require that the previous sanction should be conveyed to the Chamber of the Legislature as section 82(3) does. But section 82(1) of the Government of India Act merely provides for the recommendation of the Governor, without requiring that it should be conveyed to the Chamber. There is no reason for adopting one procedure in the case falling under section 82(1) and another procedure in the case falling under section 299(3). In all these cases, one uniform practice may be adopted, viz., a formal message communicated to the Chambers.

Z on pp.37-38 above:- The Bill has been ordered to be published in English in Part IV-A of the F.S.G. Gazette dated the 20th July 1948. It is presumed that the Bill will be introduced in the Assembly, and that a notice of motion

should be prepared for circulating the Bill for eliciting opinion thereon — see rule 75(1)(c) of the Madras Assembly Rules. E & P.H. may kindly confirm this.

Sec 9 may see para 1. of the above note.

S F & P. H

$\mathcal{E}_{\text{pr. H}}(c)$

With reference to the para 1 of Legal No No
- the rule of Legal at p38 anti, a draft message 8.7.89-2
to the Assembly and a draft message to the
Council, conveying the previous sanction of
H.E. under section 299(3) of the Govt. of India
Act, are put up below for H.E.'s signature. The
file may now be sent to the Governor's Secy.

2/. After return of the file, the point raised in para 2 of the note of legal advice, will be dealt with.

G
22/7/08

08M
22/7/48 S Wm Cur. & Leit.

P. 56 H. E. has signed the messages below.

26/7/48

$\mathbb{Z}_2 \oplus \mathbb{Z}_2(2)$

The revised draft d.o. below
is for approval.

2/. After issue, the file may be circulated to the H.H. (Edn) for orders whether as proposed at 'Z' at pp 37-38 ante, a notice will be made in the ~~Legislative~~ assembly that the bill be circulated for eliciting public opinion. If this is agreed to, Dept will

SECRETARY, EDN. AND P. H. DEPT.
27 JUL 1944
GOVERNMENT OF MADRAS

When a bill is introduced in the assembly, ^{one} ~~section~~ after following basic things is done :-

a) A motion is ~~made~~^{under} that the bill be taken into consideration at once, or at some day to be then specified;

b) a motion is ~~made~~ made that it be referred to a select committee of the chamber;

e) a motion is made that it be circulated for the purpose of eliciting public opinion thereon. The HM (Cdr) has ordered in this case that the bill need not be circulated for eliciting public opinion and that a notice of introduction be given straightaway on the 10th. Presumably he considers that the bill need not be reported to a Select Committee ^{also} and that it should be introduced in the assembly and taken into consideration at once. In this view, the file may be sent to Legal for preparing the necessary notice of motion.

A circular ink stamp from the Assistant Secretary, Legal Department. The text "ASSISTANT SECRETARY" is curved along the top inner edge, and "LEGAL DEPARTMENT" is curved along the bottom inner edge. In the center, the date "23 JUL 1948" is stamped horizontally.

Ed. no. 27315 of 1920/11
27-7-8.

Please see the end of Expt.

²⁹⁷⁻⁴⁰
29/7/68
Legal

The file may be circulated
to H.O. (Gen) for approval of the
draft notice and for signing
its fair copy.

not
29/7/68 S
It may refered to the select
Committee. The notice may be amended
accordingly & put up.

18A
1-8-68
With reference to the notes of
H.O., the file may now be sent
to Legal for preparing a revised
notice of motion.

CS
29/7/68
Legal

Legal Ho
9317-1
29-7-68

56508
Dye
30/7

SECRETARY, EDN. AND P.D. DEPT.
20 AUG 1968
GOVERNMENT OF MADRAS

4-40PM
Edm, 293usei
2-8

71 7500

ASSISTANT SECRETARY

2 - AUG 1943

LEGAL DEPARTMENT

2. The file may be returned to Eand P. d.

~~Cs~~
3/8/48
~~4/8~~

2 x 3 Calis on.

ISA
6-8-48

SECRETARY, EDN. AND P.A. DEPT.
4 AUG 1948
GOVERNMENT OF MADRAS

[Forward as letter no. 27245 of 28.2.48 d. 1/4]

The next meeting after Assembly
is on the 10th. Presumably H.M. will pass orders
on (2) and (3) above before that date. This follows

The next meeting after Assembly
is on the 10th. Presumably 11 AM. with pass orders
on (2) and (3) above before that date. This follows

432

may be circulated to him in the form of a

order.

5/10/48

DM
5/10/48

1/10/48

L..(C.)

