

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT

G.O. No.	277	Press
		Mrs.
Dated	26 4	1888

Not to be folded or roughly handled

Fort Saint George, Political Consultation, 27th April 1858.

No. 26. From J. R. BOYSON, Esq., Honorable Company's Solicitor ; to the Chief Secretary to Government, Fort St. George, dated 22nd April 1858, No. 198.

SIR,

Minutes Consultation, dated 20th April 1858,
No. 264, Political Department.

I have the honor to acknowledge the Extract from Minutes of Consultation, noted in the margin, with its enclosures.

2. I assume that Government has already considered and disposed of the general question as to the Policy or expediency on public grounds of entertaining Messrs : Ashton, Richardson and Co's application for pecuniary assistance and that my opinion is desired only upon the sufficiency of the security which Messrs : Ashton, Richardson and Co. have offered for the repayment of the contemplated advance.

3. The consideration of *this* question necessarily involves another and a most important one, to which I think it desirable, in the first instance, to solicit the attention of Government. It is whether if Khyroon Nissa Baigum succeeds in establishing her Title to Pater's Gardens and if Auzeem Oonissa Baigum is equally successful with respect to Moorat's Gardens, (which she has claimed as a gift from the late Nabob,) Govern-

Pater's Gardens.....	70,000	ment will insist on their right to have the sums
Moorat's Gardens.....	60,000	for which the Messrs : Richardson purchased
	<u>1,30,000</u>	these premises set off against and applied in
		reduction of the aggregate amount to which the

Messrs : Richardson may hereafter prove themselves entitled for monies actually advanced by them to the late Nabob with interest thereon at 6 per Cent per annum ; or whether in such case Government will waive such right and exclude such purchase monies from the account that will hereafter be made up between the Messrs : Richardson and the Estate of the late Nabob ; on the ground that the Messrs : Richardson have not in fact obtained any beneficial interest in those premises or any advantage from their purchases.

4. If the Messrs : Richardson had not proceeded to a sale of these premises before the passing of the proposed Act and after the passing of the Act had agreed to accept the sums actually advanced by them to the late Nabob, with interest at 6 per Cent per annum, in discharge of their claims and to relinquish their mortgage securities (including amongst others the premises in question) and if the Baigums had ultimately established their respective claims to those premises, Government would then have been placed in precisely the same position in a pecuniary point of view, (as regards these premises,) as would result from their electing, under present circumstances, to waive their rights with respect to the appropriation of the Messrs : Richardson's purchase monies for these premises.

5. It will be for Government to consider hereafter whether looking at the history of the Messrs : Richardson's claim ; at the course they have pursued with regard to it since the Nabob's death ; at their desire and then endeavours as far as was in their power to meet the views of Government ; at the fact that the claim is now to be adjusted not as between Individuals (debtor and creditor) but by the Government of the country acting on public grounds and with the object and desire of doing substantial justice to the creditors, as a body, of the late Nabob, the more consistent and at the same time the more just and liberal course will not be to waive their strict legal rights and place the Messrs : Richardson in the position in which they would have been if their pecuniary resources had enabled them to hold the property mortgaged to them until after the passing of the proposed Act ; and this the more especially as, owing to the measures that have been adopted, the premises have not been in any way sacrificed or prejudicially affected. I do not think it necessary or indeed advisable, that Government should *now* determine this question or bind itself by any recorded resolution to any future course of Action regarding it ; on the contrary, I think it will be far more expedient, for many reasons, to leave it open for future discussion after the Messrs : Richardson's claims against the late Nabob have been fully investigated under the provisions of the proposed Act, and Government has had the opportunity of becoming acquainted with the character and nature of these claims and the circumstances connected

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with them ; but it so materially affects the matter now to be disposed of, that I have felt it necessary to trouble Government thus fully upon it.

