

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No.	244	Press ~~MS.~~
Dated	10.5.1861	

Not to be folded or roughly handled

244

18

*Proceedings of the Madras Government, Political Department,
10th May 1861.*

Read the following papers :—

No. 28. From the Advocate General. *

(Here enter 1st May 1861.)

No. 29. From J. R. BOYSON, Esq., Government Solicitor, Madras, to T. PYCROFT, Esq., Chief Secretary to Government, dated 4th May 1861, No. 424.

1. With reference to the Proceedings of Government under date the 19th January 1860, No. 68, I have the honor to forward herewith the papers particularised at foot and relating to the claim noted in the margin, preferred against

Claim of Damoodra Doss, Narrain Doss, and Brijee Bookum Doss. the Estate of the late Nabob of the Carnatic, under Act XXX of 1858, and to suggest that these papers be forwarded to the Secretary of State for India by the next Mail.

2. I dispatched the packet containing the necessary Transcript of the Proceedings in this matter in the Supreme Court, with the Judge's reasons for his Judgment, to the Registrar of the Privy Council by the last Mail.

3. The accompanying papers with the Advocate General's report on this claim and the hearing of it, his previous reports and enclosures on the subject of Tunkee Cutcherry Bonds (copies whereof, I presume, have already been sent to the Secretary of State), his last report shewing what would be the probable cost to Government of adopting or electing to be bound by and act upon Sir Adam Bittleston's rulings in this case (copy whereof should be forwarded to the Secretary of State) and a copy of the Transcript of Proceedings and Judge's reasons above mentioned which Mr. Lawford the London Solicitor for the Secretary of State will obtain from the Privy Council Office, will afford all needful information for determining finally whether the appeal shall be proceeded with and for preparing the appellant's case.

4. I purpose seeing Mr. Lawford as soon as possible after I reach London and I would ask the favor of Government's requesting that the final settlement of the appellants case be deferred until my arrival. I feel a deep interest in the case and am anxious that the intimate knowledge which I necessarily have of the facts and circumstances connected with it should be made available for the interests of Government. I shall also take home with me various memoranda and papers which I think may be of essential service to those who have the conduct of the appeal.

Memo. of Enclosures.

Copy Order of Court, dated 19th November 1860, for payment to claimants of Rupees 1,10,664-5-3.

Copy Petition by the Secretary of State for India in Council, for leave to appeal to Her Majesty in Council against such Order.

Copy Order of Court, dated 30th November 1860, granting the leave to appeal.

No. 30. ORDER THEREON, 10th May 1861, No. 244.

Resolved that copies of the foregoing letter and the original enclosures in the second of them be forwarded to the Right Honorable the Secretary of State by the next Steamer.

2. Resolved also that, as requested by the Government Solicitor in the fourth para: of his letter, it be suggested to the Right Honorable the Secretary of State that the final settlement of the appellants case be deferred until his arrival in England. Mr. Boyson, it is believed, will proceed home by the second Steamer of this month.

3. Resolved also that the particular attention of the Right Honorable the Secretary of State be drawn to the testimony borne, at the conclusion of his letter, by the Advocate General to the indefatigable labors of the Government Agent Doctor Balfour and the eminent assistance which he has rendered during the long and toilsome inquiries connected with the investigation of the Carnatic claims.

(Signed) T. PYCROFT,
Chief Secretary.

* Entered in the Secret Department.

Exd. F. Cartledge.

Supreme Court House,
Madras, 1st May 1861.

From

The Advocate General

To

The Chief Secretary to Government
Fort St. George.

Sir,

I have the honor to submit for the information of His Excellency the Governor in Council, a report concerning certain parts of the claims preferred against the Estate of the late Nizam of the Carnatic by the holders of those Securities known as Char-Mohurry or Munkhy Kutcherry Bonds, which I trust will enable the Government of Madras, and the Right Honourable the Secretary of State for India in Council, to come to a final decision on these matters, and thus wind up the whole of the Carnatic affairs with the exception of the one claim - that of Rajah Ruggonada Ram of Hyderabad - which yet remains unsettled.

