

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

Marine

G.O. No.

163

Press
~~Mis.~~

Dated

10 5

1861.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Marine Department,
10th May 1861.*

No. 11. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, Madras, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 1st May 1861, No. 402.

Dated 25th April 1861, No. 148, Marine Department.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin.
2. I submitted them for the consideration of the Advocate General and,
3. I now forward a copy of his opinion.

COPY—OPINION.

I am clearly of opinion that Government cannot safely comply with the Petition of Annatha Appasawmy Moodelly nor recognize him as the sole surviving Headman or Principal Proprietor of Saint Peter's Church at Royapoorum, or permit him alone to draw the sums he mentions out of the interest of the Funds collected for the purposes of the Church.

2. One thing appears clear, viz., that at the time when disputes began among the Royapoorum Boat Owners the Portuguese Priests were in the occupation of the Church and they alone performed Divine Service therein. The Right Reverend Dr. O'Connor and the Irish Priests arrived several years afterwards—about 1835 it appears—and though one of their number, the Reverend Mr. Moriarty with the assent of the party to which A. Appasawmy Moodelly belongs, somehow or other obtained possession of the Rectory, yet the result of the action against that Reverend Gentleman showed clearly that, in the eye of the law, he was a wrong doer.

3. Thus there appear to be two rival parties, the Portuguese party and the Irish party: the latter appear to be still in possession; but the Portuguese party, it appears, have never acknowledged them as the rightful possessors, and seem to meditate further proceedings—See paragraph 13 of their Petition dated 8th April 1861.

4. Under these circumstances it would, in my opinion, be unsafe in the extreme for Government to recognize either party as exclusively entitled to deal with the Fund in question either as regards the Principal or the Interest thereof.

5. Government in my opinion had better take no step whatever in the matter unless either side should commence legal proceedings against them, and then it should file a Bill of Interpleader against both, and pay the Fund into Court.

6. I would suggest that a reply be given to both parties to the effect that the statements of both parties are so irreconcilable, and their rights, according to their respective statements, so equally balanced, that Government is advised that it cannot safely recognize either of them as exclusively entitled to deal with either Principal or Interest of the Fund until one side or the other shall have obtained a legal decision in their favor; but that as A. Appasawmy Moodelly complains that his opponents wish to do nothing themselves, but simply to prevent the Funds from being applied to the preservation and use of the Church and thereby to let it fall into ruin. Government are advised that it is perfectly competent to him to file a Bill praying a declaration in his favor and making Government and his opponents Defendants thereto; and that, if he chooses to take this course, Government will interpose no delay, but will give every facility in their power for the complete and speedy decision of the matters in issue between himself and his opponents.

7. If he should decline to take this course, and the other side also decline to take any similar proceedings, and Government for any reason wish to get rid of the Fund and disconnect themselves from all matters connected therewith, I am of opinion that a Bill might be framed with that view, but it would in my opinion be much more advisable to let one or other of the hostile parties among the Boatowners of Royapoorum take the initiative.

(Signed) T. SYDNEY SMYTH,
Advocate General.

30th April 1861.

(True copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

Proceedings of the Madras Government, Marine Department,
10th May 1861.

No. 12.

ORDER THEREON, 10th May 1861, No. 163.

A copy of the Advocate General's opinion will be furnished to the Superintendent of Marine.

2. The Government approve the reply suggested in paragraph 6, and request Mr. Franklin to communicate it to Annatha Appasawmy Moodelly, in reference to his Petition of the 15th February last, and to the heads of his party, as well as to the heads of the party opposed to them.

(Signed) T. PYCROFT,
Chief Secretary.

Soon
No. 163 - 10 May 1861.

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The Suptt. of Marine & Govt. Solicitor. - *Depy Secy to Govt*
J P

Proceedings of the Madras Government, Marine
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[Faint, illegible handwritten text, likely a memorandum or order.]