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No. 67. Read the following letter from THOMAS SYDNEY SMYTH, Esq., Advocate General, to the Chief Secretary to Government, Fort Saint George, dated Supreme Court House, 14th December 1860.

1. I have the honor to submit the following report for the information of the Honorable the Governor in Council, respecting the claim of Ghoolam Moortooza Khan Bahadoor, Moomtaz ul Mulk, against the Estate of the late Nabob of the Carnatic.

2. The claim was divided into two parts :

Part the first for...	Rs.	11,87,380	0	0
Part the second for....	„	1,62,578	9	7
Total...		13,49,958	9	7

exclusive of interest at 6 per cent. from the 3rd of March 1859, to the date of judgment delivered; all this moreover being exclusive of seven lakhs of Rupees, given credit for in the claim, for which the Nabob had granted Istafa Cutcherry Bonds to the Khan's creditors about August 1851, payable to the creditors without interest, but on which the Khan now claims interest for himself, to the amount of Rupees 7,25,380, in part first of his claim.

3. The trial of the claim began on the 8th and continued to the 29th of June; the 3rd Criminal Sessions and the 3rd Term and 4th Term then intervened, and the trial was not resumed till the 26th September, when it continued to the 2nd October. The fourth Criminal Sessions followed immediately, and then began the sittings after Term by means of which, as I lately had the honor to report, nearly all the remaining claims were disposed of. Sir A. Bittleston was thus obliged to defer delivering judgment; and, after so long a lapse of time, it would unavoidably require much time to enable him to go through the mass of oral and documentary evidence in the case. I had the evidence all taken down in writing with a view to an appeal, if necessary.

4. The first part of the claim consisted—as regards principal—of three items, as follows:

	Rs.
1846, January 10th, Cash deposited *prior to this date* by the claimant's mother with the Nabob's mother...	9,00,000
1847, September 1st, Cash lent *about this date* by the claimant's mother to the Nabob's mother...	1,00,000
1841, September 1st, Cash deposited by the Nabob's grand mother with the Nabob's mother, in trust for the claimant as a gift...	2,00,000
	12,00,000

and a sum of Rupees 70,475-4-6 which the Khan claimed in the part second of his claim as lent by himself to the Nabob on the 3rd March 1855—he having taken the benefit of the Insolvent Act in 1843, and having obtained his final discharge only a few months back—was alleged by him to have been part of another sum of two lakhs of Rupees which, he said, his mother gave him shortly before his death. The real scurce of this loan of Rupees 70,000 odd will be found explained in paragraph 25.

5. Now as regards the alleged deposit of Rupees 2,00,000 by the Nabob-Begum (the Nabob's grand-mother) with the Bhow-Begum (the Nabob's mother) on the 1st September 1841, it was difficult in the first place to account for the existence of any such sum in the old Begum's possession. Since 1825-26 when her son Prince Azeem Jah the Naib-i-Mookhtar paid her debts out of the 13½ lakhs lent by Government, the old lady, as admitted by her son in some of his letters in 1829-30, had got deeply into debt again, and she notoriously continued so till her death in 1856; secondly, it was singular that she should not have applied any part of it to the relief of Ghoolam-Moortooza-Khan in 1843, when he went to Jail as an Insolvent; thirdly, it was singular that she should not have kept it herself, instead of depositing it with her daughter-in-

law, where it was not at all more secure, but rather the reverse, as the Nabob was often assisted with money by his mother; and lastly, it was more remarkable still, that, when the Bhow Begum, the Nabob's mother, died in April 1849, the old Nabob Begum, who lived till 1856, should never have claimed the money, or made any inquiry about it, nor even once mentioned it to Ghoolam Moortooza Khan himself, who swore he never knew of it until he received a letter [marked as Exhibit N, of which I annex a copy] in April 1855, which, as Salar-ul-Mulk swore, the Nabob caused this Salar-ul-Mulk to write and send to Ghoolam Moortooza Khan on the 29th April 1855, or six years after the Bhow Begum's death, stating that the Bhow Begum had had the money, and had given it to the Nabob, and that he, the Nabob, was Ghoolam Moortooza Khan's debtor for that sum, in addition to all the other lakhs of Rupees claimed in part 1st of the particulars filed in Court. The letter was in fact a regular cognovit—I need hardly say, in my opinion, an audacious forgery. Government will remember the character of Salar-ul-Mulk as disclosed in the long trial in the early part of this year, that terminated in the rejection of the claim he set up on his own behalf.

6. As regards this letter of Salar-ul-Mulk's, the story sworn to was, that, after it had been written, the Nabob desired a copy to be made of it, and lodged among the records, expressly in order to authenticate the transaction, but nevertheless, as I elicited by cross examination, when the Nabob died shorly afterwards, on the 7th October 1855, and the Dewan then made a formal inquiry, in writing, of Salar-ul-Mulk (his own son-in-law) and others, as to all the Nabob's liabilities, Salar-ul-Mulk never shewed or mentioned this alleged copy, nor was its existence ever mentioned or known to the Dewan, or to any of the Chepauk or Government Officers, until just five years after its alleged deposit, namely, on the eve of trial, 8th June 1860, when Ghoolam Moortooza Khan served the Government Solicitor with notice to produce it from a particular Record, where it was certainly found, having just as certainly been secreted there shortly before by some Chepauk servant well bribed by Ghoolam Moortooza Khan.

7. But if the possession of 2 lakhs by the old Begum was difficult to account for, the pretended possession of 12 lakhs by Ghoolam Moortooza Khan's mother was infinitely more so, and indeed the Khan never attempted to account for it. He admitted that beyond her pension from Government of about Rupees 280 a month, he did not know of her possessing any property at all, and was wholly unable to say, or even guess, when, where, how, from whom or what source she could have got it! He himself, he admitted, inherited no property, and had nothing but his pension from Government of Rupees 10,000 a year, for himself and two nephews.

8. The main strength of the Khan's case appeared to me to lay in two rather singular documents, environed with those contradictory circumstances, open to all sorts of possible explanations, with which it seems to have been the habit, indeed the study of the Nabob, Ghoolam Moortooza Khan, Shurf-ood-Dowlah, and Salar-ul-Mulk more especially, to surround and mystify all their transactions, doubtless for the express purpose of enabling themselves to give those transactions whatever color might be found most convenient afterwards, at any particular moment.

9. The first of these two documents was marked as Exhibit B. I annex a translation of it in the Appendix. I see no reason to doubt that this was so far a genuine document, that it was not concocted expressly for this claim, but was really written and sent to the Istafa Cutcherry at the time it bears date, *viz.* 27th January 1848.

10. The second was marked as Exhibit C. Its signature was in the Nabob's handwriting, and it was dated 10th January 1846, and was a Promissory Note in favour of Mr. John Arathoon, for 7 lakhs of Rupees, for value received, payable 31st December 1846. This Note was a falsehood on the face of it. Mr. John Arathoon proved that he never had given any value for it, or to any such amount, and that he knew nothing whatever of it—but, somehow or other, it certainly appears to have got into Ghoolam Moortooza Khan's hands in or before January 1848, and it forms the second item in his Exhibit B. The Nabob being dead, the real truth about this Promissory Note will probably never be known.

11. B. shews that, on the 27th January 1848, just after the establishment of the Istafa Cutcherry, and when all persons having claims on the Nabob were directed to send in their Ilaims

to that Cutcherry, Ghoolam Moortooza Khan did, and he swore he did so by order of the Nabob, send in that paper claiming Rupees 14,58,856-11-1 as then due to him from the Nabob.

12. B. contained several large items which have since been ascertained to be true, and which have been paid, partly by the Nabob in his life-time, partly since his death by the Law Officers of Government; *viz.*, 1 lakh due by the Nabob for money raised through Ghoolam Moortooza Khan from Mr. Arathoon; 2½ lakhs due for monies raised by Ghoolam Moortooza Khan through Mr. Maclean; Rupees 45,000, raised by Ghoolam Moortooza Khan through or from Rajah Coondun Lall; Rupees 55,000, raised by Ghoolam Moortooza Khan, of which about Rupees 30,000 was also due to Rajah Coondun Lall; besides other smaller sums, included in the 1st item of part 2 of the present claim, for Rupees 43,462; which is *there* charged as "cash paid" to the Nabob, but which, on examination, proved to be made up of Rupees 25,955 as to which no particulars whatever could be given by Ghoolam Moortooza Khan (except that it was the balance of the Rupees 55,000, out of which Rajah Coondun Lall, had been paid nearly Rupees 30,000 and that, somehow or other, the rest was his (Ghoolam Moortooza Khan's) and Rupees 17,507, made up of horses, watches, crockery and alleged cash loans. Part of these items was not proved at all; part was proved to be already paid; and of what Ghoolam Moortooza Khan had paid, it was most probable he paid most if not all with the Nabob's money. At least there was only his own word to the contrary, and he was but recently out of the Insolvent Court.

13. The principal items however of B. are the two first, the 1st for

	Rs.
"Former balance without vouchers."	2,00,000
The 2nd as per voucher of 10th January 1846, payable 31st December 1846...	7,00,000
	9,00,000

14. These 9 lakhs were claimed in Ghoolam Moortooza Khan's particulars, as due to himself alone, for "cash deposited by claimant's mother with the Nabob's mother prior to 10th January 1846;" and C. was said to be the voucher for 7 lakhs of this amount; the other 2 lakhs being described as "former balance without voucher."

15. In addition to these two documents, B. and C., was the fact that, about three years and a half afterwards, the Nabob actually ordered the Istafa Cutcherry to issue, and that they actually issued, Bonds for 7 lakhs of Rupees to Ghoolam Moortooza Khan's creditors, a singular letter of the Nabob's dated 26th August 1851, (Government Exhibit, No. 12) stating that 6 lakhs were his mother's debt, and must be paid for the repose of her soul. This letter however, it was *alleged*, was a mere sham, adopted in order to conceal the real nature of the transaction from the knowledge of Government. In fact, the case set up by Ghoolam Moortooza Khan involved such a chain of deceit on the part of the Nabob towards the Government, the Dewan, the Istafa Cutcherry, the general body of creditors, Ghoolam Moortooza Khan himself, and indeed, every one about him, that, if believed, I cannot understand how any Court could attach any weight to any thing that the Nabob could say, write, or do.

16. The objections, however, to this part of the claim were many and weighty; but the way in which these objections were answered, and the counter objections to these answers, will suffice to give Government a specimen of the difficulties to be encountered in resisting, before a tribunal like the Supreme Court, demands of this nature, put forward by parties who, through the Government native servants (formerly of the late Nabob's Establishment) had easy access to the Chepauk Dufters, whether to obtain copies, or to insert among the thousands of bundles of loose slips which composed the Dufters, any paper which they thought calculated to support their claims; who had exact, constant, and almost immediate information, from these same servants, of every thing that the Law Officers of Government, or the Government Agent at Chepauk, wrote, said, or did, respecting any of these claims; and who by giving notice to Government to produce papers introduced as above described, and producing the Government servants to swear to them as written by deceased Officers of the Nabob, generally managed to come forward as ingeniously and confidently resting their whole case on documents produced by Government itself from its own Records.