6. Supposing the ultimate decision of Government upon this question to be favorable to the Messrs: Richardson, the sufficiency of their Title to the premises in question and the risk of the Baigums establishing their alleged claims, become really of very secondary importance as re-

Amount paid by Mr. Boyson to the Master of the Supreme Court in discharge of the purchase monies of the 5 Lots which Mr. Boyson purchased on behalf of Government, and which amount has since been paid out of Court to the Messrs: Richardson, in part satisfaction of their decree... 52,550
Amount proposed to be advanced by Government to the Messrs: Richardson..... 1,30,000

Rupees 1,82,550

7. I solicit attention to my letter of the 16th Ultimo, No. 141, in which I explained the nature of the Suit instituted by Khyroon Nissa Baigum against Messrs: Richardson and Ghoolam Mahomed Saib, and I resubmit for the information of Government a copy of the Plaintiff's Bill in that Suit.

8. I am still of opinion (as stated in my letter, No. 141,) that Khyroon Nissa Baigum will fail in establishing any right to Pater's Gardens.

9. Messrs: Richardson have also brought an Action of Ejectment on the Plea side of the Supreme Court for the purpose of recovering possession of Pater's Gardens. Khyroon Nissa Baigum, upon her own application to the Supreme Court, has been let in to defend in this Action as the Landlady of the premises in dispute. The Action is now at issue and will probably come on for Trial during the third week in July next and before the hearing of Khyroon Nissa Baigum's Suit on the Equity side of the Court. It follows from the opinion I have already expressed that I think Messrs: Richardson, the Lessors of the Plaintiff in this Action of Ejectment, will obtain a Verdict.

10. Auzeem Oon Nissa Baigum, at the time of the sale in the Master's Office, claimed to be entitled to Moorat's Gardens and other property, as will be seen from the Notice herewith sent and to which general circulation was at the time given. Auzeem Oon Nissa Baigum has not yet instituted any proceedings in the Supreme Court for the purpose of establishing her alleged rights. I believe that her claim is founded (in like manner with Khyroon Nissa Baigum's,) on a verbal gift from the late Nabob to herself and judging from the information that I have been able to obtain, I think she will fail in establishing it.

11. But for the claim put forward by Khyroon Nissa Baigum to Pater's Garden, I consider the Messrs: Richardson's Title to those premises to be such as a purchaser or mortgagee might safely accept.

12. The Title to Moorat's Gardens is slightly defective inasmuch as the legal Estate in those Premises is now outstanding in Mr. Alexander Maclean, to whom they were mortgaged in 1842. The mortgage was fully paid off and the Bond and mortgage returned to the mortgagor, but no reassignment of the premises from Mr. Maclean to the mortgagor is found with the Deeds or appears to have been executed. Looking at the subsequent history and the present position of these premises, I consider this defect to be a mere technical (and not a substantial) one, and it could easily be removed by sending him a short formal reassignment for execution by Mr. Maclean. But for the claim which Auzeem Oon Nissa Baigum has preferred to these premises and the defect I have alluded to, I consider the Messrs: Richardson's Title to these premises to be such as a purchaser or mortgagee might with perfect safety accept.

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13. The Title Deeds of Turnbull's Garden at the Adyar and the Fish Market in Triplicane are in the possession of the Messrs: Richardson. It is admitted that they have not any legal mortgage of these premises, and I am not satisfied that they have any equitable mortgage of them or any such equitable Lien upon the Deeds as they can succeed in establishing.

14. If however Government resolve to make Messrs: Richardson the advance they have applied for, I shall take from them the Title Deeds of Turnbull's Gardens and the Fish Market and a mortgage of any such Interest as the Messrs: Richardson may have therein, as well as a mortgage of Pater's Gardens, Moorat's Gardens and their alleged claim against the Estate of the late Nabob, and shall of course do all that is in my power to secure the Honorable Company from any possibility of loss.

15. I return the enclosures which accompanied the Extract above noted.

No. 27. ORDER THEREON, No. 277; dated 26th April 1858.

In the above letter the Honorable Company's Solicitor gives his opinion, as called for in Extract Minutes Consultation of the 20th Instant, on the sufficiency of the security tendered by Messrs: Richardson and Co. for repayment of the advance of Rupees 1,30,000 solicited by them from Government on account of their claims upon the Estate of the late Nawaub of the Carnatic.