2.

It may suffice for present purposes merely to state that the Bonds in question were issued by two distinct Boards or Committees

mittes, both called Jankhy Cutcherry. The first of those was constituted by an order, under the seal of His Highness Prince Azem Jah, dated 22nd December 1835; the second by a similar Order dated 29th June 1841. The first was appointed to investigate and liquidate the debts of those connected with (or related to) the Bountiful Sirkar, meaning thereby Her Highness the Rabob Begum, the Grandmother of the then Minor Rabob - the Bhow Begum, mother of the Rabob - and Prince Azem Jah himself in his private capacity; but it appears that some few matters which related strictly to the Rabob's Sirkar, or Government, also came before them. The second Jankhy Cutcherry was expressly directed to investigate and liquidate the Sirkar or State debts, as well as those of the relatives of the Sirkar.

3. The term "Sirkar" occasioned much discussion. When applied to a Prince, or the late Company, it doubtless meant the State or Government, but Prince Azem Jah himself assured me it was equally applicable to the private Establishment or household of any gentleman or lady.

4. It will be in the recollection of Government

that, on the 19th November last, Mr Justice

17. I have tried to draw a line, and to satisfy myself which of the items in the particulars can be considered as debts incurred for the use of the Rabob in the sense in which I understand that expression to be used, and as to this, I have considered that if I am satisfied that money was borrowed for, and paid into the Treasury of the Rabob, as distinguished from and unconnected with the other departments, such as the Toshakhana, Jaichikhas, Jankhy Cutcherry, &c., that then such money must be reasonably taken as advanced for the use of the Rabob in the sense I have explained.

18. The learned Judge then went through the several items which had been abandoned by Claimants' Counsel, giving his reasons for allowing or disallowing each. He disallowed several and considerable sums in respect of money and goods advanced to the Toshakhana, and other departments, and also several sums, which, though entered in the Treasury Duffters as cash received, and vouched by regular Treasury Bonds, appeared really to be mere paper entries, or transfers to the Treasury books of balances owing by the Rabob Begum, Bhow Begum, or other ladies, or by the Toshakhana or some other department.

from other Departments of the Rabob's Establishment. For facility of reference I annex in the margin the part of his judgment to which I refer.

5. I also annex in like manner for

Bottle down when giving Judgment in the claim of Parnoodra Doss & others, laid down a rule in Paras 17 and 18 of his Judgment, allowing so much of the claim on Jankhy Cutcherry Bonds, as appeared to have originated in payments of Cash into the Treasury, as distinguished

for the same reason, the observations which I then submitted to Government in my letter of 21st November 1860, recommending an appeal

to Her Ma-

jesty in Coun-

cil, and point-

ing out what

appeared to

me the pro-

bable result

of not appeal-

ing, and

thereby appear-

ing to acquiesce

and adopt the principle

laid down in the above Judgment.

6.

Government will understand

that I am clearly of opinion that none of the

parties to whom I have referred, and whom I

now proceed to mention again, have any legal

claim whatever, some of them having obtained

Decrees for all they could prove to be due to

them; others having accepted Orders of Court for

considerable sums in full satisfaction of their

demands against the Estate of the late Nabob,

and others having elected to have their claims

20.

If this be not done, Government will appear to acquiesce in the correctness of this judgment, and, if they do so, it is highly probable that they will be pressed with petitions from numerous claimants, to a very considerable amount, who have accepted Orders of Court in full satisfaction of their claims, and who are thus legally barred, but who may probably say, "we thought that Government would maintain Act 16 of 1857, we understood the Secretary of State to have finally approved of it, so we thought it useless to hold out any longer - but, now that that Act has been repealed, and a new one passed under which the Supreme Court has decided that a large portion of the claims which we abandoned is legally and justly recoverable, we consider we have a strong claim to the equitable consideration of Govern-ment."

ing to acquiesce and adopt the principle laid down in the above Judgment.