17. In the first place, I shewed that though Ghoolam Moortooza Khan did indeed send in that large claim (Exhibit B.) to the Istafa Cutcherry, and though the Istafa Cutcherry did, on evidence produced by other persons (such as Mr. Arathoon, the Official Assignee, Rajah Coondun Lall, Cotidiah Nundoo Lall, &c.) investigate and allow and pay instalments in part liquidation of *their* claims, yet they treated in a very different manner, Ghoolam Moortooza Khan himself, and the 9 lakhs and upwards claimed as due to himself personally. They wrote to him on the 3rd February 1848, (Appendix, Government Exhibit No. 1) informing him that "an order has been "ssued by His Highness to require a *full detail* of the accounts of the debt contracted through you" &c. &c., and I showed that Ghoolam Moortooza Khan never answered this letter, never furnished any details or vouchers, and that, in consequence, the Istafa Cutcherry just treated his demand in a similar way, *viz.*, laid it aside, and for about three years and a half took no notice whatever of it. I of course contended that the necessary inferences from this state of facts were all but conclusive against the validity of his claim at that time, and still more so at present.

18. Ghoolam Moortooza Khan's reply (resting however solely on his own swearing) to this objection was, that he had shewn the Nabob the Istafa Cutcherry's letter and asked him what he was to do, whether he should furnish the Istafa Cutcherry the details they required ; that, in reply the Nabob said that the Istafa's letter was not written by his order, that it was only a sort of circular addressed to all claimants, and that Ghoolam Moortooza Khan must not send in any details to the Istafa Cutcherry respecting the 9 lakhs, as they were connected with the Nabob's mother, and His Highness did not wish the Istafa Cutcherry or any one else to know anything of the matter ; but that he, the Nabob himself, would arrange about paying Ghoolam Moortooza Khan : that thus the Nabob put him off for upwards of three years, without paying him any thing.

19. In answer to this, I showed that at the very time of these alleged confidential conversations, Ghoolam Moortooza Khan was forbidden to come into the Nabob's presence ; to which the ready answer was, that this was a mere sham, to throw dust in the eyes of Government; for that, as the Government Agents had often represented Ghoolam Moortooza Khan as leading the Nabob into extravagance, the latter, when his debts became urgent, and attracted the observation of Government, tried to screen himself by appointing the Istafa Cutcherry, by laying all the blame of his debts on Ghoolam Moortooza Khan, and by telling Government that he, the Nabob, was so angry with Ghoolam Moortooza Khan, that he had banished him from his presence. The Khan swore that in fact he and the Nabob were just as intimate as ever, and met just as constantly, only not in public.

20. I showed also that when other retainers of the Nabob, Thalamund Khan, Goverdhun Doss, Moohtamud Dowlah, and others, had preferred claims to the Istafa Cutcherry involving matters which the Nabob wished to keep secret, he at once sent orders to the Istafa Cutcherry to pass these claims without investigation, and they were passed accordingly ; and I contended that the Nabob would have done the same with Ghoolam Moortooza Khan's claim, had he really acknowledged it, and meant to pay it. To this Ghoolam Moortooza Khan was unable to give even a plausible answer.

21. I showed also that when the Nabob's mother, the Bhow Begum, died in April 1849, the Nabob orded the Dewan to pay Ghoolam Moortooza Khan Rupees 2,000 a month which the Bhow Begum had been in the habit of paying him, under color of repaying a loan of one lakh of Rupees. To explain the real nature of this monthly payment, it will suffice to refer to the fact that the Bhow Begum's husband died in 1825 ; that she was then a young woman of about 22 ; that Ghoolam Moortooza Khan, then a remarkably handsome young man, of her own age, had constant access (as a grandson of Nabob Wallajah's, and as having been brought up by the Nabob Begum, whom he called mother) to the apartments of both Begums ; and his intercourse with the young Bhow Begum was matter of public scandal to the Mussulman community, as the frequent reports of the Government Agents from 1830 to 1842, abundantly shew. I of course contended that if the Nabob had really considered, in 1849, that his mother owed Ghoolam Moortooza Khan anything more, he would naturally, when his attention was directed to the subject, have mentioned the whole amount to the Dewan, and not have confined

himself to the Rupees 2,000 a month. Ghoolam Moortooza Khan asserted, but it rested principally on his own assertion, that he replied to the Dewan that he, Ghoolam Moortooza Khan, requested the Nabob to settle his whole demand, that he did not wish to accept the part payment offered, but would wait the Nabob's convenience. He never however ventured to call the Dewan to corroborate him in this.

22 The next important feature in this case is the occurrences of August 1851, or thereabouts ; Ghoolam Moortooza Khan's creditors about this time became clamorous, and obtained a Writ against him and effected an entrance into his house, and even alleged that they had seized him, and that he escaped from lawful custody, and a question was raised as to the Sheriff's right to re-take him from the Nabob's Palace, where he had taken refuge. Ghoolam Moortooza Khan thereupon, (and doubtless the old Nabob Begum too) importuned the Nabob to relieve his kinsman from his difficulties, and it was suggested that his creditors were willing to receive Istafa Cutcherry Bonds in full satisfaction of their claims.

23. The Nabob thereupon told the Istafa Cutcherry to arrange accordingly at once, as Ghoolam Moortooza Khan was in danger, and to pay his claim at once ; adding "his accounts *are true and correct.*" N. B.—These accounts had then been three years and a half with the Istafa Cutcherry, and during all that time the Nabob had never once looked at them. Ghoolam Moortooza Khan's account was, "I told the Nabob of my dangerous state, he ordered to issue "6 lakhs of Bonds on account of his mother's debt, but that was his personal debt, *because* he "had given the Bond (C) for 7 lakhs of Rupees." I of course argued that if it was really the Nabob's mother's debt, it was not payable under this Act, which was for payment of the Nabob's debts, not those of his mother ; but then Ghoolam Moortooza Khan swore that the Nabob had actually received that amount in cash from his mother, knowing that it was a deposit in trust for Ghoolam Moortooza Khan.

24. The Istafa Cutcherry however objected to pay, and replied to the Nabob that they had no evidence of any thing being due, and that His Highness had before told them that he doubted whether Ghoolam Moortooza Khan's claim was really due, on which the Nabob replied (Government Exhibit No. 12) on the 26th August 1851, that Ghoolam Moortooza Khan's claim "did "*not* deserve a speedy and full adjustment, owing to the absence of satisfactory vouchers, and "of the account of payments and balance due ;" *but*, nevertheless, they ought to adjust at once the 6 lakhs due by the Nabob's mother out of the amount of the Bond for 7 lakhs (C) then in Ghoolam Moortooza Khan's possession.

25. The Istafa Cutcherry on this yielded, and issued Bonds for 6 lakhs, and Ghoolam Moortooza Khan's creditors signed a general release. In July 1852, the Nabob ordered the issue of Bonds for 1 lakh more : the Istafa Cutcherry again remonstrated, said they had no vouchers, and that His Highness had declared it not due, but the Nabob ordered them to issue the Bond at once, and they did so. This last Bond was never received by the Khan's creditors, and at the time of the trial, I could not trace it in any way ; but after the trial was over, I learned through Major Snow, from a Mussulman who was in a position to know all these transactions, that Ghoolam Moortooza Khan took the Bond to the late Mr. R. Taylor, the Livery Stable keeper, and got him to take it in payment of a sum of Rupees 75,000, which he claimed from the Nabob ; that then the Khan received Rupees 75,000 from the Treasury, as if to pay Taylor, but kept it himself, and afterwards paid the money to Shurfood Dowlah, as a loan to the Nabob, this being the sum which he swore he lent out of a sum of two lakhs given him by his mother shortly before her death :—thus, with the 10 lakhs mentioned in Ghoolam Moortooza Khan's particulars, making a total of 12 lakhs, which he asked the Court to believe his mother to have possessed in fact, though how, when, or from what source, she could have become possessed of even the twelfth part of it, he professed himself wholly unable even to conjecture.

26. Ghoolam Moortooza Khan did not produce a single scrap of paper in the shape of an account or Memorandum of any description, though he had obtained the postponement of the trial of his claim for a fortnight upon an Affidavit, stating the unexpected death of Rajah Coondun Lall, who, he said, used to help him in his accounts, and whose own, Coondum Lall's,

accounts he, Ghoolam Moortooza Khan swore were essential to proof of his case, but could not be produced till after the Curmantherum, or sixteenth day's ceremony, yet he neither produced any such accounts at the trial, nor attempted any explanation why he did not do so. He admitted moreover on cross-examination that he had kept Memoranda of some of his accounts and transactions, but he could give no other reason for the non-production of any of them, than that they were thrown into great confusion when his house was seized in August 1851, and that *some* of them were missing afterwards. I also made him admit that in September 1855, Shurfood Dowlah, and Salar-ul-Mulk had written him two letters [Government Exhibits, Nos. 2 and 3] by order of the Nabob, urgently demanding his accounts, in order to enable the Nabob to come to an arrangement with his, the Nabob's, creditors. He admitted he had received these two letters, and that he had never furnished the accounts required, but he said (as did Shurfood Dowlah and Salar-ul-Mulk) that the accounts were not wanted in reality, that indeed there were no such accounts —and that the letters were merely a sham on the Nabob's part, to deceive the Soucars and the Government.

27. The other evidence upon which Ghoolam Moortooza Khan seemed to lay most stress was that of six documents (marked as Claimant's Exhibits S. T. U. V. W. and X) which, on the very evening before trial, he for the *first* time gave notice to Government to produce. The notice called on Government to produce all documents found in the Bhow Begum's Kalumdan, at the time of her death, which related to the claim, or in which the names of the Bhow Begum, Nabob Begum, claimant's mother, or claimant himself were mentioned, and which the Nabob had sent shortly after her death to the Dewan.

28. I was assured that nothing was known of any documents, such as above suggested, having been found in the Begum's Kalumdan, or having been sent by the Nabob to the Dewan. Shortly after her death some persons preferred claims for money alleged to be due to them from the Bhow Begum for about Rupees 40,000, and the Nabob referred *these claims* to the Istafa Cutcherry, and afterwards sent the Dewan a pocket handkerchief full of loose papers, nearly 200 in all, in order that he might see if they would throw light on any of these claims.

29. *A* pocket handkerchief full of papers was found, and was *said* to be *the* one sent by the Nabob to the Dewan; but this, with all other papers and records of the Nabob, had remained for the 14 months next after the Nabob's death in the custody of his Native Establishment, before Government took possession; and even since the trial of these claims began, the Chepauk servants had the utmost facility of access to these bundles of loose papers. The Dewan had no recollection of any particular paper received by him at that time; he was at the time of the trial very feeble, and had just lost his son, Kismut Khan, and owing to this and his great age, he was so infirm and feeble, and his memory so far gone, that I would not expose him to the fatigue of coming into the witness-box merely to say he could recollect nothing, but considered it sufficient to rely on its being incumbent on the claimant to call him, or some other witness, in order to connect these papers with the Nabob or the Bhow Begum, before he could use them, or even compel their production; especially as I was satisfied, that, *if* the Dewan *could* have spoken to the papers, his son and son-in-law (Shurfood Dowlah and Salar-ul-Mulk) two of Ghoolam Moortooza Khan's chief witnesses, would have informed the Khan of it, and had the Dewan summoned as a witness on his behalf.