2. Although the Government feel it to be very inconvenient to make advances in a matter of this nature, and more especially before the claims of the parties who require it have been fully investigated, they nevertheless, as already intimated in Extract Minutes Consultation, 20th Instant, are of opinion that, looking to the great delay which has occurred in the settlement of the Carnatic Affairs and to the circumstances set forth in their Memorial of the 17th Instant, Messrs: Richardson, and Co. have some claim to consideration. The Right Honorable the Governor in Council would therefore be disposed to accede to their request provided always that the Government could be secured from any loss. The view of the Honorable Company's Solicitor would seem to be; that the advance could be made with safety. In a matter of so much importance it is however desirable that the Advocate General should also be consulted. The papers will therefore be forwarded to him through the Honorable Company's Solicitor and he will be requested to favor Government at his earliest convenience with his opinion whether the advance Rupees 1,30,000 applied for by Messrs: Richardson and Co. could be made to them by Government without subjecting Government to risk of loss from the transaction, and, if so, into what engagement Messrs. Richardson and Co. should be required to enter and what security they should be required to furnish on the advance being made to them.

3. In respect to the case put by the Honorable Company's Solicitor on the supposition of the Begum's gaining their Suits, the Government would suppose that, in law, Messrs: Richardson and Co. having elected to act, and to take the properties in question in part payment of their claims on the late Nawaub, must incur the risk of the course which they had pursued. The Governor in Council would however be disposed to decide the matter equitably, and would not take credit for that, which in point of fact Messrs: Richardson and Co. had not received.

(Signed) T. PYCROFT,

Chief Secretary.

Exd. J. A. Wilson.

Means.

Time is I understand
so very precious.

to Mr. Rand Co
in this matter that

I have thought it

best to send out

this draft ^{in private} ~~without~~

- by
delivery - and if

approved will put

it - and the papers
which only returned
to me to last night -
into the hands of the HC
Solicitor at once - that
the opinion of the
Advocate General
may be had without
delay.

J.P.

25.4.58

7 Add _____

It is very inconvenient for
Sunt. to be called on to
make advances - in a
matter of this nature -
more especially before
the ^{on the hypothesis of} claims of the persons
requiring the advance
have been fully investi-
gated - & I should be
opposed to doing so.

but for the delay - which has
taken place on the part of Govt.
in settling the Carnatic affair.

Under the circumstances
of the case - however. I think
~~it would~~ it would be only
just to send to Mr. Rich.
and son's request - provided
always. that Govt. is relieved
from any loss - this might be
a matter for their legal

advisers to see to - & the
advocate Genl's opinion
should be taken - as well as
that of the Govt. Solicitors.

With regard to the case
put by Mr. Ferguson the
supposition of the Begums
leaving their suit - I in-
quire. that in law. Mr.
Richardson having chosen
not to take the properties

in question in full payment.
they must bear the risk of the
course pursued. but I shd
be disposed to divide the burden
equitably - & not put them
out of pocket for that which they
had not received.

It
April 24/
I fully concur in the above
to do I
Yours
J. C. C.

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My dear Forbes
I see what I
can do. I need not say
you are deeply interested
in the case & we must
take care to keep the
case before the public
& also to see that
the case is well guarded.
The House of Commons
& also as security

are purchased by
their ~~founder~~ ~~for~~
beyond their value
~~of~~ ~~the~~ ~~put up~~
for sale ~~the~~ ~~for~~
I should ~~say~~ ~~to~~ ~~be~~
anything like a ~~small~~ ~~to~~
sum - They ~~understand~~
to the ~~bank~~ ~~as~~ ~~being~~
a bond of the ~~value~~
we should get

that also made^x
over to us - & then
probably all would
be right - but should
app Bay for - will
see to all this -

Yours
J. H. Woodhouse

27

Memo.

I beg to circulate for early order a
letter from Messrs Richardson & Co
soliciting under circumstances
stated, the advance to them of £130,000
on the amount of the purchase value
of Paton & Moor's factories, on the
deposit of the title deeds of those
premises as well as of Turnbull's
factory at Adyan and the market
at Triplicam.

I circulate also the opinion of
as to the sufficiency of the security tendered
the Solicitor for whose report.

application of Messrs R and Co was
referred - by 2nd 20 mi! Litten & Paul
up.