Government will understand that I am clearly of opinion that none of the parties to whom I have referred, and whom I now proceed to mention again, have any legal claim whatever, some of them having obtained Decrees for all they could prove to be due to them; others having accepted Orders of Court for considerable sums in full satisfaction of their demands against the Estate of the late Nabob, and others having elected to have their claims dismissed

dismissed by the Court, or Government con-
sulting to forego all claim to costs. The ques-
tion of now allowing them any ^{more} beyond what
has already paid to them, depends wholly
upon the pleasure of Government. If however
the principle of Sir A. Bithellton's decision be
considered equitable, (I have already said that
I cannot think that it is in accordance with
the real meaning of Section 1 of Act 38 of 1860)
it will follow that the parties whom I am a-
bout to mention would seem to have equitable
prima facie claims. I say *prima facie*, for be-
fore any of these claims could be finally ad-
mitted, each would require to be tested by a
thorough search into the Books and other records
of the Claimants; for it has been too clearly proved
in numerous instances that Treasury Bonds
and Chittas often represent mere transfers to
Treasury Accounts of debts due by the Begums
Prince Azim Jah, or by the Toshakhana or other
departments, and are in no respect conclusive
of any cash whatever having been received by
the Treasury.

7. Considering that it would be
satisfactory to Government to know exactly the
utmost extent of liability which the admission

such claims could possibly involve, I requested the Government Agent, Dr. Balfour, to report upon the subject, in order to facilitate my investigation of the various items, some of which refer back to the year 1829. He accordingly prepared a very full Report, a work involving much labor and research, and which occupied him I understand for fully six weeks. I have before me a list of the names of the parties to whom, as shown by the Records, Tankhy Cutcherry Bonds were issued; but several of these have sold or transferred their Bonds to other parties; and others again appear to have been mere name-lenders, their names having been inserted in Bonds for which they never gave any consideration. These latter Bonds it seems were not issued at the time, but were deposited in the Treasury, and money raised on them afterwards, sometimes by selling them in the Bazar, sometimes by delivering them as securities to persons who lent money to the Treasury.

8. Afterwards with the assistance of the Government Solicitor, Dr. Balfour, and the three principal Native Officers of his Cutcherry, viz, Terajish Khan Bahadur, Rajah Seenavapa Row, and Rajah Esuara Doss,

personally investigated each item mentioned in the particulars of the Claims filed in Court, tracing each transaction back through all its renewals. These Bonds were generally renewed every three Months, but sometimes at the end of one month, and as they were sometimes amalgamated with others, and sometimes subdivided, part being paid off, and a renewed Bond given for the balance, Government will easily perceive that this research involved considerable labor and difficulty, and was necessarily a work of time.

9. The point I have had in view has been simply this, to lay before Government a statement of the utmost amount which, in my opinion, could possibly have been recovered by any of the Claimants against the Nabob's Estate who preferred their claims and filed particulars in the Supreme Court under Act 30 of 1858, supposing such Claimants not to have consented to the dismissal of their claims, or not have accepted the offers which were made them on behalf of Government excluding all Tankhy Cutcherry claims, and supposing
farther

further that their Books and Vouchers com-
pletely corroborated their claims. In other
words, I wish to present a statement of the
atomost amount which such claimants
might possibly have recovered, under the prin-
ciple laid down by Mr Justice Bithleton in
the case of Damoodra Doss.

10. I have prepared a Tabular state-
ment of the Claimants names and amounts
for which upon the principle above mention-
ed I am of opinion that a *prima facie* case
might be made out to shew that they were
due; but, for obvious reasons, I keep this in
my own possession, and I would even suggest
that this Report should not be printed by
Government.

11. The total of the sums which, *prima facie*,
seem due to various parties as Principal,
for money paid into the Nabob's Treasury a-
mounts to - - - - - Rupees 2,38,714,
And if Interest at 6 per Cent
be allowed from, say, the 1st Janu-
ary 1841, (which seems a fair ave-
rage date with regard to these trans-
actions) to the 1st January 1857, or
twenty years, it will amount to (ex-
cluding the fraction of 14 Rupees) " 2,80,440.
Total - 5,25,154.

