

MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No.	299	Press ~~Mis~~
Dated	4. 5.	19/8.38

Not to be folded or roughly handled

Fort Saint George, Political Consultation, 4th May 1858.

No. 22. From Messrs : ASHTON, RICHARDSON and Co. ; to T. PYCROFT, Esq.,
Chief Secretary to Government, Fort St. George, dated 3rd May 1858.

SIR,

We have been favored with Extract Minutes of Consultation of the 27th Ultimo, No. 282, Political Department, in which the Right Honorable the Governor in Council was pleased, under the opinion expressed by the Advocate General that the Government would not be subjected to any loss to comply with our application for an advance of Rupees 1,30,000, on the terms proposed by us, *viz.*, that we should execute a Bond for the amount of the advance and a Warrant of Attorney to enter up Judgment, as well as deposit the Title Deeds of “Pater’s,” “Moorat’s” and “Turnbull’s” Gardens, and the Triplicane Fish Market and execute a formal Assignment of all our right, title and interest in these Premises, the speedy repayment of the advance being also provided for in the conditions of the Bond.

We accordingly waited upon the Honorable Company’s Solicitor with the enclosed letter, in which we requested the favor of his having the Bond and Assignment of the Properties above specified, prepared without delay, and informed him at the same time that we were prepared to deposit the Title Deeds of the Premises. In reply one of the Members of our Firm was requested to call on Mr. Boyson, for the purpose of arranging matters, and in doing so we were required to hand over every other security we possessed in evidence of our claim against the Nawaub’s Estate. We informed Mr. Boyson, that we had no other security in support of our own claim, but the Decree of the Supreme Court for Rupees 5,53,000, which if the Government are disposed to accept in further security, we are prepared to hand over. The only other securities, which we had held relating to the late Nawaub’s Estate and which are in no way connected with the above Decree, were two Istafa Cutcherry Bonds for two Lacs of Rupees made over to us for a debt due to the Firm by Mr. Johannes, and on which, the pressure of our necessities compelled us to raise money and which consequently are not at present under our control.

Under these circumstances we regret that we should be compelled again to address the Government on the subject of the advance which they so kindly and handsomely placed at our disposal, but of which we are unable to avail ourselves at this most pressing moment of our necessities as Mr. Boyson mentioned that he could not carry out the arrangement without further specific instructions from Government. It must be evident to the Company’s Solicitor that had the two Premises, Pater’s and Moorat’s Garden’s, been knocked down to his bid, the Government would have paid the sum of Rupees 1,22,000, and that the small surplus of 8,000 Rupees, is fully covered by the two other properties offered as security, the value of which is estimated at the least 20,000 Rupees. To call upon us now to give additional securities is virtually to annul the liberal decision of Government in our favor, for it is impossible for us to comply with the demand of the Company’s Solicitor to furnish any thing beyond what we originally tendered, what the Advocate General advised was sufficient, and what the Government was pleased to accept as ample security for the repayment of the Funds so liberally placed at our disposal. Upon a consideration of all the circumstances we trust the Right Honorable the Governor in Council will view favorably our present request to be relieved from this demand for additional securities which do not seem to be contemplated by the orders of Government.

From Messrs. ASHTON, RICHARDSON and Co. ; to the Honorable Company’s Solicitor,
Madras, dated 29th April 1858.

SIR,

We do ourselves the honor of forwarding you copy of Extract of Minutes of Consultation, No. 282, in the Political Department, dispatched to our address by the Chief Secretary to Government.

With reference to para : 5 we shall esteem it a particular favor if you will have the Bond and Assignment of the properties specified by the Government and the Advocate General, prepared without delay, as you are well aware how important it is to us to have these Funds so handsomely placed at our disposal, available at the earliest practicable moment.

We are prepared to deposit the Title Deeds referred to at once.