The following may be the members of the Select Committee:-

- (1) Mr. N. Muhammad Anwar Sahib,
- (2) " N. Sanjeeva Reddi
- (3) " K. S. V. Krishnan
- (4) " B. Parameswaran,
- (5) " K. K. Subbanna Gounder
- (6) " K. A. Nachiappa Gounder
- (7) " K. Lingaraju
- (8) " Muhammad Raza Khan Sahib
- (9) " Alladi Aaron Rao
- (10) " M.P. Damodaran
- (11) Srimathi C. Ammana Raja
- (12) Mr. K. Bokkai Gowder
- (13) " N. Rangaswami Reddiar
- (14) Mrs. Begum Sultan Mir Amiruddin
- (15) Mr. P. Kakkan
- (16) " D. V. Ramaswami and
- (17) the mover.

The Select Committee may submit its report within

six weeks.

ISA
8-8-48



with reference to the note of
 Legal at present, the minutes recorded above
 may be communicated to the Select. of the H.C.
 The draft u.o. note below is for approval. After
 time, the file may be circulated to the H.C. (Edn).
 He will want it when he introduces the bill



163

70

The Secretary of the Assembly tells me that usually, the select
 committees are confined to a number within 15 and so, the number
 may be made 15. The following may be the members of the Select
 Committee:-

1. Mr. M.A. Muhammad Ibrahim, Tanjore.
2. Sri N. Sanjeevi Reddi.
3. Sri K.S.V. Krishnan.
4. Sri B. Parameswaran.
5. Sri K. Nachiappa Gounder.
6. Sri Pydha Venkatanarayana *LC. Pao*
7. Sri Alladi Aaron Rao
8. Mr. Md. Rafeudin Ahmad Ansari.
9. Sri M.P. Damodaran
10. Srimathi C. Ammana Raja
11. Sri K. Bokkai Gowder
12. Begum Sultan Mir Amiruddin.
13. Sri S. Chidambaram Ayyar. *K. Bhashyam*
14. Sri V.S. Sankarasubrahmanya Mudaliar.
15. Mover.

I also understand from the Secretary that no time limit need be
 fixed and so, no time limit may be fixed for the report of the
 select committee.

The notice sent herewith may be sent to the Assembly Secretariat

Ahead sent
 to H.C. (S.P.H.)
 DM
 11/8/48

ISA
11-8-48

I understand this may not come for discussion
 today and that the Assembly may be adjourned to 26th.
 The file may be put up on the previous day on which
 the Bill comes up before the House.

The Bill has been referred to the Select Committee with the above members.

Mr. Bhashyam in the course of his speech today

raised a matter of law whether the Provincial Govt. have power to enact a Bill like this under the Provincial Legislative list, Govt. of India Act. Item 9 provides for compulsory acquisition of lands. But his point of view is that it does not provide for acquisition. Under Section 104 an order has been passed, but he thinks that it will not apply to requisition of buildings. That matter must first be examined in detail so that the Bill may not be questioned in a court of law later on.

Legal may examine that matter and put it up.

The other matters mentioned by Mr. Bhashyam and Mr. Raghavaiah may also be examined by Legal. A copy of their speech may be sent to them for examination.

Perhaps on the matter above, the opinion of Advocate-General also may be elicited.

A above copies of the speeches are not yet available. Legal may kindly arrange to get it from the Assembly office three or four days hence.

The file may be sent to Legal.

8/8/48
4/9/48

by 7/10/48



Edm. 27315 c/12-22
7-28

B 10770



LEGAL DEPARTMENT.

The following points were raised by Sri Bhashyam and Sri Raghavaiah in their speeches in the Legislative Assembly:--

(1) Clause 3: This does not provide ^{for} what purpose alone the powers under the clause will be invoked. There should be a safeguard that Govt. will take over institution only when they undertake to run it for educational purpose.

(2) Where an institution is independent, so far as finances are concerned, it should be excepted from the scope of the Bill.

(3) If the original purpose of the institution was for imparting education in a particular manner, Govt. should not say that after the taking over of the institution, they can ~~make alteration in the original purpose~~ ^{use it for a} ~~other than that~~ for which the institution was started.

(4) Requisitioning of movable property is not covered by any of the Entries in the Provincial and Concurrent Legislative Lists.

(5) The Bill contemplates the taking over of an institution for an indefinite period.

(6) Clause 4 ousts the jurisdiction of courts.

(7) Punishment of imprisonment for a contravention of an order under the Bill (clause 9) is not warranted.

(8) Clauses 11 and 12 oust the jurisdiction of courts.

(9) Compensation for movable property should not be left to be determined by rules under the Act but should be left to the Courts.

