

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	903	Press <u>Mis.</u>
Dated	4 - 6 - 1918	

Not to be folded or roughly handled

No. 21. Read the following letter from Mr. J. SHAW, Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 13th May 1867.

I have the honor to send, herewith, a petition to the Secretary of State in Council for India, by Mrs. Harriet Penman, of Negapatam, for the re-payment of certain Trust funds, which were held by the late Mr. W. A. Serle, as Official Trustee, and are not now forthcoming, and to beg that you will lay the same before the Right Honorable the Governor in Council, with a request that Government will forward it, in the usual course, to the Right Honorable the Secretary of State in Council for India, and that the Right Honorable the Governor in Council will be pleased to recommend the petitioner's application to the favorable consideration of the Secretary of State in Council.

To

THE RIGHT HONORABLE THE SECRETARY OF STATE IN COUNCIL FOR INDIA.

The humble petition of HARRIET PENMAN,
of Negapatam, on the Coast of Coromandel, in
the East Indies, Widow,

SHEWETH,

That Elletson Hope Sober, late a Lieutenant in the service of the East India Company, on their Madras Establishment, departed this life at Negapatam aforesaid, on or about the 8th day of October in the year of our Lord 1814, having first duly made and published his last Will and Testament, bearing date on or about the 7th day of April 1808.

2. That, in and by his said Will, the said Elletson Hope Sober did leave and bequeath to his four children, named Ann Elizabeth, Maria Caroline, Penelope, and Abraham Evans Sober, all his property, personal and real, that he might be worth in bonds, deeds, cash, and chattels in the East Indies, and what he might be worth or have accruing from his Estate of Sober Castle, in the Island of Barbadoes, in the West Indies, at the time of his death, to be equally divided among the four, reserving the interest of one bond or cash of 1000 Star Pagodas, to be given annually, during her natural life, to Mary Rebecca Haskins, mother to his son Abraham Evans Sober, before mentioned, and at her death to be equally divided among his children. It was also his desire that the interest only should be given while they remained unmarried; and when his daughters were married, then he directed their portion to be settled upon them and their children; and the said testator appointed Major William Blackburn, Resident of Tanjore, and Benjamin Randal, Deputy Commercial Resident, Executors of his said Will in the East Indies, and William Milhill, of Norton, Isle of Wight, in Hampshire, Great Britain, Abraham Sober, his brother, and Oliver Colt, Joint Executors for him in England, and the said Testator further directed that his small house should be reserved for his family's use, and that his large house should be well sold, or rented until it was sold, and that such household furniture as his said family might require should be delivered over, as also his wearing apparel; and he likewise provided that, in case any of his said children should die before they were married, then their portion should be equally divided amongst the survivors, and the said Testator lastly directed that the whole of his property should be invested in Government Funds.

3. That the said Elletson Hope Sober duly made and published a Codicil to his said Will, bearing date on or about the 20th day of May 1812, whereby, in consequence of his friend Benjamin Randal's removal to a great distance, the said Testator (amongst other things) appointed his esteemed friend Thomas Brown, Esq., Surgeon of the Zillah at Combaconum, Executor in the place of the said Benjamin Randal, and he also thereby desired that the ready money which he had in gold and Bank Notes might be appropriated as follows—after discharging a few trifling bills, the rest should be given for the maintenance, until the interest should become due on his Bonds, the Bank Notes to be kept for his son's board and schooling.

*Proceedings of the Madras Government, Judicial Department,
4th June 1867.*

4. That the said William Blackburn and Thomas Brown severally renounced and disclaimed the execution of the said Will and Codicil, and there being then no next of kin in India to administer the estate of the said Elletson Hope Sober deceased, Letters of Administration of the estate and effects of the said deceased (with his said Will and Codicil annexed) were, on or about the 30th day of January 1815, granted to Gilbert Ricketts, Esq., as the then Registrar of the Supreme Court of Judicature at Madras.

5. That the said Gilbert Ricketts took upon himself the administration of the said estate of the said Elletson Hope Sober deceased, but departed this life without having fully administered the same, and Letters of Administration of the estate and effects of the said deceased so left unadministered (with the said Will and Codicil annexed) were, on or about the 22nd day of April, 1818, granted to John Shaw, Esq., the then Registrar of the Supreme Court of Judicature at Madras for the time being.

6. That the said John Shaw also departed this life without having fully administered the estate of the said Elletson Hope Sober deceased, and Letters of Administration of the estate and effects of the said deceased so left unadministered by the said John Shaw (with the said Will and Codicil annexed) were, on or about the 26th day of August 1829, granted to Peter Cator, Esq., as the Registrar of the said Court for the time being.

