M.R.O. 1—39,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1506 Press —Mis.—

62-63

Dated 5-11-1962

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, for the month of November 1859.

No. 62. Read the following letter from THOS. SYDNEY SMYTH, Esq., Advocate General; to the Chief Secretary to Government, Fort Saint George, dated 3rd November 1859.

With reference to the Order of Government in the Judicial Department, dated 19th September 1859, No. 1268, forwarding for such observations as I might desire to make, the Draft Bill to amend Act VIII of 1855, prepared by the Legislative Member of Madras, I have the honor to report as follows.

2. I think that Sections I and II of the Draft Bill are not now necessary and may therefore be omitted.

3. Subsequently to the despatch of my letter to you on this subject, dated 11th July 1859, (see paragraphs 3 to 6 inclusive) I had an opportunity of arguing the question before the full Court, and succeeded in satisfying them that my construction of Section XI of Act VIII of 1855 was correct.

4. They moreover satisfied themselves that this construction had been adopted in practice by the Judges of Her Majesty's Supreme Courts both at Calcutta and Bombay. I have also since consulted Sir Adam Bittleston on Sections I and II of this Draft Bill, and he agrees with me that they are not now necessary.

5. Sections III and IV and V are, I think, well calculated to meet the existing defects in the working of Act VIII of 1855. I have suggested one or two merely verbal alterations in Sections III and IV in a Draft which I annex.

III. The Administrator General when duly authorized, or required so to do, by the Military Secretary to Government, shall apply for and the Supreme Court may in such case grant to him Letters of Administration to the Estate and Effects of any Officer, Soldier or other person subject to any Articles of War, in all cases in which such Estate and Effects do not exceed in the whole 500 Rupees.

IV. If within — months no person claiming to be entitled to a principal share of the Effects of the deceased, shall obtain a Certificate from the Administrator General, under Section XLIII of the said Act, or Letters of Administration to the Estate and Effects of the deceased, the Administrator General when required so to do, by any creditor against the Estate, shall apply for and the Supreme Court may in such case grant to him Letters of Administration to the said Estate and Effects; or, if he do not think fit to take such proceedings, such creditor may apply for and the Supreme Court may in such case grant to such creditors Letters of Administration to the said Estate and Effects.

No. 63. ORDER THEREON, 5th November 1859, No. 1506.

Ordered that the above letter be communicated to the Military Department for early reply to the reference made under date the 19th September last.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Order thereon 5th November 1859. No 1506.

Ordered that the above letter be communicated to the Military Dept. for early reply to the reference made in my letter dated the 19th ult.

Lait.

Military Dept. Supt. JP

Court may in such case grant to such creditors Letters of Administration to the said Estate and Effects.

25.26
23.9.35