M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 528 Press ~~His.~~

33-34

Dated 15-4- ~~1885~~

Not to be folded or roughly handled

No. 33. Read the following letter from H. FORBES, Esq., Member of the Legislative Council for Madras; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort St. George, dated Fort William, the 17th March 1859.

SIR,

I have had the honor to receive your letter of the 8th Ultimo, No. 169, on the subject of administering to Military Estates limited to 500 Rupees in value.

2. In order that I might ascertain the practice in this Presidency, I forwarded a copy of your letter and of its enclosure to the Administrator General of Bengal, and I now transmit a copy of his reply for the information of Government.

3. The difficulties experienced in Madras do not appear to have arisen here, but I am under an impression that, owing to differences in the rates of fees in the Supreme Courts of the two Presidencies, the expenses of taking out Letters of Administration are higher in Madras than in Calcutta.

4. The Honorable Mr. Peacock who framed Act VIII of 1855, has been so obliging as to allow me to consult him upon the subject of your letter under reply, and it is with his concurrence that I would request the Government to refer to Section LXV of the 20th and 21st of Victoria Cap. LXVI, and to consider whether the present difficulty may not be overcome by a short Act declaring that the Administrator General shall be considered the legal representative of a deceased Military man whenever the Estate of the deceased may not exceed 500 Rupees in value.

5. The object of the Law obliging the Administrator General to take out Letters of Administration to large Estates is, that all parties may have notice, and come in to state their prior claim as Executors under a Will, or as next of kin, if they desire to administer to the Estate themselves, but this publicity is not necessary in the case of very small Estates, and in their case the Administrator General might be authorized by Law to administer without taking out Letters of Administration.

6. If the Government should not see objection to this course, a short Bill shall be laid before the Legislative Council.

From J. WELCH, Esq., Officiating Administrator General; to H. FORBES, Esq., Member of the Legislative Council, dated Calcutta, 14th March 1859, No. 481.

SIR,

1st. I have the honor to acknowledge the receipt of your letter dated March 2nd, 1859, requesting information of the practice of this office in regard to the administration of Estates under Rupees 500 in value and the expense attendant on such administration, and in reply to inform you that it is the general practice of this office not to take out Letters of Administration to Estates of less value than Rupees 500, the expense of such Letters being about Rupees 100.

2nd. But it is not the practice of this office ever to refuse to intervene for securing and distributing small Estates under the value of Rupees 500 whether Military or other (except in the prohibited cases of seamen, &c.,) without taking out Letters of Administration either by granting certificate to a proper applicant or by the Administrator General himself on his own responsibility taking charge of and collecting and distributing the assets, in which case there is no expense incurred beyond the usual commission of the Administrator General.

3rd. I may observe that through the general courtesy of public Officers, the Administrator General experiences no difficulty in receiving from them arrears of pay or other money due to such small Estates as he thus occasionally takes voluntary charge of.

4th. In cases of very small Estates or at a great distance, the Administrator General will sometimes sanction and advise any seeming trustworthy person acquainted with the deceased's affairs and family winding up the Estate and transmitting the surplus to the relatives of the deceased, and in the case of Railway servants and officials has lately issued a letter recommending that the officials themselves in case of any of their members dying having assets not exceeding Rupees 300 should realise the value of his Effects, pay his servants, &c., and remit the surplus to the relatives, and to refer to the Administrator General for instructions when needed or when the assets exceed Rupees 300.

5th. The Administrator General conceives that he is bound under Sections 43 and 44 of the Administrator General's Act to grant a certificate where he is satisfied of the title of the claimant, but that he is not bound either with or without the requisition of the Military Secretary to interfere otherwise, in the administration of Estates of less value than Rupees 500.

6th. There does not seem to be an example in the practice of this office of a creditor having received a certificate, but it is conceived that there is nothing in the Act to render the grant of such certificate improper.

(True Copy.)

(Signed) H. FORBES,
Member of the Legislative Council.

No. 34. ORDER THEREON, No. 523; dated 15th April 1859.

Resolved, that the above letter and its enclosure be referred to the Military Department, in reference to Extract Minutes Consultation in that Department, 18th January 1859, for the opinion of the Acting Military Secretary to Government, whether the measure proposed by the Madras Member of the Legislative Council would remedy the inconvenience brought to notice by Colonel Browne in his letter, 26th November 1858, to the Advocate General.

2. Resolved, also, that the same correspondence be communicated to the Advocate General, in reference to his opinion, 11th January 1859. The Government do not clearly understand whether the proposed Bill would apply to Estates non-Military as well as Military. Mr. Smyth will state whether it might have this extended application.

3. Mr. Forbes, it is observed, has not adverted to the point whether a creditor on the non-appearance of the Administrator General could administer under the Act. From the letter of the Officiating Administrator General of Calcutta, it would seem that in his judgment there would be no objection to such a course.

4. Adverting to the third para. of Mr. Forbes' letter, the Government Solicitor will be requested to ascertain and report, what are the expenses of taking out Letters of Administration in the Supreme Courts of Calcutta and of Bombay, compared with the cost of taking them out at Madras.

(Signed) T. PYCROFT,
Chief Secretary.

Rud. P. Cartledge.

C.g. 4th February 1859 No. 68 to 80.

Jud. Dept. Letter from Govt. 23d March No. 10 of 1860.

Ry to Cons 19 April Judicial 1859 Sept 11

From the Member of the Legislative Council of Madras.

R/17
R/24 March 1859.

No 189.
Rec'd

Recommended upon receipt of this Govts letter of the 8 ultimo No 1869 on the subject of Administration to Military Estates limited to 500 Rs in value. Stated that in order to ascertain the practice in Calcutta he forwarded a copy of the same to the Govt of Bengal, and transmits a copy of his reply for the information of Govt. Suggests the course to be adopted &c.

C7 Cert
R13 " 3.5

With an Order.

Judicial Department

@ No. 523

Extract from the Minutes of Consultation.
Dated 15th April, 1859.—

Read the following letter from the Member of the Legislative Council of Madras.—

(Fort St. George 17th March, 1859.
No. 159.)

Resolved that the above letter and its enclosures be referred to the Military Department in reference to Para. 2 Cons. in that Department, 18th January 1859, for the opinion of the Acting Military Secretary to Government whether the measure proposed by the Madras Member of the Legislative Council would remedy the inconvenience brought to notice by Colonel Browne in his letter 26th November 1858 to the Advocate General.—

2.— Resolved also, that the same correspondence be communicated to the Advocate General in reference to his opinion

opinion 11th January 1839.
The Government do not clearly understand whether the proposed bill would apply to estates non-Military as well as Military - Mr Clerk will state whether it might have this extended application.
3rd — Mr Forbes it is observed has not adverted to the point whether a creditor on the non appearance of the Administrator General could administer under the Act - From the letter of the Officiating Administrator General of Calcutta it would seem that in his judgment there would be no objection to such a course -
4th — Adverting to the third passage of Mr Forbes letter the Government Advocate will be requested to ascertain and report what are the expences of taking out Letters of Administration in the Supreme Courts of Calcutta and of Bombay, compared with

with the cost of taking them out at Madras.

WD

To the Duty Depart Queens Advocate } Sept 21

J. R. Young

1644