7. That the said Peter Cator resigned the said office of Registrar, without having fully administered the estate of the said Elletson Hope Sober deceased, and Letters of Administration of the estate and effects of the said deceased so left unadministered by the said Peter Cator (with the said Will and Codicil annexed) were, on or about the 8th day of February 1845, granted to William Ambrose Serle, Esq., as the Registrar of the said Court for the time being.

8. That, at the time of the decease of the said Elletson Hope Sober, he left the four children in his said Will named, and also the said Mary Rebecca Haskins, him surviving.

9. That since the death of the said Elletson Hope Sober, the whole of his estate and effects has been sold or converted into money.

10. That the said Rebecca Haskins departed this life many years since.

11. That the said Ann Elizabeth Sober died many years since, unmarried, whereby her portion or share, under the said Will of the said Elletson Hope Sober, became divisible amongst the other surviving children of the said Testator.

12. That the said Abraham Evans Sober received his share of the said estate and effects of the said Testator, and likewise departed this life many years ago leaving no issue.

13. That the said Penelope Sober intermarried with one Robert Malbon, whom she survived, and by whom she had two children, who died in their infancy, and the said Penelope Malbon has since departed this life, having, after the decease of her said husband, duly made and published her last Will and Testament, under the provisions of which the share of the said Penelope Malbon, under the said Will of the said Elletson Hope Sober, has been paid by the then Administrator of the goods and chattels of the said Elletson Hope Sober.

14. That the said Maria Caroline Sober, in the year 1815, intermarried with one Edward Walker Penman, since deceased, by whom she had five children, namely John Elletson Walker Penman, Ellen Penman, Mary Wilhelmina Penman, Elizabeth Penman, and Lydia Angelina Penman.

15. That, on the marriage of the said Maria Caroline Penman, no settlement was made upon her or her children of the portion to which she was entitled under the said Will, as by the said Will was directed.

16. That, by an order of the Supreme Court of Judicature at Madras, made in the matter of the last Will and Testament of the said Elletson Hope Sober, and bearing date the 21st day of March 1846, it was ordered, under the provisions of Act No. XVII of 1843, passed by the Right Honorable the Governor General of India in Council on the 19th day of August 1843, and intituled "an Act for the appointment of Official Trustees in certain cases", that the said William Ambrose Serle, the then Registrar of the said Court, should be appointed, and he was thereby appointed, a Trustee of the property to which the said

*Proceedings of the Madras Government, Judicial Department,
4th June 1867.*

Maria Caroline Penman was so entitled as aforesaid, and that the same should be vested in the said William Ambrose Serle and his successors in Office as the Official Trustee, under the provisions of the said Act, upon the Trusts of the said Will of the said Elletson Hope Sober, and that the said William Ambrose Serle should, from and out of the said funds, when the same should come to his hands, pay to the said Maria Caroline Penman, or to her Solicitors, the costs of the said order, and that the said William Ambrose Serle and his successors in office should pay to the said Maria Caroline Penman during her life the interest or annual produce arising, or to be produced, from the residue of the said Trust funds, after paying the said costs and the commission allowed by the said Act, and after the decease of the said Maria Caroline Penman should stand possessed of or interested in the said residue of the said Trust funds, or should pay and transfer the same upon the Trusts of the said Will of the said Elletson Hope Sober deceased.

17. That the said John Elletson Walker Penman was married to your petitioner on or about the 15th day of February 1840.

18. That no settlement was made upon the marriage of the said John Elletson Walker Penman with your petitioner.

19. That the said Mary Wilhelmina Penman was married on or about the third day of March 1844 to Charles Freedom, who departed this life, intestate, on or about the 2nd day of December 1846, leaving the said Mary Wilhelmina Penman, then Mary Wilhelmina Freedom, his widow, and no children him surviving.

20. That the said Mary Wilhelmina Freedom departed this life, intestate, on or about the 24th day of May 1849.

21. That no settlement was made upon the marriage of the said Mary Wilhelmina Penman with the said Charles Freedom.

22. That the said Ellen Penman, Elizabeth Penman, and Lydia Angelina Penman, all died intestate and unmarried in the life-time of the said Maria Caroline Penman.

23. That the said Maria Caroline Penman died intestate on or about the 14th day of October 1855, leaving the said John Elletson Walker Penman and your petitioner, and their four children hereinafter named, and no other descendants or relations her surviving.

24. That the said John Elletson Walker Penman departed this life on or about the 22nd day of August 1857, leaving him surviving your petitioner, his widow, and four children, namely Edward Walker Penman, now of the age of 24 years or thereabouts, Clifford Elletson Penman, now of the age of 22 years or thereabouts, Sandford Gardner Penman, now of the age of 18 years or thereabouts, and Caroline Elizabeth Penman, now of the age of 11 years or thereabouts.

