

Legislative (1897) Department.

ORDINARY MS.

G.O., No. 7

DATED 6.2.97

INDEXED.

6/6
Please print with
notes & show book.

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11.4.08

[Despatch Abstract.]

Malabar Testamentary Bill

Requesting the Honble V.
Mharthy and Amangar, C.S.E., Dr. B. B. B. B.,
As Advocate General to take charge of
the ———, pending before the Council

105
6-2

BACK PAPERS.

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

FURTHER PAPERS.

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

Government of Madras.

LEGISLATIVE DEPARTMENT.

MISCELLANEOUS.

Recd.

Regd.

} 1908.

Enclosures

Spare copies

G.O., No. 7, 6th February 1837.

Malabar Testamentary Bill.

Requesting the Hon'ble V. Bhashyam Aiyangar, C.I.E., Diwan Bahadur, Acting Advocate-General, to take charge of the — pending before the Council.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

Order—No. 7, Legislative, dated 6th February 1897.

Mr. J. H. Spring-Branson, Advocate-General, having ceased to be the member in charge of the Bill to declare the testamentary powers of persons following the Marumakkatayam or the Aliyasantana law of inheritance, by virtue of his resignation of his seat as additional member of the Council of the Governor of Fort St. George for making Laws and Regulations, His Excellency the Governor in Council resolves that the Hon'ble V. Bhashyam Aiyangar who has been appointed to act as Advocate-General, during the absence of Mr. J. H. Spring-Branson on leave, be requested to take charge of that Bill still pending before the Council.

(True Extract.)

G. S. FORBES,
Secretary to Government.

To the Hon'ble V. Bhashyam Aiyangar, c.i.e., Diwan Bahadur, Acting Advocate-General.

LEGISLATIVE DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 7, LEGISLATIVE, DATED 6TH FEBRUARY 1897.

[SUBJECT.—*Malabar Testamentary Bill.*]

Will not the Advocate-General's Bill be ready?

G. S. FORBES—21-1-97.

The Hon'ble the Advocate-General is in charge of the Malabar Testamentary Bill; the Honourable Member wanted to have a meeting of the Select Committee before the Christmas holidays, which he was told was not convenient. No meeting of the Committee has since been held.

The other Bill the Hon'ble the Advocate-General was in charge of—The Bill to amend the Madras Revenue Recovery Act II of 1864—was passed into law at the Council meeting of 9th ultimo and has been forwarded for the assent of His Excellency the Governor-General.

C. R. VIJAYARAGHAVA CHARI—21-1-97.

Who are on the Committee? Can we add in the demi-official about to issue the Bill as *perhaps* to come on?

G. S. FORBES—21-1-97.

The members of the Select Committee are—

- (1) The Hon'ble the Advocate-General.
- (2) " " Mr. J. Grose.
- (3) " " C. Sankaran Nayar.
- (4) " " C. Vijayaraghava Chariyar.
- (5) " " Mr. G. Stokes.

2. The Hon'ble the Advocate-General, the member in charge of the Malabar Testamentary Bill, has been granted six months' leave and no successor has as yet been appointed to act for him, who by virtue of his office can become the member in charge of the Bill, if he is nominated additional member of Council, as the *Government Order* requests the Hon'ble the Advocate-General to take charge of the Bill.

3. Under section 29, XXIV and XXV Victoria, Cap. 67, the Indian Councils Act, 1861, the Governor shall nominate as an additional member the Advocate-General of the Presidency or officer acting in that capacity, and this should be construed to mean that the officer holding for the time being the office of Advocate-General should be an additional member. This can easily be done, as there is at present a vacancy unfilled, by appointing as additional member the person who might be chosen to act, without asking the Hon'ble Mr. J. H. Spring-Branson to resign, but it is submitted that the more correct procedure will be to ask the Honourable Member to resign, and then nominate as additional member the acting incumbent, as the provisions of the section are imperative and gives room for nomination as additional member only of the Advocate-General or officer acting in that capacity but not of both.

But this difficulty can be overcome so far as it concerns the further progress of the Bill in question, if the Hon'ble Mr. Spring-Branson will entrust the Bill to some other member of Council, who under rule 72 of the Council Rules will become the member in charge of the Bill.

Yes. When Mr. Spring-Branson went last on furlough he sent in his written resignation—*vide* G.O., R. No. 23, Legislative, dated 27th April 1891.

G.S.F.

is the better course, as the Acting Advocate-General will have to go through the papers afresh.

4. Orders are therefore solicited as to whether the Hon'ble Mr. Spring-Branson may be disturbed by a demi-official asking him to resign his seat in Council and also to entrust the Bill to some other member in the Committee, and this it is submitted

5. The Select Committee's report and Bill as revised by the Committee cannot under rule 47 be taken into consideration unless they are sent to members of Council 15 days before the day of meeting, and if publication in the Gazette is ordered, until 21 days after the publication so ordered.