I have the honor to be,
Sir,
Your most Obedt. Servant,
Thos. Springue Smith
Advocate General.

P.S. I would here beg permission to add,
with reference to the labors of Mr Balfour, that
it would have been more just to him if in-
stead of the general allusion in my letter of
the 18th December 1850, para 4 to ascertain he
had rendered the Law Officers of Government,
I had stated more distinctly the nature of his
services in connection with the claims against
the Nabob's Estate. Upon him, from his long ex-
perience in the office of Cheque Agent and
his greater familiarity with the Nabob's Papers,
devolved almost exclusively the preparations
of the long and detailed reports, about two hun-
dred in number, which were requisite to en-
able myself and the Government Solicitor
to carry on our investigations, and from the
knowledge that Government already possessed
of the nature of these claims, and of the
transactions to which they refer, it will easily
be seen.

perceive the amount of care and labor
which the preparation of so many Reports
of such a character necessarily involved.

Pol

Confidential

Letter from the Advocate
General read in the Prov.
Political Depart 10 May 61.
No 244

Claims by the holders
of the Junky Catechery
Bonds

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Letter to Eng: 24/10/1861
24/11/1861.

With out 1861 24/11/61

From
S.O. 244
The Worcester
Council

Dated 1st
Dec^r } May 1861

24/11/61

28-30

Copy forwarded to the
Gov: 24/11/61

Received a report
concerning certain facts
of the mining business &
issued the note & the
late President of the Council
by the holders of the Junky
Catechery Bonds

As regards the first part of the Prayer of this
Petition, viz that Govt. should grant permission
to the Petitioner to see H. H. Prince Agreem. etc.
it appears to me to be rather a Political question,
(and as such within the department of the Govt. Agent)
than a legal one. I can only say that this
claim stands precisely, so far as I know, upon
the same grounds as all the other Tunkhycatching
claims. I do not see therefore how Govt. can
make any distinction in favor of this one claim.
2. If the Govt. concurs with me in considering all the
Tunkhycatching claimants as standing *prima facie*
in the same position with regard to the Prince, the
present question resolves itself into this, viz, whether
Govt. is prepared to grant permission to every holder
of a Tunkhycatching Bond to see the Prince.
3. If Govt. does grant such permission, execution
will in due course issue for many many lakhs
of Rupees against His Highness, and Govt. will have
to choose between paying the amount, or permitting
H. H. to be taken in execution.
4. It is for Govt. to decide whether it considers it
desirable to place itself in such a position — or
whether it would not be preferable to refrain from
^{committing itself} ~~committing itself~~ to any ^{such course} ~~decision~~, pending the decision of the
Hon. the Secretary of State upon the question raised by the
Report of the 1st May last, & the Govt. Order thereon of the
10th May 1861. No 244.

21/5/61
Cuthbertson & Co.

5. As regards the second part of the Prayer of the Petition, viz that, in the event of Govt not granting the Petitioners leave to sue H.H. Prince Agnew & Co, it should pay the Petitioners the amount of his claim out of the accumulated arrears of H.H.'s undrawn allowance, it also appears to me that this does not involve any legal question upon which I can offer any legal opinion.

6. I believe however that to comply with the request in question would be too considerably beyond what the Govt has yet done in any other case. I have advised Govt that it ought to permit H.H. to sue upon all claims brought against him as Administrator of his brother's Estate; as he voluntarily intruded himself into that office, which he obtained from the Supreme Court by, in fact, turning out the Administrator named, & taking out of his hands a large amount of Property which otherwise would have been distributed by that Office among the Begum's creditors. Until therefore that property was exhausted, I considered that ^{legal} Highness might not be allowed to evade the liability which he had deliberately taken upon himself - & upon this principle, Govt has paid H.H. his allowance, and paid the amount of certain decrees and judgments, obtained against the Prince as Administrator

10x
of his brother's, the Begum's, Estate
7. These cases however are, obviously, clearly distinguishable in principle from the claims of the Lunkhey Catcher, Bondholders, which all arise out of the acts of His Highness ~~when~~ his highness or request.