25. That the said Maria Caroline Penman received from the said William Ambrose Serle the interest and annual produce of the said Trust funds up to the 7th day of September 1855, when she received the interest for the half-year ending on the 1st day of August 1855.

26. That the said Trust funds then consisted of two Government Promissory Notes of the four per cent. loan of 1812-43, one bearing No. 24254 for the sum of Rupees 4800, and the other No. 28299 for the sum of Rupees 1100, making together the sum of Rupees 5900, the interest upon which, amounting to the sum of 118 Rupees half-yearly, was payable on the first day of February and the first day of August in each year.

27. That, after the death of the said Maria Caroline Penman, your petitioner repeatedly applied to the said William Ambrose Serle for payment of the interest accrued due on the said Government Promissory Notes from the first day of August 1855, but was unable to obtain payment thereof, or of any part thereof, except the sum of 236 Rupees, being the amount of one year's interest on the said Bonds, which your petitioner received in the year 1859.

28. That the said William Ambrose Serle died on or about the 23rd day of December 1860, having previously thereto made his Will, dated the 10th day of September 1860, and thereby appointed his wife, Helen Mary Serle, the sole executrix thereof.

29. That the said Helen Mary Serle renounced probate of the said Will, and Letters of Administration to the estate and effects of the said William Ambrose Serle, with his said Will annex-

Proceedings of the Madras Government, Judicial Department
4th June 1867.

ed, were granted by the Supreme Court of Judicature at Madras, on the 9th day of February 1861, to Charles Martin Teed, Esq., the then Administrator General of Madras.

30. That your petitioner having applied for payment of the said interest to the said Charles Martin Teed, and also to Arthur Macdonald Ritchie, Esq., the successor to the said William Ambrose Serle, in his office of Registrar of the said Supreme Court, was informed by the said Arthur Macdonald Ritchie that the said Government Promissory Notes were not in the possession of the said William Ambrose Serle at the time of his death, and, therefore, had not come into the possession of the said Arthur Macdonald Ritchie, and that by a letter from the Agent and Manager of the Madras Branch of the Agra and United Service Bank, dated the 5th day of November 1857, which said letter was found among the papers of the said William Ambrose Serle, it appeared that the aforesaid Government Promissory Notes were disposed of by the Agent and Manager of the Agra and United Service Bank, and that the proceeds thereof had been passed to the credit of the private account of the said William Ambrose Serle with the said Bank.

31. That a suit for the administration of the estate and effects of the said William Ambrose Serle deceased was instituted in the said Supreme Court on or about the 20th day of April 1861, and it now appears that the property left by the said William Ambrose Serle deceased will barely suffice to pay the costs of the said suit, and that there is no possibility of your petitioner's receiving any part of the amount due to her from the said estate.

32. That the Secretary of State for India in Council has been pleased in and by his Despatch to the Governor in Council of Fort Saint George, dated India Office, London, 9th June 1866, No. 46, to authorize the payment to Mrs. Margaret Fitzgerald of the amount for which the said William Ambrose Serle had been appointed a Trustee under the settlement made upon her marriage with Mr. James Fitzgerald, and which amount had been mis-appropriated by the said William Ambrose Serle.

Your petitioner, therefore, humbly prays that a like measure of justice may be awarded to her, and that the Government of Madras may be authorized and directed to deliver to your petitioner a Government Promissory Note or Government Promissory Notes of a four per cent. loan for the said sum of Rupees 5900, bearing interest from the 1st day of August next, and to pay to your petitioner the sum of 2596 Rupees, as and for interest upon the said sum of Rupees 5900 from the 1st day of August 1855 till the said 1st day of August next, after giving credit for the sum of 236 Rupees received in 1859, as aforesaid.

And your petitioner, as in duty bound, shall ever pray.

NEGAPATAN, 9th May 1867.

(Signed) HARRIET PENMAN,

No. 22. ORDER THEREON, 4th June 1867, No. 903.

The Governor in Council requests that the Acting Government Solicitor will investigate the matter referred to in the petition submitted with the foregoing letter, and report the result to Government.

(True Extract).

Chief Secretary.

To the Acting Government Solicitor,

Exd. J. H. Burns.

Quoted by the Agent
to the Govt. 15th May 1867.

published 1867 separate

903-4 June 1867

from M. J. Shaw.

Solicitor Madras

8001 of L
13 15 } in May 1867
1 June
N. 1000

For and my for trans-
mission to the Secy of State
a petition from Mrs. M.
Penman of Negapatam
for the repayment of certain
trust funds which were
held by the late W. Serle
in Official trustee
with minor parties

No 903- 4 June 1867-
The Governor in Council requests
that the Acting Government Solicitor will
investigate the matter referred to in the
petition submitted with the foregoing letter
and report the result to Government.

the Acty Govt. Solicitor desps

2.22