30. I was however informed by Dr. Balfour, that, in his opinion, and in that of the three Native Officers who have chiefly assisted him in making his reports on these claims, one of these six documents, that marked S, was in the Nabob's handwriting. I therefore informed the Court that I should at once produce this one, as I had *always* in these cases produced *all* documents, that I was informed were genuine. I have since however had serious reason to doubt whether this Exhibit was really written by the Nabob, as no one had ever seen it till produced in Court; and I have, since the trial, been well assured that Ghoolam Moortooza Khan's son can write in a manner not to be distinguished from that of the Nabob, and I have already adverted to the facilities within his, Ghoolam Moortooza Khan's reach, for depositing any papers he pleased amongst those of the late Nabob. As regards this one document however, whether true or forged, there was nothing on the face of it to connect it with the claimant's case. It was simply

an acknowledgment that the Nabob had between January and July 1843, received Rupees 6,27,132 from his mother the Bhow Begum. The claimant's argument was that the Begum *must* have lent this sum from his mother's alleged deposit of 9 lakhs, described as made "prior to 10th January 1846;" but I shewed, independently of the vagueness of this assumption, and of the difference of dates, that, from the Nabob's presents to his mother, she had means of her own of lending him the sum in question, so that the claimant's argument or inference fell at once to the ground.

31. As regards the other 5 documents, T. U. V. W. and X., I refused to produce them on notice, saying that I knew of no documents answering the description, none found in the Begum's Kalumdan, none sent by the Nabob to the Dewan. The pocket handkerchief and its contents having however been incautiously produced in Court, the Judge, notwithstanding my objection, ordered the production of its contents, and amidst some hundreds of scraps, the veriest trash, were these five documents. As to T, there was a conflict of evidence whether the endorsement on it was or not in the Nabob's handwriting. Dr. Balfour and one of the Chepauk Officers saying they were of opinion it was the Nabob's, while others were decidedly of opinion it was not. My own belief is that Ghoolam Moortooza Khan's son wrote it. As to the other four, U. V. W. X. there was no evidence whatever, either of handwriting, or that any one of them had ever been seen by, or ever in the possession of, the Begum, or the Nabob, or the Dewan. Consistently with the evidence they might have all been written a week before the trial, and smuggled into this pocket handkerchief the next day. The Judge nevertheless, notwithstanding my strenuous objections, admitted them in evidence, observing that he considered my objections went rather to their *weight* than to their *admissibility*.

32. The exhibit T. purported to be an account—by whom written Ghoolam Moortooza Khan did not attempt to shew—of "the money deposited by the mother of Ghoolam Moortooza Khan with "Mahali Auliya, *viz:*

22nd September	1842.....	2½ lakhs.
11th January	1843.....	4½ „
22nd January	1844.....	2 „
	Total...	9 lakhs."

and the endorsement ran thus: "This account was received from the mother of Moomtaz-ul-Moolk on the 23rd January 1848."

33. Exhibit U. professed to be an account of the dates on which the Nabob had received from his mother the 2 lakhs received by her from claimant's mother on the 22nd January 1844. Exhibit V. professed to be an account of the dates on which the Nabob received from his mother sums amounting to Rupees 1,97,300, out of "the money deposited by Her Highness Nabob "Begum Sahiba with Mahali Auliya, for the use of Moomtaz-ul-Mulk, on the 4th September "1842, *viz.*, 2 lakhs in Notes and Gold mohurs." W. professed to acknowledge that the Bhow Begum on the 27th November 1846, had received one lakh from Ghoolam Moortooza Khan's mother, to be repaid at Rupees 2,000 a month; and X. purported to be an account of the dates on which the Nabob had received from his mother "as per account in the handwriting of the "Nabob," various sums making up the 7 lakhs deposited with her by claimant's mother on the 22nd September 1842, and 11th January 1843.

34. These 5 documents, if proved to be genuine, would of course have been conclusive; but, as to the last 4, it was not even suggested who the writer was, nor was there any evidence to trace one of them to the possession or knowledge of the Nabob's mother, or grandmother, or the Nabob, or the Dewan. The suggestion was—but it was merely suggestion—that, as they were *now* found in the pocket handkerchief before mentioned, they *must* have been sent in by the Nabob to the Dewan in 1849, and that therefore they must have been in the possession of the Nabob's mother.

35. I contended that if the Dewan had received such remarkable documents he must have remembered them, and that as the claimant did not choose to call him, though he did call his son, and son-in-law, the necessary inference was obvious. I argued that even supposing the

Court could believe Ghoolam Moortooza Khan's mother to have become miraculously possessed of these 12 lakhs of Rupees (of which her son could give no account) and to have deposited 10 lakhs as alleged with the Bhow Begum (T, U, X and W,) and supposing also the Court to be satisfied that the Nabob Begum, notwithstanding her load of debt, had got "2 lakhs in "Notes and Gold mohurs" and deposited them with the Bhow Begum (V), yet was it not most extraordinary that the alleged depositors should leave with her not only these lakhs of Rupees, but also these documents, the only documents in the nature of receipts that were suggested ever to have existed? Was it not even more extraordinary, supposing the claimant's mother and the Nabob Begum to have left both their money and their receipts in the Bhow Begum's power, that when she died in April 1849, neither of those ladies, though they lived till 1856, should ever have claimed or enquired for either their money or their receipts, or made any demand respecting them either upon the Nabob, or at the time of his death in October 1855; and that though every scrap of the Nabob's writing had been carefully preserved, no trace could be found of the "account in the handwriting of the Nabob" spoken of in X? As to T, I contended that looking at the contradictory evidence as to the handwriting of the endorsement, the absence of evidence which, if the fact were so, might easily have been given, showing that the Bhow Begum had ever had it, or that the Dewan had received it from the Nabob, it would be most dangerous for the Court to accept it as evidence of the possession by claimant's mother of so enormous a sum as 9 lakhs of Rupees, which her son confessed himself utterly unable to trace or account for; and I added that, if the Court could believe in the existence of these 9 lakhs, and their possession by the claimant's mother at that time, tallying as it did so exactly with the time of Ghoolam Moortooza Khan's disgraceful insolvency in July 1843, and the disappearance of 50 lakhs of Rupees, he keeping no accounts, and giving up to his creditors only some old stools and crockery, it must as against him (until he either did give a proper account of those 50 lakhs, or show whence his mother got the 10 lakhs he now said were hers) come to the conclusion, that, *if* she got them, she got them from the only possible source which had been shown to the Court, namely out of the 50 lakhs of which her son the claimant had defrauded his creditors, and swore he had no accounts to shew what had become of them, that it was bound to presume everything against an Insolvent setting up such a case, and that no Court would assist him in recovering money acquired by such fraud.

36. As for anything the Nabob ever said, wrote, or did, I urged that after the proofs given of his habitual dissimulation and falsehood, the Court must regard it all with grave suspicion, and as the very reverse of satisfactory proof of the truth of anything he might have asserted or admitted: that Act 30 of 1858, expressly provided that his mere acknowledgments, however full, express and complete, were to go for nothing unless so far as the Court was satisfied that he had actually received, wholly or in part, the sums therein mentioned; that his Promissory Note, C, for 7 lakhs, was open to many explanations; it might be, as in the case of his Promisscry Notes given through Ghoolam Moortooza Khan to Mr. Maclean, that he wrote it merely *intending* to raise money on it but had been unable to do so, and had forgotten to demand it back from Ghoolam Moortooza Khan, or it was very possible and probable, looking to his great intimacy from childhood with Ghoolam Moortooza Khan, their near relationship, and the extent to which the Nabob, his mother and grandmother had shared in Ghoolam Moortooza Khan's profuse expenditure before his insolvency, that the Nabob wished and meant to extricate Ghoolam Moortooza Khan from the grasp of his creditors; but, not wishing to avow the truth openly, lest Government should hear of it and demand explanation, tried to effect his object under cover of a pretended debt. C, might have been given to Ghoolam Moortooza Khan's mother as a security that the Nabob would perform some promise of paying Ghoolam Moortooza Khan's debts. So long as all these explanations were possible, and the Court had no proof of the existence of the many lakhs of Rupees now claimed, beyond paper writings of this dubious character, it could not say it was proved that the Nabob had actually received the 11 lakhs put forward as the basis of the present claim, and unless the Court believed he had actually received them, in ready money, the claimant could not recover.

37. In conclusion, I proved from the Dufters and by cross examination that Ghoolam Moortooza Khan had received lakhs upon lakhs of Rupees from the Treasury by order of the Nabob; and

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that, giving him credit for every Rupee that the Dufters showed him to have accounted for, there remained above 6½ lakhs of Rupees of which no account could be found, and of which he admitted, in the witness-box, he could give no account beyond saying that he had paid away every sum as he received it according to the Nabob's order; and I showed that this amount, together with the 7 lakhs for which the Nabob had issued Bonds which he and Government had since paid, far more than extinguished the debt now claimed, even if believed to have been a genuine one, for which full consideration had been given. It was urged in reply that if there had been default on the part of Ghoolam Moortooza Khan to any large extent, there would have been some complaint on the Nabob's part, some demand for an account. I admitted this, but pointed to the letters (Nos. 2 & 3) as shewing just such a complaint, and demand for an account, by the Nabob, and urged that the account now given of these letters, namely that they were a mere sham, to deceive the Soucars and the Government, was not to be believed on such slight evidence as had been adduced. I added that it was not necessary for the Court to say anything more than that it was for the claimant to prove his case—to prove either that the Nabob actually received the many lakhs of Rupees said to have been deposited by claimant's mother, or at least that claimant's mother had the means of advancing such sums, and to produce some account of the transaction in some known handwriting, and traced to the proper custody; that if the claimant failed in all these points the Court could only say that his claim had not been proved to its satisfaction.

38. I had written so far before knowing what Judgment the Court would deliver, or how far it would allow any part of the claimant's claim.

39. Judgment has been delivered this morning, the 14th December, and it affords me much gratification to be able to inform Government that the Court has upheld nearly all the objections I took to the claim of 12 lakhs in part I. of the particulars, and has disallowed the whole, and with costs. Of the second part the Court has allowed the 2nd item, and part of the 1st, altogether Rupees 81,715-4-6, with Interest and costs of proving it.

40. I now forward this report without waiting for a copy of the written Judgment, which I shall forward as soon as I obtain it.

APPENDIX.

CLAIMANT'S EXHIBIT B.

Submitted by MOOMTAZOOL MOOLK BAHADOOR.
ABDOOL WAHAB.

MEMO.

Account of balances due up to 31st December 1847.