The Right Honorable the Governor in Council observes that, in Extract Minutes Consultation of the 27th Ultimo, it is expressly stated that provision should be made for the speedy repayment of the advance as soon as Messrs : Richardson & Co's claims upon the Estate of the late Nawaub had been ascertained, by which it was meant that the advance should be repaid out of the very first monies awarded to Messrs : Richardson & Co. on account of their claims.

2. The advance moreover was not to be granted by Government solely on the mortgage of Pater's and Mooratt's gardens and the other properties tendered by Messrs : Richardson & Co., but, as will appear from the first paras : of Extract Minutes Consultation, 27th Ultimo, on the consideration that irrespective of those properties the amount of the claim which Messrs : Richardson and Co. could establish against the Nawaub's Estate would more than suffice to cover the advance.

3. The Government cannot consent to forego any security for the primary repayment of the advance which in the opinion of their Law Officers may be necessary to ensure it, and if, as they learn, in the opinion both of the Advocate General and the Honorable Company's Solicitor the deposit of the Isteeffa Bonds, as well as of the Title Deeds of the Houses and landed property, is needed for the full security of Government, they must be deposited accordingly or the advance cannot be given.

(Signed) T. PYCROFT,
Chief Secretary.

Memo.

I have all along considered that if Government sanctioned the contemplated advance to Messrs Richardson its repayment with interest should and was to be the "primary" charge upon whatever amount Messrs Richardson may prove themselves entitled to under the terms of the Carnatic Bill - that such was the intention of Government; and that it would be my duty to take especial care that this object was attained beyond all possibility of doubt and under an arrangement which should not admit even of a suggestion that Government, in protecting the public interests, had wronged or prejudiced any third party.

So far back as the 23rd ultimo and immediately after a long conversation with Mr Pycroft on this subject, when this very point and the means of securing this primary charge was specifically discussed, I saw Mr James Richardson and explained to him most clearly that if Government should sanction the advance

it would be absolutely necessary (before its payment) that all India Fitchery Bonds and other Securities, of every sort, which in any way evidenced Messrs Richardson's claim against the Lawaudo's Estate should be deposited with Government and I at the same time suggested that he should immediately communicate with the holders of any such Securities and arrange for their deposit with Government and for their taking charge (by way of equitable mortgage or otherwise) upon the claims in question secondary and subordinate to the Lien of Government; - and I at the time believed that Mr. James Richardson was at once to act on this suggestion.

On the 27th I received the Extract from Minutes of Consultation No 282.

On the following day I again saw Mr. James Richardson as to the carrying out of the arrangement which Government had sanctioned. I then asked him if he had arranged with the holders of the Securities in question for their deposit with Government

and for Government having the first charge upon them (Messrs Richardson's) claims, against the Lawaudo's Estate. His answer was no; that he did not think it worth while to do so, until he knew whether or not Government would assist them, and on what terms; and suggested further that Government by Extract from Minutes of Consultation No 282 had not called for the deposit of these Securities. I again explained to him why their deposit was necessary, read to him para 5 of my letter to Government No 190 and that portion of the Advocate General's opinion which bore upon the same point and endeavoured (and as I then thought successfully) to satisfy him that without the deposit of these Securities, one of the principal grounds upon which Government had resolved to make the advance, viz, ample and undoubted security for its repayment with interest in the first instance out of whatever sum might become payable to Messrs Richardson under the Carnatic Will would

not be secured. Mr. James Richardson ultimately left me for the purpose as I thought of arranging with the holders of the required securities for their deposit with Government. These holders I then understood to be Mr. Arathorn and a Mr. Campbell a connection of the Richardsons.