8. If His Highness should himself request Govt to pay this or any other claim out of the arrears of his undrawn allowance, that request will doubtless meet with due consideration from Govt and be granted or refused as the merits of the case may appear to deserve.

Agnew, Secy to the
Adm. General

August 3/61

Le
Gunsam Doss' claim against
His Highness Prince Arzum Sah
Bahadoor upon certain Turkey
Cutcherry Bonds.

W. Advocate General
 17 June 1861
 Adv. Genl
 Aug 3/61
 Will be pleased to advise as
 requested in the Order of Govern-
 ment dated 27th July 1861 and
 endorsed on Messrs Ritchie & Shanks
 letter to Government of the 25th
 Oct 1861

Miller
Acting Lloyd Solt

Create General's opinion on subject
 Ritchie & Shaw's letter to Gov. of the 25th
 No 336-
 July 1861, ~~received~~ in the matter of Lusham
 Govt's claim against His Highness Prince of Wales
 Sub Baraboor upon certain Sunday Catechery Board

array of Turnkey
cherry Bonds

Received from Mr. Smith
9th Aug 1861

Pol Dept

December 1861

Advocate
Gent's Office
inside

Claims against the
estate of the late Nawab
of the Carnatic by the
holders of securities
known as Char-
Moharry or Tamkhy
Cuteherry Bonds

4500



No	Name of person in whose name Tunkhy Cutcherry Bonds were issued.	Amount ^{unpaid} ~~due~~ according to the Records upon Bonds issued in the name in the preceding column mentioned	Amount which I consider can be shown to have been paid into the Treasury, & therefore due under the Justice of the Peace Act.	Remarks	No
1	Gunsam Doff	90,417 1/2	"	All Begun's debts	16
2	John Sabakichen (Kund)	19,040	"	no claim was for nothing is due to	17
20	same name	46,500	+ in report of his 19040. as regards the 46,500, 200 claim was preferred by this man but (home - here 400 remarks) against no 20	are Bonds in his Virgin Loll Doff or seems to be due	18
3	Thundary Pillay	4,113	"	no claim filed found in any Rec	19
4	Kanchanapally Appiah	57 1/2	"	no claim filed by	20
5	Jogee Loll	52,630	"	are Bonds in his	
6	Syed Boodun	26,095	"	Loll Doff on which to due	
7	Paramamund Doff	196,725	"	no claim by this man some Bonds in his name	
8	Damoodra Doff	2,950	"	around Doff & what will be looked for	
9	Paijee Bhookund Doff	4,500	"	no 7 is dead	21
				Damoodra Doff, or his father's aut.	22
				particulars, claiming alleged consideration made up thus	
				Paramamund Doff	23
				no 8, Damoodra Doff	
				no 9 Paijee Bhookund Doff	
				no 10 Narain Doff	24
				These are all one for & in trying the claims the consideration which was fully gone into, a	
				These parties from the claim	25
				not to a sub. the	
140314					