				Rs.	A.	P.
Former balance without voucher.....				2,00,000	0	0
As per Vouchers.						
	Rs.	A.	P.			
As per one voucher dated 10th January 1846, payable on the 31st December 1846.....	7,00,000	0	0			
Do. dated 20th January 1847, payable on the 31st December 1847.....	1,00,000	0	0			
Do. dated 20th January 1847, payable on the 31st December 1847.....	1,00,000	0	0			
Do. dated 5th February 1847, payable two months after date.....	50,000	0	0			
Do. dated 6th February 1847, payable three months after date.....	50,000	0	0			
Do. dated 6th February 1847, payable twelve months after date.....	50,000	0	0			
				10,50,000	0	0

Balance due up to the end of December 1846, without vouchers.						
On one occasion on account of the item of Rajah Coondun Laul	45,000	0	0			
Paid to His Highness on different occasions	55,000	0	0			
				1,00,000	0	0
				13,50,000	0	0
Sundries.						
Interest for the above said former balance of the last year being the sum of two lacs of Rupees	24,000	0	0			
Interest for the following vouchers:						
Interest for the said voucher of 7 lacs of Rupees was 84,000 Rupees, but 42,000 Rupees being paid in part last year, the balance is	42,000	0	0			
Interest for the said voucher of 50,000 Rupees dated 5th February 1847, commencing from the 5th April up to the end of December 1847, being 8 months and 26 days at the rate of 500 Rupees per mensem	4,433	5	3¾			
Interest for the said voucher of 50,000 Rupees dated 6th April 1847, commencing from the 6th April up to the end of December 1847, being 8 months and 25 days at the rate of 500 Rupees per mensem	4,416	10	8¼			
Interest for one lac of Rupees, the balance of the last year up to the end of December 1846	12,000	0	0			
On account of Cotadia Nunel Laul, &c.,	8,150	0	0			
For the expenses of the Ramzan feast day	1,000	0	0			
For the value of horses purchased from the stable of Mr. Taylor, &c., through Nadeemood Dowlah, together with the interest and Court cost	3,625	3	1			
Rent of the College House for 5 months at the rate of 175 Rupees a month	875	0	0			
For the value of House purchased from Mr. Arathoon.	400	0	0			
For the value of 2 Horses purchased	1,000	0	0			
Two Watches together with its chains, &c	840	0	0			
For the liquidation of the Bond connected with the Durbar Meer Sawmaney Department	1,050	0	0			
To Mr. Miller as per his account for utensils, &c. purchased	4,666	8	0			
Remitted to His Highness at the time of night to Ennore	400	0	0			
				1,08,856	11	1
				14,58,856	11	1

Received from Moomtazool Moolk Bahadoor on the 27th January 1848.

CLAIMANT'S EXHIBIT, C.

MADRAS, 10*th January* 1846.

On the 31st December next I promise to pay to John Arathoon, Esquire, or order, the sum of seven hundred thousand Rupees for value received.

Co.'s Rupees 7,00,000-0-0

MAHMUD GHOUSE.

Endorsements on C.

Payments by the Istaffa Cutcherry.

(4th Zeekhada 1267) 1st September 1851, as per "Havalas" of Soucars, &c. Rs. 6,00,000
(11th Zeekhada 1268) 27th August 1852, as per "Havalas" of Fakeer Saib „ 1,00,000

* CLAIMANT'S EXHIBIT, N.

MY GRACIOUS MASTER,

MAY GOD PROLONG YOUR SUBLIME SHADOW,

As much as I your devoted servant am engaged in well-wishing and zealously employed in obeying the order of your Highness, so much your Highness also is equally disposed to forget my rights, your Highness has entirely effaced from your magnanimous heart all my services. I your devoted servant am very much surprised at your Highness' treatment, particularly in the matter of mortgaging Moortoozah Pettah. I your devoted servant had never at any time hoped of your Majesty in this manner. To address more is to transgress the bounds of respect.

The Petition of Ghoolam Moortooza, 5th Shaban of the Hijree year 1271, (23rd April 1855).

† CLAIMANT'S EXHIBIT, O.

GOD.

MY RESPECTED SIR,

In conformity with the order of His Illustrious Highness, I beg to inform your honor, in reply to your Petition, that out of the sum of nine lacs of Rupees which belonged to the mother of your Honor and which was at different times deposited in the presence of His Highness in charge of the respected mother of His Highness, a sum of seven lacs of Rupees was, on one occasion, applied to her use by the respected mother of His Highness, and a bond was thereupon given for it by His Highness with his signature under date the tenth day of the month of January of the year of Christ 1846. According to the consent of your creditors, bonds of the Istafa Cutcherry, payable by instalments of five Rupees per annum, were caused to be issued to them; but, after liquidating the principal money of these bonds to the creditors of your Honor, the same instalment shall be paid to your Honor until the interest thereon shall be discharged at the rate of eight Annas per cent. per mensem from the day on which the bond was drawn under the signature of His Highness. With reference to the account sent by your Honor to the Istafa Cutcherry, exhibiting the former balance of two lacs of Rupees, for which no document was issued, I beg to inform your Honor that this amount was applied by His Highness to his own use, and that His Highness will cause documents and instalments to be issued to your Honor on account of the same. Besides this, the late respected mother of His Highness had received a sum of one lac of Rupees, by way of loan from the mother of your Honor, in discharge of which a sum of thirty-eight thousand Rupees was paid to your Honor by monthly instalments of two thousand Rupees, until the life-time of the respected mother of His Highness; and afterwards Madar-ool-Oomrah Bahadoor, was directed to continue to pay the same instalments until the liquidation of the remaining sixty-two thousand Rupees. Besides this, a sum of thirty thousand Rupees was at the same time received through the means of your Honor by the respected mother of His Highness (out of the amount of the arrears of the stipend of the late Hissam Ool Moolk) from his middle son namely the late Zoolfacur Ood Dowlah. His Highness will discharge the same. Besides this, a sum of two lacs of Rupees which was, one year previous to the Coronation of His Highness, deposited with great secrecy with the respected mother of His Highness, by the respected grandmother of His Highness, namely the Nabob

* This letter was addressed by the claimant to the Nabob, and it is pretended that the next Exhibit, O, was written by order of the Nabob as an answer to this letter; but, on comparing the tenor of the two, it will appear at once that there is nothing in this letter at all calculated to elicit such a detailed statement,—especially the parts referring to transactions which, as Ghoolam Moortooza Khan is said to know them well, there could be no object in mentioning to him, except in order to use the whole letter as evidence.

† This is the pretended answer to N.

Begum Sahib, who had brought you up and who had deposited it for your use like your mother, was also at the same time applied by His Highness to his own use. Documents and instalments will be caused to be issued to your Honor for the same the omission of this item in the account sent by your Honor to the Istafa Cutcherry, was, it is believed, owing to the ignorance of your Honor respecting this matter. You have written in your Petition to His Highness that His Highness has altogether forgotten your transaction but, since a transaction of which you were not aware has been made known to you, it is manifest that His Highness has not forgotten your transactions. Besides this a sum of one lac and fifty thousand Rupees, being the debt of Mr. Maclean, which was on one occasion advanced to His Highness without any document, stands payable. Besides this, with regard to the amount of twenty-five thousand Rupees, which was also received on another occasion by His Highness without any document, His Highness recollects that this sum was procured by the said gentleman from a lady who was his relative, and paid to His Highness. His Highness had in your presence mortgaged to Pondicherry Appasawmy Pillay certain ornaments together with their list for the sum of fifty thousand Rupees, and had given to the said Pillay a bond for fifty thousand Rupees under his own signature. The said ornaments are not, up to this time, returned to His Highness, although two instalments were paid from the Istafa Cutcherry; he may perhaps return them on the payment of the full amount. How has the bond of fifty thousand Rupees which was given on account of the debt of Gridhur Doss fallen into the hands of the said Pillay? The respected mother of His Highness ordered His Highness to give up to your Honor the premises occupied by your Honor together with shops &c. situated in Moortooza Pettah. The proceeds of which had been paid only to your Honor, and so, as usual, your Honor is in possession of the said property, and the proceeds thereof. Although His Highness has of late through his necessity been obliged to mortgage them, yet immediately on the receipt of the next Punjum Hissa, His Highness will redeem it, and having caused the paper of Trust of property to be prepared, according to the rule of Court, have the same given to you. The proceeds thereof which have been up to this time paid to your Honor will be in the same way paid to your Honor without any failure.

By Order.

(11*th Shaban Hijree* 1271,)
29th April 1855. (Signed) MOORTOOZA,
Private Secretary.

Be this honored in the presence of Moomtazool Moolk Bahadoor. May his bounty be perpetuated.

CLAIMANT'S EXHIBIT, S.

GOD.

MEMORANDUM.

Account of Moobadala, or temporary loans, received from Her Highness the Mahali Auliya (or the Nabob's mother) for conducting the affairs of the bountiful Circar.*

* *January* 1843. In the month of Zehij of the Hijree year 1258* for the expenses of the feast called Yid-ooz-Zoha and for other purposes, Rupees three thousand..... Rs. 3,000

† *February* 1843. In the month of Sacred Mohurrum in the Hijree year 1259† for the purpose of paying to Begum Sahiba Khoodsia (or the Nabob Begum) and it was paid to the said Begum through Mr. Batley, Rupees two thousand..... Rs. 2,000

‡ *March* 1843. In the month of Suffar-ool-Moozuffer of the Hijree year 1259‡ for sending to Mr. Lewis and others, Rupees four lakhs one thousand and nine-hundred..... Rs. 4,01,900

Again in the month of Suffar-ool Moo-

* These lines are said to be in the Nabob's handwriting.

* *March* 1843. zuffer of the Hijree year 1259* for the expenses of the month of Rubbee-ul-Awul, Rupees three thousand..... Rs. 3,000

On account of Moobadala (or temporary debt) of Nadeem-ood-Dowlah Bahadoor which stands payable from the Circar to Begum Saheba, Rupees one thousand..... Rs. 1,000

† 1*st April* 1843. Again on the last† day of the said month and year of Hijree 1259 for the expenses of offerings, &c., Rupees two thousand and seven-hundred and thirty-two. Rs. 2,732

‡ *2nd April* 1843. Again on the first‡ day of the month of Rubbee-ul-Awul of the Hijree year 1259 for the expenses of the said month, Rupees one thousand..... Rs. 1,000

§ *2nd May* 1843. Again on the first§ day of the month Rubbee-ul-Awul of the Hijree year 1259, Rupees two thousand five hundred..... Rs. 2,500

|| *4th June* 1843. On the fifth|| day of the month of Jamadee-ul-Awul of the Hijree year 1259 for repairing the building called Kalus Mahul &c., Rupees one thousand... Rs. 1,000

Again,—Rupees one thousand..... Rs. 1,000

¶ *28th July* 1843. Again on the 29th¶ day of the month of Jamadee-ul-Awul of the Hijree year 1259, Rupees two lakhs and three thousand..... Rs. 2,03,000

Again,—Rupees five thousand..... Rs. 5,000

CLAIMANT'S EXHIBIT, T.

The money deposited by the mother of Ghoolam Moortooza with Mahali Auliya** (or the Nabob's mother.)

* *22nd September* 1842. On the sixteenth* day of the month of Shaban of the Hijree year 1258 in notes,—Rupees two lacs and fifty thousand.

†11*th January* 1843. On the ninth† day of the month of Zehij of the Hijree year 1258, in notes,—Rupees four lacs and fifty thousand.

‡ *22nd January* 1844. On the first‡ day of the month of Mohurrum of the Hijree year 1260 in notes,—Rupees two lacs.

Total Rupees nine lacs.

(On the back of the paper.)

|| 23*rd January* 1846. This account was received from the mother of Moomtaz-ul-Mulk on the 16th|| day of the month of Suffer of the Hijree year 1264.

CLAIMANT'S EXHIBIT, U.

* *22nd January* 1844. The money deposited by the mother of Moomtaz-Ool-Moolk with Mahali Auliya (or the Nabob's mother) on the first* day of the month of Mohurrum of the Hijree year 1260 in notes,—Rupees two lacs.