Under these circumstances, it is submitted that the Bill cannot be entered in reference to the notice of meeting, as even a probable item of business.

C. R. VIJAYARAGHAVA CHARI—22-1-97.

I fear it is impossible to have the Malabar Testamentary Bill put down for next meeting of Council.

Moreover we expect a letter from the Government of India forwarding the Secretary of State's despatch (*in re* the Bill), of which we received only a copy (*vide* papers below).

2. Mr. Spring-Branson will be asked to transmit his written resignation of his seat in Council.

3. The member in charge of the Bill was named in the motion appointing the Select Committee as "the Advocate-General". It is not clear if his official successor would take his place on the Committee without a fresh motion in Council. But according to the only precedent traced such motion is required: in 1886 Mr. O'Sullivan's name was thus substituted for Mr. Shepherd's, who acted for him while on leave

—*vide* page 10, Abstract Proceedings, 1886-1887 (Local Authorities Loan Bill), and I see also that in the Supreme Council the Hon'ble Mr. Chalmers was substituted for Sir A. Miller on Committee. At next Council then it should be moved that the Hon'ble the Acting Advocate-General (who by that time it is assumed will have been appointed) be added to the Select Committee in place of the Hon'ble Mr. Branson.

The new Advocate-General should also be in charge of the Bill. This had best be done, as soon as he is appointed by a Government Order—*Cf.* G.O., No. 85, Legislative, dated 17th December 1896, placing Hon'ble Mr. Crole in charge of Village Officers' Bill in room of Mr. Arundel.

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(1) Hon'ble Mr. Spring-Branson to be asked to submit written resignation of his seat: the new Advocate-General being nominated and gazetted a member of Legislative Council.

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[G.O., No. 7, Legislative, dated 6th February 1897.]

NOTE FOR THE

Malabar Testamentary Bill

Will not the adv. gen.
Bill be ready?

Feb 21-97

The Hon'ble the Adv. Genl is in charge of the Malabar Testamentary Bill. The Hon'ble member wanted to have a meeting of the Select Committee, which he was before the Xmas holidays, which he was held was not convenient. No meeting of the Committee has since been held.

The other Bill the Hon'ble Adv. Genl was in charge of. The Bill to amend the Madras Revenue Recovery Act II of 1864 - was passed into law at the Council meeting of 14th ult. + has been forwarded for the assent of H.E. the Gov. Genl, after H.E.'s assent to it.

CRV
21/1/97

Who are the
Cmtee? Can we
in the meantime
add Mr. Crole as
perhaps to come in

on

Note for the Secretary

The members of the Select Committee are —

1. The Hon'ble the Advocate-General
2. " " Mr. T. Grose.
3. " " (Sankaran Nayar)
4. " " Crijayamagharthar
5. " " Mr. Stokes.

The Hon'ble the Adv. Genl the member in charge of the Malabar Testamentary Bill, has been granted six months' leave and no successor has as yet been appointed to act for him, who by virtue of his office can become the member in charge of the Bill, if he is nominated additional member of Council, as the G.O. requests the Hon'ble Advocate-General to take charge of the Bill.

Under section 29, XXIV + XXV Victoria Cap. 67, the Indian Councils Act, 1861, the Governor shall nominate as an addl member the Advocate-General of the Presidency or officer acting in that capacity, + this should be construed to mean that the officer ~~holding~~ for the time being the office of Advocate-General, should be an addl member. This can easily be done, as there is at present a vacancy unfilled, by appointing as addl member the person who might be chosen to act, without asking the Hon'ble Mr. T. H. Spring-Branson to resign, but it is submitted that the more correct procedure will be to ask the Hon'ble to resign, + then nominate as addl member the acting incumbent, as the provisions of the section are imperative + gives room for nomination as addl member only of the Advocate-General or officer acting in that capacity but not of both.

Adv. Genl

This difficulty can be overcome so far as it
concerns the further progress of the Bill in
question ~~can be avoided~~, if the Hon. Mr
Spruig-Braunson will entrust the Bill to some
other member of Council, who under Rule
72 of the Council rules will become the
member in charge of the Bill.

Orders are therefore solicited as to whether
the Hon. Mr Spruig-Braunson may be directed
by a D.O. asking him to resign his
seat in Council to also entrust the Bill
to some other member in the Committee, & then
it is submitted in the better course, as the
Advocate-General will have to go through
the papers afresh.

The select Committee's report & bill as revised
by the ^{Committee} cannot under Rule 47 be taken
into consideration unless they are sent
to members of Council 15 days before the day
of meeting, & if publication in the Gazette is
ordered, & until 21 days after the
publication so ordered.