On the following day and very much to my surprise I received Messrs Richardson's letter of the 29th and enclosure (herein sent). This letter being in Mr. Herbert Richardson's handwriting and the contents being so very inconsistent with the previous communications between Mr. James Richardson and myself I imagined that there must be some mistake and that Mr. James Richardson could not have acquainted his Brothers with what had passed between him and myself. before however proceeding further and lest I should have taken an erroneous view of the matter and asked for more than was necessary for the protection of Government, I conferred with the Advocate General and laid the correspondence

and all the facts before him, the result was his letter to me of the 30 ultimo herewith sent. I also saw Mr. Bycroft and learnt from him that I was right in assuming that it was the intention of Government that the advance in question should be the "primary" charge on Messrs Richardson's claim against the Kabob or

On the 1st May I wrote to Mr. James Richardson requesting that he or Mr. Herbert Richardson would come down to my office. Mr. Herbert Richardson did so and I then went over the same ground with him; explained fully all that had passed in my previous communications with his Brother; read to him portions of my letter to Government of the 29th; the Advocate General's opinion of the 26th ultimo; the orders of Government passed upon these papers and the Advocate General's letter to myself of the 30th ultimo, and pointed out to him as clearly as I could the grounds upon which the Advocate General and I deemed it absolutely necessary for the security of Government, that the Bonds in question should be deposited with

Government: and I think I may fairly say that before leaving me he admitted both the reason and the force of these grounds. When he left it was with the understanding that he should bring Mr. George Richardson down to me to be as thoroughly convinced as himself, and to determine how the difficulty could best be overcome.

Under the circumstances above detailed I cannot help remarking that I consider both the contents and the tone of Messrs Richardson's letter to Government of this day's date most disingenuous and that their imputation upon me of endeavouring to obtain or retract from them a greater amount of security than either Government or the Advocate General consider necessary is not only ungracious and unwarranted but is at variance with truth, seeing that this letter was written after I had made Mr. Herbert Richardson fully acquainted with all the facts, including the substance of the Advocate General's letter to myself of the 30th ultimo.

Messrs Richardson state that their claims against the late nabob amount inclusive of the Litchfield Lottery Bonds in question to upwards of 7 lacs of Rupees. They ought to be able to satisfy Mr. Anthon and Mr. Campbell (or whomever may now be the holders of these Bonds) that they are certain to establish their right under the Carnatic Bill, to such an amount at the least, as will far more than cover the proposed advance from Government with accruing interest and the amounts due to them (such holders); and if men acquainted with Messrs Richardson's dealings with the late nabob, having as good if not better means of forming an opinion upon this point than the Government and its officers, are bound from past association and connection to give Messrs Richardson fair credit for bona fides, and truthfulness, one not and will not be satisfied, on this point it is, not reasonable to ask Government and its officers, to take it for granted. If the amount which Messrs Richardson are

likely to prove themselves entitled to under
the Sanative Bill is to be assumed as
sufficient to meet the claims of the present
holders of these Bonds, paying them first and
Government second, it follows that it will
be alike sufficient to meet all these claims,
treating the claim of Government as that
primarily entitled to discharge. I am still
of opinion that this mode of adjustment should
be insisted upon and that this requirement
necessarily involves the deposit with Government
of all securities evidencing Messrs Richardson's
claims.

The Messrs Richardson cannot complain
of surprise on this point seeing that before the
advance was sanctioned they were expressly
informed by me that if their application
was acceded to the deposit with Government
of all evidence in support of their claims, against
the late Kabob would be a *sine qua non* and
their terming my present requirement "a"
demand for additional securities which do
not seem to be contemplated by the order of

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"Government" and the general tone and contents
of their letter of this date are not warranted by
facts.

I always endeavour to protect Government
from moral as well as from legal difficulty and
I am most decidedly of opinion that if Govern-
ment, whilst making the proposed advance to
Messrs Richardson, permits the Bondsmen question
to remain outstanding in the hands of assignees
or holders (by way of mortgage) for value, and
attempts hereafter to assert a primary claim
in respect of their advance upon the amount to
which the Messrs Richardson may be declared
entitled, the result to Government will certainly
be a position of moral (and perhaps of legal)
difficulty and one which, in my opinion, the
Government should not be placed in.

