M.R.C. 1—39,000—16-10-29.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1414 Press Mis.—

203-205

Dated 27-9 19-1864

3/3

***Not to be folded or roughly handled***

Read the following papers :—

No. 203. From Major E. A. B. TRAVERS, Assistant Adjutant General; to the Secretary to Government, Judicial Department, Fort Saint George, dated 9th September 1864, No. 505.

Stating that references on points of Hindoo and Mahomedan Law may, in future, be made to Government in the Judicial Department.

With reference to the Proceedings of Government in the Judicial Department, and Order thereon dated 26th August 1864, No. 1283, I have the honor, by order of the Commander-in-Chief, to forward the accompanying queries submitted by the Officer Commanding Sappers and Miners, connected with the validity of marriage of two men of his Corps; and to request you will be good enough to favor this Department with the opinion of the Law Officers on the subject.

SAPPERS AND MINERS.

D. COMPANY.

REGIMENTAL No. 2532—VERDEN—Caste "*Pariah.*"

Marries (Cullianum) at Bangalore in 1862 a woman of the Pariah caste, named "Droogoo." Previous to the marriage he had kept the above-named woman, and had a child by her (a son born in 1861).

*Query.*—Does the after-marriage legitimate the child ?

REGIMENTAL No. 1382—MOOTIALOO—Caste "*Reddy*"

Marries (Piendlee) at Mallipoody, near Rajahmundry, in 1848 a woman named Atchamah, who deserted him in 1851. He marries a second time (Bootoo) at Vizagapatam in 1852 a woman named Mullamah, who died in 1858. He marries a third time (Peindlee) at Vizagapatam, in 1860, a woman named Appellamah, whom he names as "heir to pension."

*Query.*—Can the third wife be named as heir to pension, when it is believed that the first wife is still alive ?

(Signed) N. SWANSTON, Captain,
*Comdg. D. Compy. Sappers and Miners.*
(Signed) C. HILL, Lieut.-Col., R. E.,
*Comdg. Sappers and Miners.*

COIMBATORE,
1*st August* 1864.

Referred to the Judicial Department.

(Signed) R. HAMILTON, Lieut. Col.,
*Deputy Secretary to Government.*

FORT SAINT GEORGE,
13*th September* 1864.

Referred to the Government Solicitor for the opinion of the Advocate General.

(Signed) J. D. SIM,
*Secretary to Government.*

FORT SAINT GEORGE,
15*th September* 1864.

No. 204. From J. R. BOYSON, Esq., Government Solicitor, Madras; to J. D. SIM, Esq., Secretary to Government, Madras, dated 21st September 1864, No. 519.

Dated 15th September 1864, and endorsed on letter from Assistant Adjutant General to Government of 9th idem, No 505.

I have the honor to acknowledge receipt of the Order of Government noted in the margin (with its enclosures), relative to the legitimacy of a Hindoo child born before marriage, and the legal heir of a Hindoo having two wives.

*Proceedings of the Madras Government; Judicial Department,*

*27th September* 1864.

2. I have submitted them for the consideration of the Advocate General; and,

3. I now forward a copy of his Opinion, and return the Order and enclosures above noted.

(Signed) H. G. PRICHARD,
*For Government Solicitor.*

COPY—OPINION.

In answer to the first question, I reply that the marriage legitimates the child.

2. In answer to the second, I presume that by desertion is meant infidelity, leaving her husband to live with another man. If this be so, such desertion operates *ipso facto* as a divorce; and the second wife being dead, the third is the heir, provided there has been no male issue by any of the wives.

3. If the first wife merely left her husband to live with her own family, I am of opinion that she is still *in vinculo matrimonii*, and, as the elder widow, would be entitled to succeed her husband as heir, though a trustee for the maintenance of the junior widow out of the husband's estate.

*19th September* 1864.

(Signed) J. B. NORTON,
*Advocate General.*

(True Copy.)

(Signed) H. G. PRICHARD,
*For Government Solicitor.*

No. 205. ORDER THEREON, 27th September 1864, No. 1414.

Ordered that the Advocate General's Opinion be communicated to the Military Department.

(True Extract.)

*Secretary to Government.*

To the Military Department.

Proceedings of the Madras Govt.

Read the following letters—

From the Adjutant Genl.—Letr 9 Sept. 64 No. 505

" the Govt. Solicitor ——— 21 do ——— " 519.

Order—27 Sept. 64—No 1414

Ordered that the Advocate Genl's. Opinion be communicated to the Mily. Dept.

The Mily. Dept. Desp 1/10

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