(10) ~~In clause 13(2)(b)~~ Compensation for damages should not be left to be determined by rules but should be left to the Courts. (cl 13(2)(b).)

A on p. 69

B on p. 69

C on p. 83

D on p. 83

F on p. 81

G on p. 73

H on p. 73

I on p. 75

J on p. 77 & 79

K on p. 87 & 89

L on p. 91

2.

Point (1): Clause 3 (5) provides that where any property is requisitioned under the Bill, the Govt. may use it for any educational purpose if they think fit or permit any other person or body to use or deal with it for such purpose. It may perhaps be made clear in clause 3 (1) that Govt. will requisition any property only in cases where they consider it necessary to utilise it for an educational purpose.

Points (2) and (3): These are questions of policy which are for the administrative department, viz. E. & P.H., to consider.

Point (4): As pointed out by Sri Bhashyam, "requisitioning of property" as such is not covered by any of the entries in the Provincial and Concurrent Legislative Lists. But movable property connected with an educational institution may well be said to fall within the scope of entry 17 of the Provincial Legislative List, viz. "Education" which will include all matters ancillary to education, and will therefore be within the competence of the Provincial Legislature. "Where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution. ... In the same way, when powers, privileges, or property are granted by statute, everything indispensable to their exercise or enjoyment is impliedly granted also as it would be in a grant between private persons." - Vide Maxwell on Interpretation of Statutes, 9th edition - pages 360-61. The position therefore would appear to be this: If it can be properly held that the requisitioning of buildings, etc. used for the purpose of education is essential to carry out the policy of Government in regard to education, the enactment would be intra vires; otherwise not.

Point (5): There is some force in this point. A suitable time limit may perhaps be specified in the Bill. It is for E. & P.H. to consider what should be this time limit.

Point (6): Clause 4 does not entirely oust the jurisdiction of Courts as an appeal against the order of the Dt. Collr. is allowed to the District Court (City Civil Court in the case of the City of Madras). It is only the decision of the Dt. Judge or the City Civil Court Judge which is made final and not liable to be questioned in any Court of Law.

3.

Point (7): This is a question of policy for the E. & P.H. Dept. to consider.

Point (8): Clause 11 does not entirely oust the jurisdiction of Courts - See the words "Save as otherwise expressly provided in this Act" at the commencement of this clause. Clause 4 provides for an appeal to the Dt. Court ^{and} all that clause 11 means is that except an appeal to the Dt. Court no other remedy will be available. Clause 12(1) protects only action ~~against~~ ^(is quite necessary) taken in good faith and similar provisions are found in various enactments recently passed. As regards ~~this~~ clause 12(2), the question whether it should be retained or omitted is one of policy for the administrative department to decide.

Point (9): This is again a question of policy for E. & P.H. to consider.

Point (10): Please see the note on point (8) in regard to clause 12(2). The question is one of policy for E. & P.H. to consider.

Legal N.O. NO. 10770/48-1



E. & P. H. Dept.

Secretary, E. & P. H.

The Select Committee on the Madras Educational Institutions (Requisition of Property) Bill met to-day and adjourned for the 18th of next month.

The Select Committee wanted information on the following:--

- (1) The conditions under which withdrawal of recognition can be ordered by the DRI.
- (2) Number of aided institutions of all categories
- (3) The growth of schools and colleges in the last five years and the number of aided institutions in each category.

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A note on these may be prepared and circulated to the members

The various points that I had asked to be considered may be considered by the various departments and put up to me before the end of this month.

T.S.A.
14-9-48.
H.M. Education

Ed.H.(C)

Please see the note from ph6 only and the minutes of HM (Ed) above. With reference to para 1 of the minutes, the draft note below is for approval.

2/ HM. has ordered that the various points raised in the debate should be examined. Accordingly the second note below are submitted for orders. The points which are not dealt with in the 1st. second note are dealt with below.

Point 1 at ph6 only. The suggestion of legal to amend clause 3(1) may be accepted.

Point 2 at ph6 only. Please see the note of legal at ph7 only. It is for orders whether any reference to the Advocate General is necessary.

Point 6 at ph6 only. Please see the note of legal at ph7 only. No remarks seem called for.

Point 7 at ph6 only. It is for consideration whether any change in the penal clause (clause 4) providing for the imposition of the sentence of imprisonment, is necessary.

We can proceed on the footing that the 4th. 14.9.48. is the date of the order. The point is whether it is proper to be so held. I am of the opinion that it is better to consult the Adv. Gen. by

W. Henry,
9.10.48

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2/ After some effort note put up for circulation to the members of the select committee, the file may be sent to Fin. and Legal for remarks.

