

MADRAS RECORD OFFICE.

Government of Madras.

Indial DEPARTMENT.

G.O. No.	95	Press
		~~Mis.~~
-47-		
Dated	22-1-	1968

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 25th January 1859.

No. 47. To the Honorable H. FORBES, Esq., Member for Madras of the Legislative Council, dated Fort St. George, 22nd January 1859, No. 95.

SIR,

I am directed by the Right Honorable the Governor in Council to forward to you the enclosed Extract from a letter from the Advocate General of Madras, with the Draft Act that accompanied it.

2. These papers point out, and suggest a remedy for, a grave defect in Act XXX, 1858, or the Act for the settlement of the debts of the late Nawaub of the Carnatic, in that no time has been prescribed by it, within which the Creditors who may come in under Act, are required to file the particulars of their claim.

3. Three hundred and ninety-two Declarations were filed within the period allowed by Section XIV, which expired on the 24th November last, yet, although six months have elapsed since the Act was passed, the particulars of the above claims have been put in, in a very few cases.

It has been ascertained from the Government Solicitor, that up to the 22nd Instant, they had been put in, in only 27 cases.

4. There can be no doubt that the delay in thus furnishing particulars—for which no good cause can be assigned—has in many instances, proceeded from fraudulent motives. There is reason to believe, that great efforts are being made to concoct and fabricate documents in support of fictitious demands. The incident noticed by the Advocate General of the recent robbery of two of the late Nawaub's seals, is but one indication of such proceedings.

NOTE.—These seals have not yet been recovered.

5. It is manifest how much such endeavours must be facilitated by the defect in the Act now brought to notice. The hearing of the 392 claims for which Declarations have been filed, must under any circumstances, occupy a very considerable period, so that in the majority of instances, ample time will be allowed as the Act now stands, if indeed it has not been allowed already, for the fabrication of any species of documentary evidence.

6. The amount at issue is enormous. The sums claimed exclusive of interest, in the twenty-seven (27) cases, of which particulars have been furnished, amount in the aggregate to Rupees nineteen lacs, forty thousand, six hundred and forty-five (19,40,645), and although those that remain, may not on the average be equally large, there can be no question, that their total amount will be very great indeed.

7. Under these circumstances, I am desired to request that the enclosed Draft Act, with any modifications that may be necessary, may be immediately laid before the Legislative Council, and be passed into law under suspension of the standing orders, as expeditiously as possible. I have further to ask that intimation of its passing may be given to me by electric telegraph, and that the Act, on its being passed, may be sent to me by express, if in reference to the date of its passing, the Steamer would not be the speedier means of transmission.

(Signed) T. PYCROFT,
Chief Secretary.

18.

I have just observed that the Claimants may file the particulars of their claims whenever they choose - Neither the Government, nor its law officers, nor the Court, have any power to compel them to do so until they please, and I would pointedly request the attention of Government to this very grave defect in the Act, with a view to their moving the Legislative Council to amend it forthwith, suspending the usual forms for the purpose.

19.

All Claimants have long since had ample notice, by the publication of the Draft Act, and the six months that have now elapsed since the Act became law, and have had ample time to prepare their particulars in all cases of bona fide claims, and there is grave reason to suppose that, in several instances, the continuing to withhold particulars of claims now, though six months have elapsed since the passing of the Act, proceeds from fraudulent motives, and a desire to concoct and fabricate evidence to support these claims; while the recent felonious abstraction of two of the late Nabob's Seals, and information connected therewith, points strongly to an intention to fabricate Bonds bearing date during the time of the Regency of Prince Azim Jah, when those Seals were actually used to authenticate Sircar Bonds.

20.

A very short Act, such as I herewith submit a Draft of, would suffice, and if sent here by

by Telegraph, or Steamer might soon be in operation. The saving to Government, and the check to fraud, would both, in my opinion, be as considerable as desirable.

Draft Act.

Whereas in Act ~~XXX~~ of 1858 it has been omitted to specify any time within which parties filing declarations under Section 14 of that Act shall be bound to furnish particulars of their respective claims as required by Section 20 of the said Act, and whereas upwards of six months have now elapsed since the passing of the said Act, and ~~no~~ Declarations or thereabouts have been filed under the provisions thereof, but no particulars have yet been furnished except in a very few cases and Whereas all parties who have filed such declarations have had ample notice and full time for preparing the particulars of their respective claims, and whereas it is just and expedient that the same shall be furnished as required by the said Act without any further delay, It is hereby enacted that all parties who have filed such Declarations as aforesaid shall

30
shall furnish the particulars of their respective claims as required by Section 20 of the said Act within one week from the publication of this Act in the Fort St. George Gazette [unless the ^{Court} upon special grounds shown, shall enlarge the time for furnishing such particulars, which enlarged time nevertheless shall in no case exceed one Calendar Month] or else be barred from recovering the amount thereof under the provisions of the said Act.

Alb. P. to Aug. 28. 1859. 1859.
Feb. 1859. 1859.

Alb. P. 1859. 1859.
Feb. 1859.

Certainly most important.
I had desired the steamer run
for a few hours - if necessary - but
it has not yet been telegraphed from
Hankow.
This seems very ^{to}
desirable - but it ^{is}
will be difficult ^{will}
to get it off by the
coming steamer -
but I could try
if approved.

J.P.

Jan 21/59
My dear Puffinbarger
Herewith I send
you, to save time, the
3 last paragraphs of my
opinion, which you will
shortly receive in due
course through Baynes.
These facts, & the
suggestion therein contained
& the Draft Act annexed,
will speak for themselves.

have not let any of my
native writers know
anything of the subject,
nor shall I, as you
will see the less it is
known the better.

If I should care
in my suggestion there
will be time to send it
on to the printer
Stamper
The printer

22nd Jan^y
for the Hon^{ble}

Jud^l Department.

N^o 95

To, The Honorable T. Forbes, Esq^r,
Member for Madras of the
Legislative Council.

Sir,
I am directed by the
Right Honorable the
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St
W

W. H.

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may

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file the particulars of
their claims.

Three hundred
3. ~~of the~~ ~~declarations~~ ~~have~~ ~~been~~ ~~filed~~
minutes two declarations ~~have~~ ~~been~~ ~~filed~~
any other about 1000 ~~have~~ ~~been~~ ~~filed~~
filed with the proper ~~authorities~~
declarations ~~have~~ ~~been~~ ~~filed~~
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under section
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majority of instances
ample

The report of three
minutes two declarations
that ~~the~~ ~~Act~~ ~~expired~~
on the 22nd

It has been ascertained
from the Government So-
-litor that up to the 22^d
instant they had been
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27

ample time will be
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mentary evidence.

^{Twenty seven}

6. The amount at
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amount in the aggregate
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7. Under these cir-
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[†] Fifteen Lacs Forty thousand
Six hundred & Forty five

the enclosed draft Act,
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JP

Fort St. George
22^d Jan'y. 1859

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In By. to Com: 25 Jan'y.
Judicial 1859 Report

2295.

To
The Honble the
Members for Hawaii
of the Legislative
Council

27th January 1859.

Forwarding Extract
from a letter from the
Adocate General sug-
gesting a remedy for a
grave defect in what
XXX of 1858 with copy
of a Draft Act which
accompanied it

Doc. 10 to Com: 28th March
14th 1859 Jan'y 8.