Accompanying also is a note
from Mr Holt Mr. Drouhard - with regard
to the Bond there is attached, I learn
from Mr. Boyson whom I saw yesterday.

- Today evening that no reference
has been made to him by Mr. Drouhard
that instrument nor is it mentioned
in his letter - He is however well acquainted
with the history of the Bond ~~which~~
which is for £100,000
~~the same as the one mentioned~~ but
he understands that Messrs R & Co
want to mortgage ^{it} that to Mr. Matson
in reference to some transactions between

them -

9x
It will be observed however from
the concluding para of Mr. Boyson's
letter that in the event of Messrs R & Co's
request being complied with, the
purpose being to raise from them not
only a mortgage of Patents and ~~know~~
also of their alleged
claim against the estate of the late
Hobbs - He does not think it is of
great importance, as it
is only a collateral security for the amount
for which it was issued ^{the payment of} which would
have to be established under the new Act
by independent evidence. Still if the
advance was made to Messrs R & Co for

Hogson would require them to make out
to put all the securities which they
have at their disposal - like deeds.
Mortgage bonds &c -

The point however after all which I
gather from Mr B - is whether of most
consequence - is whether Messrs R & Co
have a valid claim upon the deceased's
estate, and such as they could make
good with the Supreme Court under the
proposed Act, to the amount of R
102,550 as per para 6 of his letter - which
I do not think would have to be disturbed under the
arrangement solicited by Messrs R & Co -
He thinks that they have a good claim to
that extent.

23^d 4. 58.

J.P.

E.M. 26 April 58 108
M^o 277-

From Honorable Company Solicitor
22 April. 1858.

H.
J.

W.M.

In the above letter the
H.C. Solicitor gives his
opinion, as called for in
E.M. of the 20th inst.,
on the sufficiency of
the security tendered
by Messrs Richardson &
Co, for repayment of
the advance of R130,000
solicited by them from
you on account of
their claims upon the
estate of the late husband
of the Carnatic.

2. Although the facts
lead it to be very incon-
venient to make ad-
vances in a matter
of this nature, and the

especially before the
claims of the parties
who require it have
been fully investigated.
They nevertheless, as are
interested in E.M.C. &
want, an opinion.
that, looking to the great
delay which has occur-
red in the settlement
of the Carnatic affairs
and to the circumstan-
ces set forth in their Memorials
of the 17 inst, ~~the~~ Messrs
R & Co have some claim
to consideration. The
R.H. the firm would there-
fore be disposed to
accede to their request
provided always that
the firm could be secured
from any loss. The view
of the H.C. Solicitor would

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not be made with-
out safety. In a matter
so much in importance
it is however desirable
that the Advocate General
should ^{also} be consulted -
a paper will there-
fore be forwarded to
him thro' the H.C. Solicitor
and he will be request-
ed to favor the firm at
his earliest conveni-
ence with his opi-
nion whether the
advance of Rs 1,80,000
applied for by Messrs
R & Co could be
made to them by
the Government without subjec-
ting the firm to risk of
loss from the transac-
tion - and if so into
what engagements
Messrs R & Co should be

expected to enter & what
security they should be
expected to furnish
on the advance being
made to them —

3. In respect to the
case put by the H.C. Soli-
citor on the suppo-
sition of the Deputies
gaining their suits,
the fact would suppose
that, in law, Messrs
Richardson & Co having
elected to act, and to
take the properties in
question in part pay-
ment of their claims,
on the Late Demand,
must incur the risk
of the Court which
they had run in all —
The fact would how-
ever be disposed to
decide the matter
equitably and would

not take credit for 12th
that, which is point
of fact Messrs R & Co
had not received —

H.C. Solicitor
with Bill returned.

Dec 26th

J.P.

Off. A. B. B. to Long. 4/21 * 3/4/17/18
of 1855

Post 30031.

Dr. 24. 1/2. 27. 2. 1/2. 1/2.
Mineral 1858. 20. 1/2. 1/2.

Pro 277.

Hydrogen. 1/2. 1/2. 1/2. 1/2.
Date 26. 1/2. 1/2. 1/2.

No 282