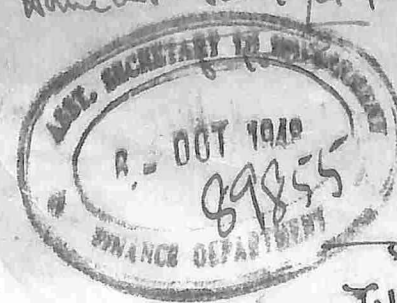
Ed.H. 27/3/50. 1-8-24
H-10-18



Home Department.
(Previous note of this department on page 14 ante)

Please see the revised draft of the Madras Institutions (Requisition of Property) Bill, 1948 at flag (A). This department is concerned with clauses 4 (4) (a) and 4 (5) and 9 on pages 3-4 and 6 of (A). The High Court which has been consulted has stated that the Hon. the Judges have no objection to the provisions contained in sections 4 (4)(a) and 4(5) of the draft bill to provide for the requisition of buildings used for educational purposes. The other provisions of the Bill relate to matters of public policy on which the High Court as such has no opinion to offer. No other remarks are called for. The case may be passed onto the Finance department.

Received 23.9.48
Thru D Section at Sec
5.10.48
8.10.48



Fin (Lef) (C)
(Finance last saw on page 31 above)
The file deals with the points raised by some of the members of the Legislature in their speeches regarding the Madras Educational Institutions (Requisition of Property) Bill. The note from page 46 above may be removed.
2. Finance may agree with the revised S.P.A. on page 49 above.



Secretary, E. & P. H.

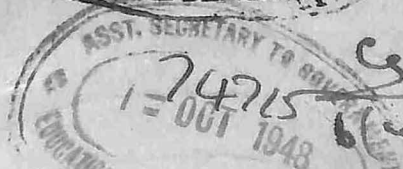
Madras Educational Institutions (Requisition of Property) Bill.

With regard to the point raised by Mr. K. Bashya as to whether the Provincial Government have power to pass this Bill, I had asked to be referred to the Advocate-General for opinion. The opinions on the Bill have been received and we are going to sit for the Select Committee on the 18th of this month. Witnesses also will be examined on that day. I would like to have the opinion of the Advocate-General before that date.

H.M. Education. 5-10-48

Edo. (C)

The entire bill file has been sent to Home (H. L. Legal) and has not yet been returned. But an extract of notes from that file is put up at (A). With reference to the minutes of H. L. above, the draft below is for approval. The draft has been put up on the basis that the notes of Legal estimated below have reference only to that portion of the bill which deals with the requisitioning of immovable and not movable property. Legal may see.



Edo. 27315 C. 1/11-25 6-00-48

Legal U.O. No. 12019C/48-1 7-11-48 12019C

Seen in Legal

7/10/48 S 11/11/48 EPH

3 The remarks of this Dept. have also been added on 7, 9 & 12 of the sectional notes below. After orders are passed thereon, the case may be passed on to Legal.

17.5 7.10.48 7.11.48 Legal

LEGAL DEPARTMENT.

Please see the remarks of this Department in the sectional notes.

13/10/48 S 11/11/48 EPH

Finuo 89855 Epe-1 7-X-48

B 12074



Legal U.O. NO. 12074/48-1. 13-X-48

75354

The draft of ~~the~~ may come.

After issue, HM(Edn) may see

DM 7/10/50 S 17/11/50

[Issued as ~~Letter~~ No. 27345 c.f. (2-26-50 d. 7-10-50)]

From the Govt. Solicitor No. 3032 d. 13-10-50.

The HM(Edn) wanted the Advocate

General to be consulted on the point whether the bill is intra vires the provincial legislature. The Advocate General's opinion in the matter is at p.73 c.f.

2. The file may now be circulated to the HM(Edn) for orders on the notes at p.94 and the sectional notes below. After the HM(Edn) has passed orders, the Legal will be requested to draft amendment wherever necessary.

DM 15/10/50 S 17/11/50

The Select Committee has been postponed to the 20th of next month. This file may be put up to me a few days earlier.

27-10-50

The Select Committee is ^{not} meeting again on 20-11-1950 as stated by H.M. - vide p.93 c.f.

The file may now be ruled to H.M. now.

DM 17/11/50 S 17/11/50



Extract from the legal file relating to the assent and publication of the Madras Ed. Institutions (Temp. Control, Property) Act, 1949. Legal Department

His Excellency the Governor has reserved the Bill for the consideration of H.E. the Governor-General. A draft letter to the Ministry of Home Affairs, Government of India is submitted for approval.