Under these circumstances, it is submitted ^{et al}
that the Bill cannot be entered in the ^{reference}
notice of meeting, or even a probable
item of business.

22/11

K.E.

I fear it is impossible to have
the Malabar Test Bill put
down for next meeting of Council.

Moreover we expect a letter
from the G. & S. forwarding the
Govt. of States despatch (in re the Bill),

Yes.
When Mr Spruig Braunson went
last on furlough he sent his
written resignation vide G.O. R No 23
Legislative of 27 April 1891.

28
of which we received only a
copy (vide pp. below).

Mr Spruig Braunson will be
asked to transmit his written
resignation of his seat in Council.

The member in charge of
the Bill was ~~not~~ named
in the motion appointing the
Sel. Com^{ee} as "the Advocate
General". It is not clear if
his official successor will

~~successor~~ take his place on the
Com^{ee} without a fresh ^{motion} nomination
in Council. But according to
the ^{only} precedent traced such
motion is required: in 1886 Mr.

O'Sullivan's name was thus sub-
stituted for Mr Shepherd's, who
acted for him while on leave

vide p. 10 Abst No. 1886/87 (Local

Auth. - Local Bill. And I am also that in
the Supreme Council the
Hon. Mr Chalmer was substituted for Mr O'Sullivan on leave
at next Council. The
Advocate Gen

See p. 389 et seq. of Hist. Govt
of Sup. Leg. Council for 1896/97

~~that the Hon. Mr. Spring~~
~~that the Hon. Mr. Spring~~
 that the Hon. Mr. Spring
 Dr. Genl. (who by that time it is
 assumed will have been apptd.)
 added to the Sel. Comtee in
 place of the Hon. Mr. Braunsen.

The new Adv. Gen. Sh^d also
 be in charge of the Bill. This had
 best be done, as soon as he is
 apptd., by a G.O. Cf. G.O. no 85
 of 17. 12. 96. Also placing Hon.
 Mr. Spring in charge of Vell. officers
 Bill in room of Mr. Arundel

The action then to be taken
 appears to be this:

(1) Hon. Mr. Spring Braunsen to be
 asked to submit written resignation

in seat: the new Adv. Gen. being nominated & gazetted a member of L.C.
 To a G.O. & also placing new Adv.
 the in charge of the Bill.

Down to motion to be made at the next
 Moreover
 from the G. & J. forwarding the following
 Sec. of State's despatch (in re the Bill)

Mr. A.H. 24.1.97

[G.]
 24.
 500-28-10-96.

Leg DEPARTMENT.

Papers to be read in proceedings:--

Again G.O., dated	189	, No.
Again G.O., dated	189	, No.
Current No.	of 189	, dated , from
" "	" 189	, " , "
" "	" 189	, " , "

1P
 11/1

ORDER No 7 Leye of 6. 2. 97
 Mis

~~The Hon. Mr. T.H. Spring Braunsen~~, Advocate,
 General, having ceased to be the member
 in charge of the Bill to declare the
 testamentary powers of persons following
 the Maumak Katayam or the Aliya-
 -Santana law of intestance, by
 virtue of his resignation of his
 seat as additional member of the
 Council of the Governor of Fort St George
 for making Laws & Regulations, His
 Excellency the Governor in Council resolves
 that the Hon. Mr. V. Bha Shyam Aiyangar
 who has been appointed to act
 as Advocate General, during the absence
 of Mr. T.H. Spring Braunsen on leave,
 be requested to take charge of
 that Bill still pending before the
 Council.

Note Papers re Hon. Mr. Spring Braunsen's resignation
 have not yet been received

Just come in
 RA
 JPS

ccy
 5/2

To the Hon. Mr. V. Bha Shyam Aiyangar, C.S. & M. in the L. S. D.

(for O)
 [Signature]

When given for copying _____
 When copied _____
 When examined 6/2 } 1897.
 When signed _____

AGAIN G.O., No. _____
 189 _____ DATED _____

CURRENT No. _____

ENCLOSURES TO C. No. _____

GRADE OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT. _____

STATEMENT WITH _____

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

N.B. -
 A = Copy in full.
 B = Not to be copied
 P = Copy abstract only.
 Q = Copy heading only.

2P
 White 15-2

[Faint, mostly illegible handwritten text on the left page, possibly bleed-through from the reverse side.]

Ed. 1 that's despatch in the morning

11-2-10
8-7-12 ✓

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G. S. FORBES—23-1-97.

Yes.
A. E. H[AVELOCK]—24-1-97.

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Requesting the Hon'ble V. Bhashyam Aiyangar, C.I.E., Diwan Bahadur, Acting Advocate-General, to take charge of the — pending before the Council.

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MISCELLANEOUS.

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