The account of the amount borrowed by His Highness the Nabob out of this money.

† 15*th March* 1844. On the twenty fifth† day of the month of Suffur of the Hijree year 1260,—Rupees thirty-two thousand.

** There was conflicting evidence as to whether these lines were or were not in the Nabob's handwriting.

* *20th March* 1844. On the thirtieth* day of the month of Suffur of the Hijree year 1260,—Rupees one lac and forty-five thousand.

† *1st April* 1844. On the twelfth† day of the month of Rubbee-ul-awul of the Hijree year 1260,—Rupees twenty thousand.

‡ *4th April* 1844. On the fifteenth‡ day of the month of Rubbee-ul-awul of the Hijree year 1260,—Rupees three thousand.

CLAIMANT'S EXHIBIT V.

The money deposited by Her Highness the Nabob Begum Sahiba with Mahali Auliya (or the Nabob's mother) for the use of Moomtaz ool Moolk on the

* *4th September* 1841. seventeenth* day of the month of Rujjub of the Hijree year 1257 in Notes and Gold Mohurs,—Rupees two lacs.

Account of the amount borrowed by His Highness the Nabob out of this money.

† *14th April* 1844. On the twenty-fifth† day of the month of Rubbee-ul-awul of the Hijree year 1260,—Rupees three thousand and five hundred..... Rs. 3,500.

‡ *11th June* 1844. On the twenty-fourth‡ day of the month of Jamadee-ul-awul of the Hijree year 1260,—Rupees five thousand..... Rs. 5,000.

§ *8th July* 1844. On the twenty-first§ day of the month of Jamadee-u-sance of the Hijree year 1260,—Rupees twenty-two thousand and seven hundred..... Rs. 22,700.

|| *7th September* 1844. On the twenty-third|| day of the month of Shaban of Hijree year 1260,—Rupees six thousand and seven hundred..... Rs. 6,700.

¶ *8th October* 1845. On the fifth¶ day of the month of Shaval of the Hijree year 1261,—Rupees three thousand... Rs. 3,000.

* *15th December* 1845. On the fifteenth* day of the month of Zehij of the Hijree year 1261,—Rupees five thousand... Rs. 5,000.

† *25th January* 1846. On the twenty-seventh† day of the month of Mohurrum of the Hijree year 1262,—Rupees three thousand..... Rs. 3,000.

‡ *11th February* 1846. On the fourteenth† day of the month of Suffur of the Hijree year 1262,—Rupees twenty-four thousand nine hundred and eighty-five..... Rs. 24,985

§ *14th February* 1846. On the seventeenth§ day of the month of Suffur of the Hijree year 1262,—Rupees eight thousand... Rs. 8,000.

|| *17th February* 1846. On the twentieth|| day of the month of Suffur of the Hijree year 1262,—Rupees two thousand... Rs. 2,000.

¶ *11th March* 1846. On the twelfth¶ day of the month of Rubbee-ul-awul of the Hijree year 1262,—Rupees two thousand..... Rs. 2,000.

* *15th March* 1846. On the sixteenth* day of the month of Rubbee-ul-awul of the Hijree year 1262,—Rupees one thousand..... Rs. 1,000.

† *25th March* 1846. On the twenty-sixth† day of the month of Rubbee-ul-awul of the Hijree year 1262.—Rupees three thousand..... Rs. 3,000.

‡ *7th April* 1846. On the tenth‡ day of the month of Rubbee-u-sanee of the Hijree year 1262,—Rupees ten thousand..... Rs. 10,000.

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* *12th August* 1846. On the nineteenth* day of the month of Shaban of the Hijree year 1262,—Rupees seven thousand.. Rs. 7,000.

† *12th September* 1846. On the twentieth† day of the month of Ramazan of the Hijree year 1262,—Rupees two thousand and five hundred..... Rs. 2,500.

‡ *6th October* 1846. On the fourteenth‡ day of the month of Shawal of the Hijree year 1262,—Rupees fifteen thousand..... Rs. 15,000.

§ *19th December* 1846. On the twenty-ninth§ day of the month of Zehij of the Hijree year 1262,—Rupees five hundred.... Rs. 500.

|| *25th January* 1846. On the seventh|| day of the month of Suffur of the Hijree year 1263,—Rupees forty-five thousand. Rs. 45,000.

¶ *7th March* 1847. On the nineteenth¶ day of the month of Rabbee-ul-awul of the Hijree year 1263,—Rupees two thousand..... Rs. 2,000.

* *24th May* 1847. On the eighth* day of the month of Jamadee-u-sanee of the Hijree year 1263,—Rupees two thousand..... Rs. 2,000.

† *31st May* 1847. On the fifteenth †day of the month of Jamadee-u-sanee of the Hijree year 1263,—Rupees three thousand and five hundred..... Rs. 3,500.

‡ *5th June* 1847. On the twentieth‡ day of the month of Jamadee-u-sanee of the Hijree year 1263,—Rupees two thousand..... Rs. 2,000.

§ *15th June* 1847. On the first§ day of the month of Rujjub of the Hijree year 1263,—Rupees one thousand..... Rs. 1,000.

|| *24th July* 1847. On the tenth|| day of the month of Shaban of the Hijree year 1263,—Rupees nineteen thousand and six hundred and fifteen..... Rs. 19,615.

CLAIMANT'S EXHIBIT W.

The amount received as Moobadala (or temporary debt) on the

**27th November* 1846. seventh* day of the month Zehij of the Hijree year 1262, by Her Highness Mahali Auliya (or the Nabob's mother) from the mother of Moomtaz-ool-Moolk, to be re-paid by instalments of two thousand Rupees,—Rupees one lac.

(On the back of the paper.)

† 1848. The instalment of two thousand Rupees a month on account of this money, was issued from the Hijree year 1264.†

CLAIMANT'S EXHIBIT X.

The amount deposited by the mother of Moomtaz-ool-Moolk, with Her Highness Mahali Auliya (or the Nabob's mother.)

* *22nd September* 1842. On the sixteenth* day of the month of Shaban of the Hijree year 1258, in Notes,—Rupees two lacs and fifty-thousand.

† *11th January* 1843. On the ninth† day of the month of Zeehijja of the Hijree year 1258, in Notes,—Rupees four lacs and fifty-thousand.

Total Rupees seven lacs.

Account of the amount borrowed by His Highness the Nabob out of this money as per account in the handwriting of the Nabob,—Rupees six lacs, twenty-seven thousand, one hundred and thirty-two.

* *3rd August* 1843.

† *6th September* 1842.

‡ *13th September* 1843.

§ *18th October* 1843.

|| *20th October* 1843.

¶ *7th November* 1843.

* *1st December* 1843.

† *14th December* 1843.

‡ *6th January* 1844.

On the fifth* day of the month of Rujjub of the Hijree year 1259,—Rupees twenty thousand.

On the tenth† day of the month of Shaban of the Hijree year 1259,—Rupees thirty thousand, two hundred and forty-eight.

On the seventeenth‡ day of the month of Shaban of the Hijree year 1259,—Rupees eight thousand.

On the twenty-third§ day of the month of Ramazan of the Hijree year 1259,—Rupees nine thousand one hundred and twenty.

On the twenty-fifth|| day of the month of Ramazan, Hijree year 1259,—Rupees two thousand.

On the fourteenth¶ day of the month of Shawal of the Hijree year 1259,—Rupees six thousand.

On the eighth* day of the month of Zekad of the Hijree year 1259,—Rupees six thousand and five hundred.

On the twenty-first† day of the month of Zekad of the Hijree year 1259,—Rupees one thousand.

On the fifteenth‡ day of the month of Zehij of the Hijree year 1259,—Rupees seven thousand.

On account of this money an English Note-of-hand (C) has been obtained with the signature of the Nabob.

GOVERNMENT EXHIBIT, No. 1.

GOD.

MOOMTAZ-OOL-MOOLK BAHADOOR.

SIR,

Agreeably to the order of the President and other Members belonging to the Istafa Cutcherry, I beg to represent that His Illustrious Highness has made an order to call upon you for an account of debt contracted through your means (respecting which an abstract account has been furnished) in full detail, that is to say, from the year of His Highness' Installation up to the present time, so much is on account of the ready cash debt, so much on account of the purchase of goods, of which so much is paid in part, and so much is the balance; and to what kind of expenses the ready cash money was supplied; I beg therefore to represent to you that you will get the said account written down according to the above stated detail, and dispatch it. If there be anything to say about this matter please communicate it by writing.

(27th Suffer 1264,)
3rd February 1848.

(Signed) GHOLAM MAHOMED,
Moonshy of the Istafa Cutcherry.

GOVERNMENT EXHIBIT, No. 2.

GOD.

MOOMTAZ-OOL-MOOLK BAHADOOR,

MY RESPECTED SIR,

I enclose for your Honor's inspection a copy of the order of His Highness and intimate that although the accounts of the dealings of the Circar which concerned us are prepared and kept ready, yet in consequence of the accounts concerning your Honor being not known, and the Notes being not received, it is impossible to forward them to His Highness. This is the result of your Honor's negligence, I therefore request that your Honor will soon send the accounts which concerned you together with the additional Notes-of-hand, the consideration of which was not received by us, and also the Notes-of-hand, which though discharged, have not been returned, so that we may avoid and get rid of the objections of the Circar; it is certain that your Honor will never suffer us to be exposed to any indignity or affront. Dated the 21st Zehij 1271,
(4th September 1855.)

(Signed) GHOLAM MAHOMED.

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GOVERNMENT EXHIBIT, No. 3.

GOD.

MOOMTAZ-OOL-MOOLK BAHADOOR.

MY RESPECTED SIR,

I have not as yet received any answer to my letter, dated the twenty-first instant, neither the accounts nor Notes-of-hand have been received. As there remains only a short time for the expiration of the time allowed by His Highness, I am uneasy about this, and intimate that you will soon send the accounts and Notes-of-hand, so that we may not be put to shame on your Honor's account; it is certain your Honor will never suffer us to be put to shame. I am in a strange dilemma and unless I make myself acquainted with your accounts, I cannot forward my accounts to His Highness though they are ready prepared, because our accounts are connected with those of your Honor; it is chiefly owing to your Honor that we have been blamed.

28th Zeehij 1271, 11th September 1855.

GHOLAM MOHUMMUD.

GOVERNMENT EXHIBIT, No. 12.

GOD.

From the Nabob to the Members of the Istifa Cutcherry.

GENTLEMEN,

In answer to your letter bearing this day's date, it is written, that, certainly, the matter of Moomtaz-ool-Bahadoor, in consequence of there being no satisfactory documents shewing the receipts and balances, &c., so as to afford entire satisfaction to you, the Members, has no right to obtain a speedy and complete settlement. Nevertheless it seems to me just and proper that, for the present, the settlement of the money that stands payable by my deceased Auliya, (or Highness) that is to say six lacs of Rupees, which is a part of the money mentioned in the Bond of seven lacs of Rupees, now remaining with the said Bahadoor, should one way or other be made in the first instance, in order that she may not be subjected to any demand or caption in the day of resurrection, which in my opinion, and according to my religion, is worst of all things. After this, respecting other matters of the said Bahadoor, any thing that is to be done will be done in accordance with the rules of those gentlemen.

What more shall I trouble you with?