Name & D/o	amt. claimed	amt. currently due	Remarks
Vasima Chetty	5,390	14,000	no claim filed
Labapetty Chetty	294	"	no claim filed
Sectaram	5,096	"	Claim tried & dismissed 23rd Dec 1860.
Thedun Mooratya Hospari	30,650	"	This is Saler & Koth, the trial of whose claim, for Rs 22,0740-0-10 occupied the Supreme Court for eight weeks; and resulted on the 10th April 1860, in a Decree disallowing all but Rs 17,576-6-3
Vinodoo Sahas Kishun Chund	46,500		See Remarks against No 2 + New. Add this to Remarks against No 2 No claim filed by this man, but there are Bonds in his name held by Vijay Lall D/o, & by the Adm ^r of Tara Bee, who has left a young orphan girl. The Treasury received Rs 38,400 from G.S. Kishun Chund in January 1841. Tara Bee's Adm ^r holds Bonds for Rs 31,500 & the remaining 6,900 would probably be due to Vijay Lall D/o
Swarn Prad & Bacharany Lall	16,800	15,000	
Lacammulla Venkata Kistna Row	132,918	15,105	The bulk of this man's transactions are entered in the دفتر of the Subb Registrar, Prince of Wales. This man obtained an Order of Court in his favor on 6th March 1861 for Rs 21,757 1/2. Balance of private transactions with the Prince & his private agents.
Lacammulla Pedda Ram Row	10,900	"	No claim by this man, but his son Ramesh Chetty has claimed in Bonds in the man's name. This is a balance of private transactions with the Prince & his agent Champaiah Chetty has lately paid off one Bond for Rs 1325.
Meerachetty Chetty	1,965	"	Tried, 28th May 1859, & dismissed.
Chary D/o & Shari D/o	6,100	"	
Chund D/o Vijay Kallaba D/o	51,375	42,000	
Chund D/o D.D. D/o	50,000	"	all one family - all included in No 26; Vijay Kallaba D/o was the father of Chund D/o & Chund D/o & Chund D/o was son of Chund D/o.
Chund D/o Anund D/o	10,000		
Chund D/o Anund D/o	10,000		
Chund D/o Anund D/o	128,990	54,209	21st March 1860, this man obtained an Order of Court for Rs 45,557-12-11.
Chund D/o Anund D/o	4,500	"	These claims really form one. No 31 of these claims names, only two filed claims; the widow of one, No 38, was paid what was due. Most of these are claims for promised presents, or for arrears of voluntary allowances - more gratuities, or claims by one Department on another, for transfers of money, nothing whatever is really due.
Chund D/o Anund D/o	4,500		

1,40,314

140,314

Names of Creditors not in the foregoing list, but whose holders Bonds issued in the names of some of the parties who are in that list

Vijay Lall D/o

At Bonds of No 2,	16,000
do No 5	44,000
do No 20	6,900
do No 20	31,500
	31,500
	2,38,714

Names of the Payees of the Bonds on which these creditors claim

Administrators of Tara Bee Decedent

Secretary of State

Political Department.

Proceedings of the Madras Government.

Read the following letters:

From the Advocate General. (Here enter 1st May 1861.)

" " Govt. Solicitor - " " 4th May 1861, No. 424.

Order thereon 10th May 1861, No. 244.

and the original
enclosures in the second
of them by

Resolved that copies
of the foregoing ^{Letters} ~~Letters~~
be forwarded to the
Right Honorable the
Secretary of State by
the next Steamer.

W. E. L.
G. M.

Advocate General.
Solicitor.

2. Resolved also that
as requested by the Govt.
Solicitor in the fourth
para. of his letter, it
be suggested to the R. H.
Secretary of State

that he find with.

- must of the Appell and

can be depended on it

his arrival in England -

the Boston it is ^{believed} ~~stated~~

~~will~~ proceed home

by the ^{second} ~~first~~ steamer - of this month

3. Resolved also

that the particular

attention of the R.R.

the Secretary of State

by drawing to the text -

- among them, at the

conclusion of his

letter, by the Advocate

General to the State

- fatigue the labors of

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Hulford and the

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Long & Litchman

178
inquiries connected
with the investigation
of the Canadian claims

J.P.

Advocate General

John Smith

John Agnew at the point

10/5

Dr. L. C. 2nd 10th May
1867.

Political
Department

Department

186/

No. 2744.

Proceedings of the Madras

Government.

Dated, 10th May 1861.

Dineeing 1861
 Copies of the letter from the
 Advocate General and
 Government solicitor
 relating to the claim
 of D. Amoschar Dots
 married Dots, and
 Dots Dots Dots
 and the claim of the
 State of the State and
 the Government to the
 State of the State.