I looked upon the following words in
Extract from Minutes of Consultation No. 202
viz: "The speedy repayment of the advance as soon"
"as Messrs Richardson and Co's claim upon the"
"Kawant's estate is ascertained" should of also

" be provided for in the conditions of the Bond taken in connection with the general effect of that and the previous Report from Minutes of Consultation 1827 and those portions of the Advocate General's Opinion and of my letter which dwelt forcibly on the unimportance of Messrs Richardson's title to Pathe and Broate's, provided it could be fairly assumed that Messrs Richardson would ultimately establish their claim against the Hawaiian Estate to the extent of Rupees 1,02,500 plus interest &c, the course which I have pursued in requiring Messrs Richardson to deposit the securities in question was not only warranted but imperatively called for in the proper performance of my duty.

W. J. P. S.
1876

May 3. 1876

24.30
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April 30th 1858

My dear Mr Rogers

When I wrote my opinion to Govt. about
the proposed advance to Messrs Richardson, I was
not aware that a portion of their claim upon the
estate of the late Stubb — or, rather, of the evidence
support of such claim — consisted of Lotafas
celebrary Bonds, which, you now tell me, Messrs
Richardson hold (either they or third parties with
whom they have deposited mortgaged or assigned them)
to the extent of about Two Lakhs of Rupees. Had I
been aware of this, I should certainly have specified
these Bonds among the securities which I think the
Messrs Richardson ought to deposit with & assign to

the Govt as security for the proposed advance

My intention was that Messrs Richardson should deposit with Govt. the whole of their evidence in support of their claim upon the Nabob's Estate; I did not specify these, not knowing of their existence.

You tell me that the date of these Lotafatcherry Bonds is long prior to the dates of the mortgages, and these latter being for so large an amount and so much better a security than the S.C. Bonds, it is quite possible that it may be contended that the mortgages were granted in respect of the whole of Messrs Richardson's claims, including the Lotafatcherry Bonds.

So long as this possibility exists, it is almost indispensable (at least so I must advise Govt. leaving them to decide as they think fit) that Govt. should have these Bonds before making the proposed advance. It is true that Messrs Richardson have established a claim against the Nabob's Estate in the Supreme Court for above Five Lakhs of Rupees, but

this was merely by production of securities, & without any part of the sums actually advanced, or the prices charged for goods delivered; and, looking to the popular belief as to the way in which the Nabob did business, it would be most unsafe not to allow a very large margin for deductions when these claims shall be ascribed to the amount of cash actually advanced, & to the usual trade prices for goods delivered. A margin of one half would be grossly insufficient. Suppose these Messrs Richardson cut down to 2½ Lakhs, and that it were then further contended that the Lotafatcherry Bonds were included therein, that a position would not be in, if they, with knowledge of the fact, allowed these Bonds to remain outstanding in the hands of holders for value! Clearly Govt. would be bound under such circumstances, morally at least, to consider these holders as having the first claim on these Bonds, & the sums represented by them.

Therefore think that these Schafschinsky
Bonds ought to be deposited with and assigned to
Est. before the advance is made; in order to
secure Est. from all risk of loss in making the
advance.

Believe me

Yours truly

Wm. S. Schafschinsky

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Ethical Dept

7th 299.

Extract Min. of Consultation
Dated 4th May 1858.

Read the following
letter from Messrs. Ashlow
Richardson & Co.

(Here enters 3rd May 1858. 17th)

The R. & A. the Governor
in Council observes that in
Ex. M. Cons. of the 27th Ultimo
it is expressly stated that
provision should be made
for the speedy repayment of
the advance as soon as Messrs
Richardson & Co's claims upon
the estate of the late Howard
had been ascertained. by
which it was meant that
the advance should be repaid
out of the very first monies
awarded to Messrs R. & Co. on
account of their claims.

2. The advance money

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well

inspective of those properties

Signal 4th 240-56 JP

William Smith to Esq of 21 Regent
1722 of 1858

Post 30431

in cond. to say.

William 1858 Sept 21

1858

Street 1858 of 1858

1858 May 1858