

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	738	Press
		Mis.
	45-46	
Dated	5-6-	11-12-8

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 8th June 1858.

No. 45. Read the following letter from J. R. BOYSON, Esq., Honorable Company's Solicitor ;
to the Chief Secretary to Government, dated 21st May 1858, No. 258.

SIR,

Extract Minutes Consultation, dated 14th May 1858, No. 628,
Judicial Department.

1. I have the honor to acknowledge the
Extract from the Minutes of Consultation,
noted in the margin.

2. I submitted same for the consideration of the Advocate General, and

3. I now beg to forward a copy of his remarks and opinion.

COPY OPINION.

I perfectly concur in the view of the matter taken by Government in the Extract Minutes of Consultation of 16th May 1855, (Judicial Department, No. 367,) and think it important that that view should be always acted upon as far as possible, but the Bank of Madras acts under sound legal advice in refusing (as I believe the Accountant General also always does) to recognize Trusts, and this may, *sometimes*, create difficulties in the way of entirely carrying out the view of Government, as above expressed.

In the present case however, I think the Bank may safely modify their General Rule to an extent that will secure the object that Government have in view, namely, by recognizing an assignment of these shares to "*C. M. Teed, Administrator General*;" but I could *not* advise the Bank to recognize the *further* addition of the words "*and Administrator of the Estate of Lieutenant F. Corley*," for *these* words would certainly fix the Bank with notice of a specific Trust, and oblige them to see to the due application of the shares to the purposes of such Trust.

Even the addition of the words "*Administrator General*" would be a departure from the strict rule adopted, on good grounds, by the Bank ; but, looking to the character of the Administrator General as a public Officer appointed by Statute, to the fact that Act VIII of 1855, Section 24, vests all interests vested in that Officer in his successors by virtue of their appointment, and requires all grants of administration to him to be made by his name of office, to the absence of all risk to the Bank by reason of their adoption of this course, and to the importance on grounds of public policy, of giving effects to the above expressed views of Government as to the undesirableness of official trust property being held or invested in the name of a private individual so as necessarily to pass his Executor on his death ; looking to these considerations, I think that the Bank if again applied to will not refuse to modify their rule to the extent I have suggested.

By inserting the name "*C. M. Teed*" before the words, Administrator General, the provisions of Section XI of the Bank Charter Act will be sufficiently complied with. The Books and Accounts of the Administrator General will shew that these shares belong to Corley's Estate.

(Signed) THOS. SYDNEY SMYTH,
Advocate General.

May 20th, 1858.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

No. 46. ORDER THEREON, No. 738 ; dated 5th June 1858.

Ordered to be communicated to the Administrator General in reference to his letter of 30th April last, No. 74. Mr. Teed will be requested to make to the Bank of Madras, the application suggested by the Advocate General in regard to the assignment of the Bank shares belonging to the Estate of Lieutenant F. Corley, and on the grounds specified by that Officer.

(Signed) T. PYCROFT,
Chief Secretary.

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they have stood, he being
the Exor of Corley's Will)
to the Ex of the Ex of
Corley.

No 1/38-

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For St George,
5 June, 1874

Handwritten signature

Copy to Administrator Genl. Dispt. 10th