

M. S. S. S. S.

M. R. O. 15-38/100-11-10-20

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT

G.O. No.	231	Press
		~~M. R. O.~~
Dated	9-4-1959	

Not to be folded or roughly handled

Fort Saint George, Political Consultation, 12th April 1859.

No. 17. From H. FORBES, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, the 19th March 1859.

SIR,

I have the honor to forward for the information of Government a copy of a Petition presented to the Council this day by certain creditors of the late Nabob of the Carnatic.

2. I did not move that the Petition should be printed because I considered that its terms were disrespectful to the Government, and I forward it only on account of that part which represents the inconvenience which parties suffer from the detention of their books and accounts after they have been filed under the provisions of Act II of 1859.

To the Honorable the Legislative Council of India.

The humble Petition of SOOJUN MOOL LAUL
HAKEEM, MOTOOMUND KHAN, and
others, creditors of the Estate of the late Nabob
of the Carnatic.

RESPECTFULLY SHEWETH.

1. That your Petitioners as creditors of the Estate of the late Nabob of the Carnatic have read with surprise and considerable pain the Report in the public Newspapers of the speech of the Honorable Member for the Madras Presidency on the 5th February last, giving reasons for the suspension of the standing orders and the immediate passing of Act II of 1859, which has since become law.

2. That your Petitioners have every reason to believe that the Honorable Member was, through the local Government of Madras misinformed as to the material facts alleged, and the legitimate inference to be deduced therefrom for the following reasons.

3. That the late Nabob's seals stated to have been feloniously stolen were reported missing full three months before the communication was made to Government in its subsequent form and no apprehension of evil consequences was then felt or expressed.

4. That the missing seals, even if actually stolen, were of such a description as could not, under any conceivable circumstances, be rendered instruments of forgery or even employed in any way to support forgery, as they were never used for pecuniary acknowledgments to private individuals, nor, if so attempted to be used, could they create any valid pecuniary obligation or impose on the most ignorant person.

5. That your Petitioners, who were well acquainted with the establishment and proceedings of the Cutcherry of the late Nabob, are enabled to state with the fullest assurance that nothing short of the grossest ignorance of facts could cause the Government of Madras and consequently the Legislative Member for that Presidency to base an application for such remedial legislative proceedings as characterise Act II of 1859, which, though abortive for all good purposes, is calculated to inflict, and has already inflicted, the deepest injustice on numerous innocent individuals.

6. That had it been really true that the alleged missing seals could be rendered instruments of fabrication, a simple and effective form of Legislation might have provided in a few words that all documents so attested would be held invalid unless accompanied by certain collateral proofs, a provision that could have injured no one.

7. That your Petitioners are persons who, without exception must be raised above the suspicion of seeking to profit by an absurd and unmeaning forgery, inasmuch as their claims are either on Istaffa Cutcherry bonds, the amount of which was declared in the public papers about six years ago; or they are supported by entries in the Duffer accounts of the several Departments; which accounts were secured by the Madras Government under seal on the death of the Nabob, and are subject to various checks rendering forgery impossible; and yet for reasons hereafter shewn your Petitioners are amongst those who had not filed their particular account up to the passing of the Act II of 1859.

8. That your Petitioners are further grieved and no less surprised to hear it asserted by the Honorable Member for Madras that the creditors who were so anxious to have the Act XXX of 1858, passed speedily, should merely have filed their claims and have allowed upwards of two months to elapse without taking any proceedings for the purpose of having them investigated and of obtaining payment of their demands.

9. That your Petitioners now learn for the first time that the speedy passing of the above Act was consequent on the anxious wish of the creditors, whereas, until the present time, they had strong grounds to believe that an impression pervaded the minds of the great majority of the creditors the reverse of what was stated by the Honorable Member for Madras and that alterations were made in the Bill in Committee and other provisions allowed to stand which caused dismay among the great body of the creditors and which alterations they saw for the first time after they had become law.

10. That your Petitioners still believe that a reference to the application for the speedy passing of the Act XXX of 1858, alleged to have been made by the great body of the creditors will shew the same to have emanated from a single firm and others connected therewith; and that your Honorable Council was deceived on this point.

11. That your Petitioners are at a loss to know on what grounds your Honorable Council could conceive that they would wish for the speedy passing of an Act the provisions of which are unprecedently oppressive to the simply honest; while to the poorer claimant, they amount to an absolute denial of justice.

12. That the best answer your Petitioners can make as to the correct apprehension of their sentiments by the Honorable Member for Madras is the fact that they and numerous others had caused to be prepared an address to the Secretary of State for India praying for the disallowance of the Act XXX of 1858, and a substitution of sound legislation for the same and the signatures to which were only suspended on the recent evidence afforded by the speech of the Honorable Member for the Madras Presidency that he had been deceived as to facts both before the promulgation of Act XXX of 1858, and that of Act II of 1859, both of which Acts your Petitioners humbly conceive are based in error.

