

(1) பக்கங்களின் எண்ணிக்கை

12

(2) புதுக்கித் திருப்பிய நாள்

19-5-93

(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு.

நீதி

துறை

அரசாணை எண்.

மு. கோப்புத் தாள் எண்.

763

அச்சகம்
பலவகை

நாள் :

7-6-1871

199

சி. பாண்டி

மடிக்கவோ சுண்டப்படிகையாளவோ கூடாது.

No. 763.

FROM

W. HUDLESTON, Esq.,

Acting Chief Secretary to the Government of Fort St. George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT (Judicial).

SIR,

I have the honour to submit, for the consideration and orders of His Excellency the Governor-General in Council, the correspondence recorded in the Proceedings* of this Government noted in the margin, on the question whether, with reference to the definition of the words "oath" and "swear" contained in the General Clauses Act I. of 1863, Hindoos or Mahomedans summoned to appear before a Coroner as jurors should, under Section 4 of "The Coroner's Act, 1871," be sworn or only affirmed.

2. It will be seen from the opinion of the Acting Advocate-General of this Presidency, recorded in the Proceedings of the 14th April last, No. 476, that—although under the operation of Act I. of 1863 the words "oath" and "sworn" as used in "The Coroner's Act" will mean "affirmation" and "affirmed" in the case of persons allowed by law to affirm, instead of to swear—there is no law which exempts a Coroner's Jury from being sworn, or admits of a solemn affirmation instead; and that the provisions of Act V. of 1840 and Section 9 of Act XVIII. of 1863, under which Hindoos and Mahomedans are allowed to make a solemn affirmation instead of any oath which may be required by law, are applicable only to witnesses and not to jurors.

3. Apprehending that, under this view of the existing law, a verdict of culpable homicide, or killing by a rash or negligent act, delivered by a Coroner's Jury, may in all probability be called in question, if some one or more of the jurors, being Hindoos or Mahomedans, were only affirmed and not sworn, and the Inquiry in such a case quashed in consequence, the Madras Government have deemed it expedient, as a temporary measure, and pending the orders of the Government of India on the present reference, to authorize the Coroner of Madras to secure the services of the requisite Hindoo and Mahomedan Priests, whenever necessary, for the purpose of administering oaths to persons of these religions who may be summoned to appear before him as jurors.

4. The orders issued by this Government regarding the employment of these Priests are contained in their Proceedings of this day's date, No. 763.

I have the honour to be,

Sir,

Your most obedient servant,

*Acting Chief Secretary.*FORT ST. GEORGE,
7th June 1871.

Edw. J. Wright.

June 1871 Dept.

From Government of

Fort St. George.

Dated 7th June 1871.

No.

Enclosure

Spare copies

D. No.

D.

Procs.

L. No. 763.

No.

Subscribed, for orders, the correspondence referred to in the Proceedings of Government of this date. The question whether, with reference to the definition of the words "Oath" and "Swear" contained in the General Clauses Act I. of 1868, Hindos or Mahomedans summoned to appear before a Court as jurors should, under Section 4 of the Foreman's Act, 1871, be sworn or only affirmed.

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the the request to.

To

The Secretary to Government
of India.

No. 763.

of India.

Home Department.

(Judicial)

Sir,

I have the honor to submit for the consideration and orders of His Excellency the Governor General in Council, the correspondence recorded in the Proceedings of this Government noted in the margin, which gave rise to the question as to whether, with reference to the definition of the words "Oath" and "Swear" contained in the General Clauses Act I. of 1868, Hindos or Mahomedans

8/14 April 1871 H. 476 &
7 June 1871 H. 762

[Signature]

summoned to appear
before a Coroner as
jurors, should, under
section 4 of "The Coroners
Act 1871," be sworn or
only affirmed.

2. It will be seen
from the opinion of the
Ag. Advocate General
of this Presidency
recorded in the Proce-
dings of the 14th April
last No 476, that al-
though under the
operation of Act I
of 1868 the words
"oath" & "sworn" as
used in "The Coroners
Act" will mean "affir-
-mation" and "affirmed"
in the case of persons
allowed by law to
affirm, instead of
to swear - there is no
law

law which exempts
a Coroner's jury from
being sworn or admits
of a solemn affirma-
-tion instead; and that
the provisions of Act
V of 1840 and section
9 of Act XVIII of 1863,
under which Hindos
and Mahomedans are
allowed to make a
solemn affirmation
instead of ~~any~~ oath
which may be
required by law, are
applicable only to
witnesses and not
to jurors.

3. Apprehending
that under this view
of the existing law,
a verdict of culpable
homicide or killing
by a rash or negligent
delivered by a Coroner's
jury,

jury, may in all pro-
-bability be called
in question, if some
one or more of the
jurors, being Hindus
or Mahomedans, were
only affirmed and
not sworn, and the
Inquisition in such a
case quashed in con-
-sequence, the Madras
Govt have deemed
it expedient, as a
temporary measure,
and pending the
orders of the Govt.
of India on the pre-
-sent reference, to
authorize the Governor
of Madras to ^{secure} engage
the services of the requi-
-site Hindu & Mahomedan
priests, whenever
necessary, for the

purpose of adminis-
-tering oaths to persons
of those ^{religions} ~~creeds~~ who
may be summoned
to appear before him
as jurors.

The Orders issued
by this Government
regarding the employ-
-ment of these priests
are contained in their
Proceedings of this
day's date &c. —
L.R.

Fort St George
7 June 1871

Handwritten text, possibly a signature or address, mostly illegible due to fading and bleed-through.

Department

No.

To

The Secretary to the
Government of
Department

Dated 187 .

Home 187/ Dept.

From Government of Port St. George.

Dated 7 June 187/ No. Enclosures.
R spare copies.

D. No. Progs. No.
L. No. 463.

No. 59-61.

Submitting for orders the Cor-
respondence recorded in the
Proc. of Govt. of this date on the
question whether with reference
to the definition of the words
"Oath" and "Swear" contained
in the General Clauses Act II
of 1858, Hindus or Mahomedans
summoned to appear before
a Coroner as Jurors should,
under Sec. 4 of "The Coroners Act
1871" be sworn or only affirm
ed.