The servant of people,
MOHUMMUD GHOUS,
May God pardon him.

27th Shawal 1267.
26th August 1851.

JUDGMENT.

The claim of Ghoolam Mootooza Khan (so far as relates to the 3 items of the 1st part of his particulars) is quite different from any of the previous claims which have been preferred under Act 30 of 1858. He does not represent that he himself personally advanced to or for the Nabob any portion of the several items of 9 lacs, 2 lacs or 1 lac, or that he was a party to the original transaction, whatever it was, upon which in any way those sums reached the Nabob's hands. As to all of them his case is that the money was received by the Nabob from his own mother Enoyet Oonissa, and that Enoyet Oonissa received the 2 lacs from the grandmother of the Nabob, and the 2 items of 9 lacs and 1 lac from the mother of the claimant, but he relies on the Nabob's admission that he not only received and spent the money, but that he was willing to pay the claimant.

This part of the case it must be acknowledged rests entirely on the Nabob's admission, or statements in the nature of admissions; no witness who has been examined professes to have any personal knowledge of the transactions (material to this case) between the claimant's mother and the Bhow Begum, or between the Nabob Begum and the Bhow Begum, or between the Bhow

Begum and the Nabob. But the evidence relating to those transactions is to be found in statements made by the Nabob himself, either verbally or in writing, or, if made by others, supposed to have been communicated to and acquiesced in by him.

The Advocate General seemed to consider this a fatal defect in the claimant's case, and he referred to the language of the Act, "such debts as shall be *proved* to have been fairly and justly contracted by the said Nabob," as indicating the intention of the Legislature to require some independent proof, and as equivalent to a declaration that the mere statements and admissions of the Nabob should not bind his estate. But I cannot concur in that view, for statements made by the Nabob, as they would be evidence against himself in any proceedings to which he was a party, so they are evidence against those who in these proceedings must be considered as representing his estate—and though certainly not to be regarded by any means as conclusive of the facts stated, yet seem to me entitled to be very carefully weighed and considered, with reference to the circumstances and probabilities of each case. Assuming however, that a case may be proved by admissions of the Nabob, or statements in the nature of admissions, it is necessary of course to examine the evidence by which the alleged admissions are said to be proved in the particular case; as also to consider what degree of reliance is to be placed upon the statements made; and whether the admissions if satisfactorily proved are sufficient to make out a case.

In this case the situation of the claimant also is peculiar. He was a relation and close friend of the young Nabob—brought up by the Nabob's grandmother, and not only on terms of personal intimacy with both, as well as with the Nabob's mother—but the confidential agent of all three in numerous pecuniary transactions. 1st, as regards the item of 9 lacs the case is—that the claimant's mother deposited that money with the Nabob's mother who lent it to her son the Nabob, and the evidence is this:—The claimant states that he received information respecting that money from his own and the Nabob's mother a short time before the establishment of the Istifa Cutcherry (i. e. in 1848), receiving at the same time from his mother the Note (marked C.) for 7 lacs, in the name of Arathoon, and dated 10th January 1846—that upon his taking that Note to the Nabob, the latter confessed that the 7 and 2 lacs were payable by him, saying that he received the money from his mother, and spent it away, that the claimant told the Nabob that he had received information from his mother that she had deposited 9 lacs, with the Bhow Begum for which the paper for 7 lacs was given, and that the Bhow Begum had told her that the Nabob had taken 2 lacs and spent it away, whereupon the Nabob said it is right, I will pay the money to you.

This was in 1848, and before the account B, in which the 7 lacs Note, and a sum of 2 lacs as "a former balance without any document" are mentioned but without giving any particulars was sent into the Istifa Cutcherry. Nothing however appears to have been done towards the settlement of that account until 1851, when the house of the claimant (who took the benefit of the Insolvent Act in 1843) was seized by the Official Assignee; and when, at the request of this claimant, the urgent letters of the Nabob to the Istifa Cutcherry of the 14th and 15th August marked I and II, were written, containing the words "his accounts are true and correct;" about that time the claimant states, that he told the Nabob "I wish you to pay these 7 lacs to my creditors and release me from this scrape;" in reply to which the Nabob said "very well" and on 26th August, a letter (marked No. 12) was written for a certain purpose, as Terazish Khan says, viz., that the Nabob might not get a bad name with Government, and in lieu of another letter, of which the Istifa Cutcherry disapproved, in which the Nabob says to the Istifa Cutcherry "in consequence of there being no satisfactory documents he (that is claimant) has no right to a "speedy and complete settlement; nevertheless, it appears to me just and proper, that, for the pre- "sent, the settlement of the money *that stands* payable by my deceased Aulya, that is to say 6 "lacs, which is a part of the money mentioned in the bond for 7 lacs now remaining with the said "Bahadur, should one way or other be made in the first instance, in order that she may not be "subject to any demand or caption on the day of resurrection." After this, respecting other "matters, anything that is to be done in accordance with the rules of those gentlemen will be "done." Accordingly 6 lacs were paid by the Istifa Cutcherry on 1st September 1851, and another lac 28th August 1852, to the claimant's creditors; and those payments were endorsed on the Note C. Further the claimant states that in 1855 on the occasion of the Nabob's mortgaging the house

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in which the claimant lived, and which the Nabob's mother had given to him, he wrote (23rd April) the letter of complaint marked N and in reply received the letter O, which is signed by the Private Secretary and dated April 29th.

Both Salar Ool Moolk and Ghoolam Mahomed speak to the fact that the Nabob dictated that letter and directed the copy of it (Q) to be made and secured amongst the dufters, but they do not profess to have any personal knowledge of the matters in question to which it refers; and the claimant states that after receiving O, he had an interview with the Nabob at which the Nabob expressed himself much ashamed about the mortgage; made many apologies, and said he would pay the claimant every bit of the debt he owed him; but I do not find that to this item of 9 lacs any special reference was made by the Nabob at that interview.

The document O, however is not silent upon the subject. It contains this statement that "out of the sum of 9 lacs of Rupees, *which belonged to the mother of your Honor* and which was "at different times deposited in the presence of His Highness in charge of the respected mother "of His Highness a sum of 7 lacs was on one occasion *applied to her use* by the respected "mother of His Highness, and a bond was thereupon given for it by His Highness with his "signature under date 10th January 1846, according to the consent of your creditors Istifa "Cutcherry Bonds were caused to be issued to them. After liquidating principal to the creditors "the same instaiments shall be paid to your Honor until the interest thereon shall be discharged "at the rate of 8 Annas per cent. per mensem. With reference to the account sent by your "Honor to the Istifa Cutcherry exhibiting the former balance of 2 lacs, for which no document "was issued, I beg to inform that this amount was applied by His Highness to his own use, "and His Highness will cause documents and instalments to be issued to your Honor on "account of the same"—a very specific recital assuredly of the whole matter, as it had been previously represented to the claimant and acknowledged by the Nabob in 1848.

But there are also 4 other documents to be considered with reference to this item of the claim. I mean the documents marked S, T, X, U.

Of these, S alone is shewn to be in the handwriting of the Nabob. That is a Memorandum of money borrowed by the Nabob of his mother on 12 different occasions between January and July 1843 and amounting in all to 6,27,132 Rupees.

The other 3 documents were found in a bundle of papers produced by the Government from amongst the records of the Chepauk Palace, which bundle also contained S, and the documents marked V and W, together with a very miscellaneous collection of old Memoranda, Bills and Petitions, some in Persian, some in English, some addressed to the Begum, some to the Nabob. They are introduced into this case as Begum's papers, communicated to and adopted by the Nabob, there being some evidence (that given by Terazish Khan) that a few papers of the Nabob's mother did come from the Nabob to the Dewan with a letter, and were secured amongst the Treasury dufters, but when or by whom they were written, or when sent to the Treasury, does not appear.

However, when examined and put together, those six documents do coincide in a remarkably exact manner with the account of these matters given in the document O. and with the 1st part of the claimant's particulars and they relate exclusively to the transactions in respect of which that part of the claim is founded. T. (according to the endorsement on it) purports to be an account received from the claimant's mother on the 23rd January 1848, of money deposited by her with Mahali Aulya to the amount of 9 lacs,

i. e. on 22nd	September 1842	2,50,000
11th	Junuary 1843	4,50,000
22nd	do. 1844	2,00,000

And the whole expenditure of this 9 lacs is accounted for in the documents X and U; X. repeats the statement in T. as to the deposit of 7 lacs on the 22nd September 1842 and 11th January 1843, and then proceeds to show that the whole was expended in loans to the Nabob thus: 1st as per account in the handwriting of Nabob (referring evidently to the document S) Rupees 6,27,132; then follow 9 items commencing 3rd August 1843; and ending 6th January 1844, forming a total of 72,868 Rupees; this Memorandum is added "on account of this money an

English Note has been obtained with the signature of the Nabob"—alluding evidently to the Note C, which bears date 10th January 1846. U accounts for the remaining two lacs in a similar manner; repeating the statement in T. as to the deposit of two lacs on 22nd January 1844, and accounting for the expenditure of it by 4 loans to the Nabob of 32,000 on the 15th March 1844, 1,45,000 on the 20th March 1844, 20,000 on 1st April and 3,000 on the 4th of the same month. The documents V and W relate to the other items of the claimant's case, *viz.*, 2 lacs, and one lac. Further, so far as these documents afford evidence of the fact that the Nabob received money from his mother, they derive corroboration to some extent from the dufters of Seenevassa Row and Tej Bahn, in which are to be found some entries of receipts of money from the Nabob into the Treasury, or the Meersamany Hoozoor department, corresponding in date and amount with many of the items in it and U and V. There is also the evidence of Tej Bahn, as to the sum of 1,45,000 mentioned in U, and that of Sooradjee Lall as to 45,000 (in V) being brought by the Nabob out of his mother's palace.

But the real importance of these documents to the claimant's case, is the connection which they establish, if they can be relied on, between the loans by the Nabob's mother to her son, and the deposit of money by the claimant's mother with her; and in that respect the dufters of course do not corroborate them at all.

Nor indeed does S, the only one of 6 documents which is in the handwriting of the Nabob.

It is natural to ask what means of her own claimant's mother had to enable her to lend to the Nabob's mother such large sums as are mentioned in T; 9 lacs in 16 months, to say nothing of one lac 2 years after, and about 2 lacs given to her son some time before her death. But on this subject the evidence is a perfect blank. Even the claimant has no account to give of it, except that she concealed her property from him on account of his extravagance. All that we hear is that she was a lady with a pension of 280 Rupees a month, whilst the lady to whom she is supposed to have advanced so largely was in the receipt of a pension which increased from 3,000 to 5,000 and from 5,000 to 12,000 a month.