13. That your Honorable Council will perceive that a careful provision has been made that each claimant should file his claim and particulars and proceed to trial within 7 days after refusal of a private settlement by the Government Solicitor; and that consequently each claimant must have first paid the Plaintiff's costs of a suit before he can present his claim for amicable adjustment; a form of procedure which your Petitioners believe to be unprecedented.

14. Your Petitioners have since learned with further dismay that these Courts are not to be allowed in any case where the Government Solicitor consents to a private arrangement; and that consequently your Petitioners are saddled with the greater part of the costs of a suit in a Court where the taxed costs, if not higher than in any Court in the world, are certainly not exceeded, and which costs your Petitioners believe have no parallel in any civilized country.

15. That your Petitioners observe it was acknowledged that 27 claims averaging a lac of Rupees each were filed on the 5th of February last or in other words that so many suits had been prepared for hearing in addition to the ordinary business of the Supreme Court; but the Honorable Member did not state when the 27th was likely to be heard or settled seeing that these cases are only taken in "term time" and that the greater part of the year all proceedings connected with them are suspended. Neither was it ascertained how many claims had been delivered into the Solicitors' offices on that date but which from press of business could not be filed.

16. That so far from the proceedings under Act XXX of 1858 being summary in their nature, as apparently intended by the Legislative, they have been found in the highest degree harassing, technical, and expensive; every document having to be translated by the Court translators, witnesses examined and briefs prepared; and your Petitioners believe that at the period alluded to, more than 100 claims were waiting for translation alone.

17. That since the passing of Act II of 1859, your Petitioners, in many instances have been compelled to file their trade and other books and Accounts extending over the transactions of years and of which books and accounts they are now deprived, while numerous just claims have been abandoned rather than submit to so inconvenient and oppressive a proceeding and still more, from

he absence of parties to whom there was no means of making any effective communication the despatch and reply to a post letter even at the distance of Trichinopoly occupying about seven days and Hyderabad and other Provinces where other parties resided double that period.

18. That your Petitioners cannot close their eyes to the fact that the present Government Solicitor in addition to the other laborious duties of his office is expected to deal with every case filed and has no legal assistance whatever which renders it absolutely impracticable that a limited period should be fixed for the final discharge of these claims all documents and witnesses being now held in readiness for hearing and must continue to be so far an indefinite period unless your Honorable Council afford relief.

Your Petitioners therefore humbly pray as follows:

1st. That your Honorable Council will enquire into the authority for the Madras Government informing the Honorable Member for this Presidency that the body of the creditors wished for speedy legislation and scrutinize the signatures attached to the application.

2nd. That your Honorable Council will also call for authority on which the information was given regarding the fact of the seals being missing and enquire into the actual effect thereof.

3rd. That all costs hitherto incurred by your Petitioners not adjudged against them in Court may be paid by the Government since they were bound to incur them according to the Act as no individual would venture to conduct his own case in the Supreme Court.

4th. That the Solicitor of the Government may have at least two Commissioners of legal or judicial experience to assist him; and that these Commissioners may be sent from either of the Presidencies of Bengal or Bombay and be totally unconnected with the local Government.

5th. That provision may be made for the continuing of the sittings of the Supreme Court of Madras without respect to the "term"; or such other arrangement made as will ensure your Petitioners a settlement of their claims within six months many of them having filed valuable books and papers and having redeemed their documents from mortgage in order to simplify proceedings and incurred further obligations for money borrowed for costs and for which they are paying interest varying from 12 to 24 per cent. per annum.

That as the mode of procedure under the above Acts is not only summary and special but virtually compulsory the amount and scale of costs may be provided for by legislation.

MADRAS,
11th March 1859. }

And your Petitioners as in duty bound will ever pray.

Seals of Mootamund Khan and the heirs of Nazimood
Dowlah (claims $\frac{1}{2}$ and $2\frac{1}{2}$ lacs).
Hafiz Mohummud Ashruff.
Wajee Ullah Khan.
Goundar Doss, (claim 1 lac.)

(True Copy.)

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

No. 20
18.

ORDER THEREON, No. 231; dated 9th April 1859.

Resolved that the enclosures of the above letter be referred to the Advocate General for his remarks on the subject of para. 17.

(Signed) T. PYCROFT,
Chief Secretary.

231.

Resolved that the enclosure
of the above letter be referred
to the Admiralty General for
his remarks on the subject.

W. M. 4 June 17 -

Forb. St. George's
9 April 1859 -

J. P.

Forb. St. George's 17

21/5/59

To the Admiralty. Sept. 10. 59