M.A.N. 5.1.50 K.V.R. 5.1.50

After issue, may be submitted to H.M.(E & L). He is too busy today, and the draft is based on a similar draft approved by him yesterday.

K.V.R. 5.1.50

The draft letter to the Government of India has been issued to day and is put up at pages 1-2 c.f. May now be submitted to H.M. (E & L) as directed by Secy. above.

Submitted to H.M.(E & L) for perusal.

M.A.N. 5.1.50 H.M. (E & L) K.M. 6.1.

Issued as Letter No. 17362-3, d. 5-1-50 From the Govt. of India Telegram dated 22-1-50, received in this Dept. on 23-1-50.

Please see the letter from this Department to the Government of India at pages 1-2 c.f. and the reply telegram from the Govt. of India in the Ministry of Home Affairs at pages 3-5 c.f. The Government of India may be informed by Immediate telegram that their presumption at A on page 3 c.f. is correct. Their request at B on page 5 c.f. may also be accepted. A draft telegram (Immediate) is submitted for approval. E & P.H. may see for acceptance. Orders of H.M. (E&L) may also be taken.

M.A.N. 23-1-50 K.V. RAJAGOPALAN 23-1-50 E & P.H. Secy.

DM 23/1/50 (sa) L.P. 23/1

25.

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Pl. see the copy of letter from the Govt of India at page 97 C.F. The Act was assented to by the Governor-General on the 25th January 1950 and was published on the same day ^{in a Gazette Extraordinary} as Madras Act XLVIII of '49 in a Gazette Extraordinary. E.P.H. will no doubt take necessary action w.r.t. para 2 of the Govt. of India's letter referred to above. The main file ^(along with the linked file) which ^{has} no longer required in his Dept. may be returned to E.P.H.

D 31/1

31/1/50

31/1/50

E.P.H.

Edu. P.H. Dept (cc)

With reference to para 2 of the letter from the Govt of India Rules have to be framed in regard to the Compensation. But according to the Govt. of India's letter a copy of which has been attached to the Cf. Since the former Act does not comply with the provisions of Article 31(2) of the Constitution of India in respect of measures property involved & Govt of India is being addressed for obtaining the Certification of the President of India under ~~art~~ article 31(6).

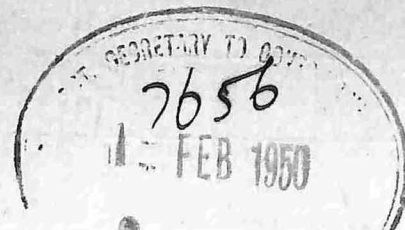
This may perhaps await the Certification of the President of India. Legal may see meanwhile.

19/2/50 Legal

Legal U.O. 17362-0

31.1.50

(Box)



No. 7656 - C1/50 - 1/Edu
8.2.50

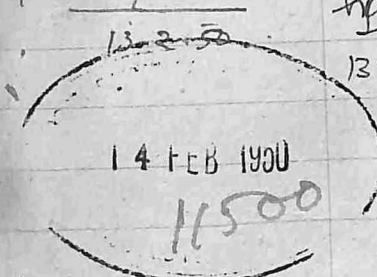
9

20

Legal Dept

The note of E.P.H. on page 55 ante may be perused. Govt of India have been addressed for Certification of the President under Article 31(6) of the Constitution of India. The reply of Govt of India may, on receipt, be communicated to E.P.H. The file may now be sent to E.P.H. This Dept may agree that the Certificate of the President may be awaited.

Legal 2095/50-1 C



12/1/50

RP

13.2.50

13/1/50

E.P.H.

13.1.50

14/2/50

This may lie over till the Certification of the President of the Republic referred to in the Dept note above is received. In the meanwhile S.D. may be requested to examine the provisions of the Act and submit draft rules to be framed under it in consultation with the Govt of India concerned.

A draft Memo is Submitted.

17/2/50

17/2/50

[Issued as Memo No 11500 C1-50-1 Rule. d 17.2.50]
From the D.P.T. No. 129-D9/50 dated 30.3.50

A draft memo is submitted

17/4/50

19/4/50

[Issued as Memo No. 11500 - D/50-2 Edu dated 19/4/50]

176
The paper may
be recorded and
the question of amendments
or ~~drafting~~ ^{amendments} ~~engagements~~
in a separate file.

AM
2/11/50

Order 2955-20
NS

date 2-11-50
Notes. Record.

Subject
The Madras Educational
Institutions (Temporary Control
of Property) Act, 1949.