I believe, I have now adverted to all the evidence which exists in the case in support of this item of 9 lacs, but upon a review of the whole of it, I cannot bring my mind to such a degree of reasonable certainty that the document O, and the documents T, X, and U, contain the *real* history of these transactions, as alone would justify me in acting upon them as proof of the claimant's case. T, X, and U, are certainly not entitled to the weight which is generally due to accounts appearing to have been regularly kept, and in which entries are made of transactions as they occur. I cannot forget that in regard to these transactions we are dealing with the secrets of the palace; for it is (according to the claimant) the Nabob himself who in 1848 desires that no additional details (beyond the bare mention of amount given in B, with the name of Arathoon attached to a transaction with which he had nothing to do) should be supplied to the Istifa Cutcherry; and who, in 1855, extracts from the claimant the promise that no mention is to be made of the affairs of the grandmother's deposit. I think it tolerably certain that the claimant had knowledge of the existence of those documents (supposed to have come from the Kullandan of the Begum) before his claim came on, though the Officers of Government had not; but when or how that knowledge of their existence was acquired we know not, any more than we know when, or for what purpose, or under what circumstances, or by whom, any of them were written. Further, with reference to the document O, I confess it does not seem to me a natural or probable answer to be given at that time to the claimant's letter N.

N was, as the claimant tells us, written on the occasion of the Nabob mortgaging his house. It is a very short letter complaining that the Nabob seemed disposed to forget his rights and specifically mentioning the mortgage grievance; in reply to which, O gives a very detailed account of numerous transactions, with which Ghoolam Moortooza was perfectly well acquainted, to which no allusion was made in N; some of them, transactions in which the claimant was personally interested; some in which he was not; and gives an explanation of one other transaction, of which Ghoolam Moortooza Khan was up to that time ignorant. A very small part of O is devoted to the mortgage grievance, on account of which N was written; but it contains a very explicit statement of the claimant's case as to all the items in the first part of his particulars. But for what purpose all that detail of transactions *unconnected* with the complaint in N? was

it that Ghoolam-Moortooza Khan might forthwith go to the Istifa Cutcherry, letter in hand, and say "*now* make no more hesitation about settling with me?" not at all, any value which the letter might have as evidence at that time, was taken away from it by the strict injunction of the Nabob that the single new fact which it revealed to the claimant, and which had been dormant from July 1847, when (according to V) the last farthing of the grandmother's deposit was handed over to the Nabob by his mother, should be disclosed to no one. That it was useless to him, until after Act 30 of 1858 passed, is manifest: no attempt to make it of any use appears; and indeed the secret seems to have been religiously kept, though the Nabob with some degree of inconsistency, dictates to two persons and is said to have directed (Q) the copy, to be deposited amongst the dufters; and, at some time or other (when we know not) to have sent V to the same place of concealment. Another thing strikes me as rather singular. The claimant's mother was alive for 12 or 15 months after the Nabob's death, yet from 1848 downwards she does not seem to have taken any part in these matters, or to have been considered at all in the arrangement of them. No doubt the claimant says that his mother gave him all and every thing she had before the time of her death. But when? That he cannot tell. He says only he received from her about 1 or 2 lacs, part of which he lent to the Nabob, and that the loan to the Nabob was after the settlement with his creditors. Certainly his mother, according to his account, does not appear to have been disposed to allow any of her money to go to his creditors: for though, in 1842-3 and 4, she could lend 9 lacs to the Bhow Begum, she would not at that time assist her own son, except slightly, even for the purpose of saving him from the discredit of applying to the Insolvent Court, with a Schedule disclosing so large an amount of debts and no assets. I infer from the claimant's evidence that he means to say that the general gift of which he speaks (though no specific mention of the transfer of this debt of 9 lacs is made) took place after the settlement with his creditors. However, the interest of the claimant's mother appears to have been as little thought of in 1851, when 7 lacs of her money as is said (or rather bonds for the amount) were issued to the claimant's creditors, as in 1855, when O is sent to the claimant. There seems to me, I confess, some inconsistency between the supposed conduct of the claimant's mother in 1843, and her subsequent apparent abandonment of all interest in these large sums of money, and in the absence of any evidence that the claimant's mother really had the means of lending 9 lacs at any time, it is certainly not unimportant to observe how far her conduct and that of the other parties accords with the supposition that she had a real interest in the transaction.

The claimant himself professes to have no knowledge of these transactions except such as he derived from communications made to him by his mother, or the Nabob's mother, or the Nabob; and independently of any other considerations detracting from the weight of his testimony he confesses to an exceedingly defective state of memory.

Further, we know from the evidence in this case, that, with reference to the pecuniary affairs of the Nabob, not only were names used in connection with transactions with which they had no real concern; but also, that, to serve a purpose, statements both verbal and written were sometimes made or directed to be made by the Nabob which gave a different colour to transactions from that which really belonged to them. I cannot disregard altogether these considerations, nor am I called upon to express any opinion as to what the transactions really were, out of which this claim arises. It is enough for me to say that the evidence adduced does not satisfy me that they were as represented, and I now leave this item with the observation that having given to all the circumstances the fullest consideration, of which I am capable, my mind is not satisfied by the evidence adduced in support of this part of the claimant's case. That being so, it is not necessary for me to express an opinion upon the question whether, assuming the facts to be well proved, the case would fall within the provisions of Act 30 of 1858, under which this claim is filed. My strong impression is, that it would not; the language of the Statute appearing to me to refer to debts contracted by the Nabob himself, in transactions between himself and the person claiming as creditor; and not to such a transfer of obligation as that supposed in this case. Now as regards the 2nd item in the 1st part of the particulars, *viz.*, 1 lac less 38,000 Rupees paid by monthly instalments. The claimant's case is that his mother lent that amount to

the Nabob's mother on the 27th November 1846, and he charges it against the Nabob's Estate because the Nabob took possession of his mother's effects upon her death.

In support of this claim in addition to the documents O and W, with respect to which the observations already made apply, there is in evidence the Nabob's letter marked P, which is dated the 7th May 1849, and which is doubtless genuine enough; in that it states to the Dewan, how it was that he had not been able to pay every body that month, and what efforts he had made to do so.

Nevertheless he says "the fund was too little to pay the Meer Samany Hoozoor Department," and adds, "I then caused the payment to be made by adding to the fund the sum "of 2,000 Rupees on account of the instalment of Moomtaz Ool Moolk which my deceased mother "used to pay in discharge of his balances amounting to 58,000 Rupees and which as stated by "Ameen Ood Deen Ally Khan, he now does not like to receive, but when I insisted upon him "he said if you like please to pay me whatever I shall demand at the time of my urgency, and I "consider that the payment thereof is better in every respect." With regard to which letter I would only observe that it affords not the slightest confirmation of the statement in O and W, that the claimant's mother had any thing to do with that money, or had ever lent any money to the Nabob's mother. It does however afford, I think, satisfactory evidence that there was some outstanding balance in respect of which the mother of the Nabob used in her life-time to pay 2,000 Rupees a month to the claimant and that the Nabob was willing to continue that payment. But the Nabob's willingness to pay is not sufficient to create a debt within the meaning of Act 30 of 1858; and also, in my opinion, his liability to account to the claimant in respect of the administration of his mother's estate is something quite different from a debt fairly and justly contracted by the Nabob under that Act.

The 3rd item in the 1st part of the particulars is an item of 2 lacs with regard to which the case is a complete gift by the grandmother of the Nabob on the 4th September 1841, by depositing the amount with the Nabob's mother for the claimant's use; a loan of the same, at different dates between the 14th April 1844 and the 24th July 1847 to the Nabob by his mother; a communication of the facts to the claimant for the first time on the 29th April 1855, and an admission by the Nabob of his liability to pay the claimant.

The evidence in support of this item is to be found in the documents O and V, and the verbal admission of the Nabob. By O, the claimant is informed that a "sum of 2 lacs was (one "year previous to the coronation of His Highness) deposited with great secrecy with the mother "of His Highness by the grandmother of His Highness, who brought you up like your mother "and deposited it for your use and was also applied by His Highness to his own use. Documents "and instalments will be caused to be issued to your honor for the same."

There follows this suggestion "the omission of this item in the account sent by your Honor "to the Istifa Cutcherry was, it is believed, owing to the ignorance of your Honor respecting this "matter."

V is like the documents X and U. It begins by stating the deposit of 2 lacs on the 4th September 1841, by the Nabob Begum with Mahali Aulya (the Nabob's mother), and then gives (with dates and items) the account of the amount borrowed by the Nabob out of this money.

According to the claimant's evidence the verbal statement of the Nabob was that "he had con"cealed the matter up to that time because this was the money given by his grandmother, and he "had spent it away; and if the same be known to persons it would be a matter of shame and he "ordered me not to give it out to any body." And accordingly Ghoolam Moortooza promised to keep it secret; so that, in 1841, the matter begins with great secrecy, and in 1855, it ended in great secrecy, nor ever came to light until after Act 30 of 1858 was passed. The Nabob did not die till the following October, but no attempt of any kind appears to have been made, according to the evidence, to fructify this confession of the Nabob; which, for all that I can see might as well not have been made. It would be small consolation in answer to the mortgage grievance to communicate to the claimant a still greater grievance without much prospect of redress Many of the observations already made on the 1st item apply to this also. But further, as to this item in particular, if these statements are all correct as to the Nabob's mother, she seems to have handed over to the Nabob without any hesitation any moneys that came into her hands, from

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whatever source, probably (as appears by documents 42 and 44) getting occasionally in return for herself tolerably large sums from him; and it is difficult to suppose that either of the two ladies, who are supposed to have deposited these large sums with her, intimately connected as they were, and familiar as they must have been with the affairs of the Nabob and Bhow Begum, would have selected *her* as the best custodian and depository of money. It is also observable that the Nabob's grandmother was still alive in 1855, for she died only 2 or 3 years ago according to Ghoolum Moortooza Khan's evidence, long after the death of the Nabob's mother, and fully 7 years after the Nabob himself had received (according to V) from her the last remnant of the 2 lacs. Yet we hear nothing of any inquiry or remonstrance on her part: the confession of the Nabob does not appear to have been brought out by any urgency on her part, and if she deposited the 2 lacs for the claimant's use, "like his mother," the motherly feeling does not appear to have led her to take any active steps to secure to him the enjoyment of it. For anything that appears, she may have acquiesced in the appropriation of the money by the Nabob, and the non-communication of the deposit to the claimant at any time is at least evidence that she did not intend by the deposit a complete and irrevocable gift.

Not upon this item therefore, any more than the other, am I prepared to make an order for payment.

Now I come to the 2nd part of the particulars which claims two items 43,462 and 70,475-4-6, with respect to the latter there is the evidence furnished by the dufter marked R, and there is also the positive evidence of Ghoolam Mahomed and Salar-ool-Moolk, as well as of the claimant (this being a matter within the personal knowledge of all 3) that this money was lent by him to the Nabob and the claimant has given up three title deeds, as having been deposited with him as a security for the same.

The Advocate General did not attack this item with much force, though he suggested that probably the money was borrowed from Soucars on behalf of the Nabob, but I think if that had been so, the Soucars who so lent it, or their representatives, would by this time have been forthcoming to assert their claims against the Nabob's estate. And the Advocate General also contended with reference to the evidence furnished by the dufters numbered 4 and 23 to 33 that the claimant was shown to have received from the Treasury 10,44,500 Rupees, for which he was bound to account, and that until he did account the balance was largely against him. But all these entries are entries of money received "in the hands of His Highness through Ghoolam Moortooza Khan" and they corroborate the statement of the claimant himself that in regard to these sums he was merely the carrier of the money; that whatever he received for that purpose he immediately handed over to the Nabob. I see no reason to doubt this statement and am satisfied that the claimant is entitled to an order for the payment of the sum of 70,475-4-6.

The remaining item is 43,462 which is in fact made up of 9 separate items:

1. The largest being that of 25,955-8.

That item of the claim rests in effect upon the statement of the claimant himself and considering the very defective state of his memory and the vague and uncertain way in which he spoke respecting it, I am not prepared to make an order for the payment of that sum. The document B containing the entry of 55,000 Rupees is clearly incorrect if it is to be read as a statement that the claimant himself advanced so much money to the Nabob, and if not, it gives no information as to what, if anything, he did advance. Coondun Lall, if alive, might perhaps have enabled the claimant to prove this item; but Ishoor Doss the nephew who wrote B, is able to say no more than that his uncle claimed and received 29,000 odd, out of the 55,000, and that he has no knowledge how the balance was made up. It may be the claimant's misfortune but I think there is no satisfactory proof of the item.

2. The next item of 8,150 can only be allowed to the extent of 5,000 Rupees which Ishoor Doss and the claimant both say that the latter paid, and I think that the evidence of Ishoor Doss, taken together with the letter Y, the notes D and E, and the insertion of the claim in the account book are sufficient to show that the Jewellery was purchased by order of and for the Nabob, and paid for in part by the claimant.

3. 1,000, the next item, for the expenses of a feast is not, I think, sufficiently proved. It is inserted in B, but B (though acted upon in respect to many items) cannot be relied upon for accuracy, and there is nothing in support of B as to this item but the imperfect memory of the claimant himself.

4. Next item 400 Rupees purchasing a horse from Arathoon. Upon the evidence of Mr. Arathoon, I allow 350 Rupees in respect of this item.

5. Next 1,000 purchasing 2 horses. I think the evidence not sufficient, Mr. Arathoon speaks of the purchase of 2 horses by the claimant from Messrs. Taylor, but knows nothing about the price.

   And the claimant cannot well recollect either the price, or whether they were purchased from Mr. Taylor or Mr. Arathoon.

6. Next item 840, two watches with chains. I think the evidence, taken together with the admission at the bar of the payment by the claimant of that amount to Mr. Lowe in November 1857, sufficient to support the claim.

7. Next item, 1,050 for discharging a bond, belonging to the Meer Samany Department, I think the evidence sufficient. Terazish Khan speaks to the loan of this sum by the claimant, as a matter within his own knowledge and he is corroborated by the dufter C. N.

8. As to next item Rupees 4,666 8-0, the account of Miller for the purchase of utensils, &c. I think 4,000 Rupees should be allowed. Mr. Miller having proved the payment of that amount by the claimant, because with respect to this, as with respect to the other similar items, I do not concur in the suggestion that probably it was the Nabob's own money which the claimant paid. The claimant states that he himself paid these several sums; and I think it improbable that they would have been mentioned in B, with the *particularity* with which they are mentioned if he had merely paid the Nabob's money.

9. Next item 400 Rupees for the purpose of sending the servants of His Highness to Ennore at night, seems to me not to be sufficiently proved.

The sums allowed therefore, are...	70,475	4	6
	5,000	0	0
	350	0	0
	840	0	0
	1,050	0	0
	4,000	0	0
	81,715	4	6

with interest as to 70,475 from date in particulars and as to rest from delivering of B to Istifa Cutcherry.

Upon the question of costs, the particulars are divided into 2 parts raising wholly different questions. As to the 1st part I consider the Government entitled to costs; and as to the 2nd part, the claimant entitled to costs of proving the items upon which he has succeeded.

No. 68. ORDER THEREON, 15th January 1861, No. 36.

The Government have perused with much interest the full report made by the Advocate General on the claim of Ghoolam Moortooza Khan Bahadur against the estateof the late Nabob, as well as the judgment delivered by the Honorable the Puisne Judge.

2. The report amply shows the great exertions of the Government Law Officers in this arduous and protracted case. The Government have learnt with much satisfaction the successful result of their labors.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

13

Judgment in the Claim of Damoodra Dos & others against the Estate of the late Nabob of the Carnatic under Acts 30 of 1858 and 38 of 1860.

Monday, November 19th 1860.

Present, Bittleston J.

The Claimants are the holders of several Tomkhy Cutcherry and other Bonds, upon which, clearly, their father has advanced large sums to various departments of the Nabobs Establishment.

2. The question is whether to any, and if so to what extent, they are entitled to recover under Act 30 of 1858, as explained by subsequent Acts.

3. I cannot say that I feel much difficulty as to the proper construction to be put upon Act 38 of 1860, read along with the previous Acts.

4 I do not agree with either of the views advanced in argument at the Bar; either with Mr. Haynes's urged on behalf of the Claimants, or with that of the Advocate General on behalf of Government.

5 I do not think that the effect of Act 38 of 1860 is simply to re-enact Act 30 of 1858, in the sense explained in the judgment delivered by this Court in the case of Sham Dos— nor, on the other hand, do I think that it throws upon the Claimants the onus of proving that it was necessary or proper for the Nabob-i-Mookhtar to Contract any particular debt.

The

6. The language of Act 38 of 1850 is so strikingly different both from that of Act 16 of 1859, now repealed, and also from that of Act 30 of 1858, that it seems only reasonable to infer from the difference of language a difference of intention.

7. There were in fact three phases of legislation with regard to these claims. Under the first Act, 30 of 1858, the Claimant was only bound to prove that the debt was fairly and justly contracted by the Regent on behalf of the Nabob; that is, that the transaction between the Creditor and the Regent was such, that credit was given to the Nabob, and not to Prince Azeem Jah personally.

8. Under the Act 16 of 1859 the Claimant was bound to prove that the debt was one which it was necessary and proper that the Prince should incur on behalf and for the use of the Nabob, unless the Governor in Council should dispense with such proof.

9. By the last Act, 38 of 1850, the necessity of that proof is not thrown on the Claimant; but, to be recoverable under Act 30 of 1858, the debt must be one "actually and bonâ fide incurred on behalf and for the use of the Nabob."

10. The question now is, not simply as under the first Act, whether credit was given to the Nabob, and not to the Nabob-i-Mookhtar, but also whether in truth and in fact, the debt really was contracted on behalf and for the use of the Nabob.

11. Under the first Act it might be, that the transaction between the Creditor and the Regent was such that the credit was given to the Nabob, and yet the debt might have been contracted by the Nabob-i-Mookhtar for himself and not for the Nabob.

12. By the last Act that distinction is made; and now, to be recoverable under Act 30 of 1858, a debt must have been contracted actually and bonâ fide on behalf and for the use of the Nabob.— In other words it must be shewn that the transaction being professedly a loan on behalf and for the use of the Nabob, was really and truly what it professed to be.

13. This being the question, what is it that the Claimant is bound to prove? It rests upon the Claimant to satisfy the Court that money was advanced or goods supplied on the credit of the Nabob, and that the transaction, as between the Nabob-i-Mookhtar and the Creditor, was on the footing that the debt was contracted not only on behalf of, but for the use of the Nabob, as distinguished from the personal use of the Nabob-i-Mookhtar. But when the Claimant has once satisfied

tisfied the Court that this was the case, and it only remains to determine whether the transaction was really what it professed to be, then I think the burden of proof is shifted, and that as soon as the case involves any imputation upon the Naib-i-Mokhtar, the burthen of proof falls upon the Government making that imputation, if they choose to resist the claim by saying, as they may do under the last Act, that the transaction was not really what it professed to be.

14. As regards the words "for the use of the Rabob" I take them to mean, not for the Rabob personally and individually, but to include expenditure incurred for maintaining the state and dignity of the office of Rabob. It is almost impossible to give a definition that will meet every case, but I think the words cannot reasonably be confined to the personal use of the infant Rabob— I think they must be taken to include the expenses of the office.

15. I now proceed to observe upon the evidence in this case. In each case the weight to be attached to evidence respecting particular items must naturally vary, but here I must say that the books of Claimant's father seem to me unusually reliable, both as regards their accuracy, and the bonâ

fides

fides of the entries, and as to the object and purpose of the loans; there is a specification of the particular account for which money or goods were supplied— showing the entry to be a true & genuine one.

16. It was objected by the Advocate General that the Claimant ought to have examined Prince Azeem Jah, and the absence of his evidence was relied on as fatal to the Complainant's case, and there does seem some weight in this remark— the Prince is certainly a witness who might more naturally be called for the Claimant: it would be for his interest to prove that he was not personally liable for these debts, but that he had incurred them actually and bonâ fide on behalf and for the use of the Rabob— but this is qualified to some extent by considering the relation in which the Prince stands towards the Government— and, at all events, if the Claimants evidence, without Prince Azeem Jah's testimony, satisfies the Court upon any particular fact, the Court cannot refuse to act upon that evidence, merely because the Prince has not been called by the Claimant.

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

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 Nabob, as distinguished from and unconnected with the other departments, such as the Toshakhana, Jaib-i-Khas, Sunkhy Cutcherry &c, that when such money must be reasonably taken as advanced for the use of the Nabob in the sense I have explained.

18. The Learned Judge then went through the several items which had not 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 Duftors 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 Nabob Begum, Bhow Begum, or other ladies, or by the Toshakhana or some other Department; and he allowed five sums amounting to Rs 52,000, with interest at 6 per Cent from 1st August 1842. The Order was for Rs 1,10,664-5-3; the total claimed by Damoodra Dass, with interest to only the 31st January 1859, was Rs 5,52,001-13-11 - and that by his brother, Birjee Bookun Dass, whose claim (totally disallowed) was amalgamated with Damoodra Dass's, both being heard together, was, with interest to 31st January 1859, Rs 11,7,882.

19. As to costs, the Learned Judge said the Claimant has not disentitled himself to costs by his conduct in the witness box, where, as fairly admitted by the Advocate General, he gave his evidence in a truthful and fair manner, nor is there any thing in his Books to disentitle him thereto; on the contrary they seem to me fair and genuine records, and therefore the Claimant would be entitled to his costs of the items on which he has recovered; but, by insisting as he has done more especially in his particulars, on many and very large items which he never could have recovered even under the original Act, he has subjected Government improperly to considerable expense - on the whole therefore I think I shall meet the justice of the case by giving no costs on either side.

Pte. Lr. to Capt. Lee 25th June
Rec'd 29th 1865

Polé/h.D
N°830

Grounds of the Petition of Appeal
(The mere formal part is omitted)

1st Your Petitioner submits that the mere fact of such Sums last mentioned Sums having been borrowed by an Officer or Officers of the Nabobs Treasury and having been paid into and received by the said Treasury does not per se suffice to show that such Sums were debts incurred by the said Prince Azeem Jah Bahadoor actually and bonafide on behalf of or for the use of the said Nabob -

2 ..... Your Petitioner submits That no deficiency is proved to have existed in the Treasury at the time when any of such Monies were so borrowed -

3. Your Petitioner submits That no receipts of any kind whatsoever was shown for borrowing such Sums or any of them -

4. Your Petitioner submits that there was no sufficient evidence before the Court that such Sums or any of them were borrowed accordingly & bonafide on behalf of & for the use of the Nabob -

5 - Your Petitioner submits that there was no evidence before the Court that the said Prince Azeem Jah or Nabib. Moulvi or otherwise had any authority to contract debts that would be binding on the said

Nabob

Nabob or on his Estate or that the said
Claimants Father or the said Claimants
or any of them had any Reason to believe
or suppose that the said Prince had any
such Authority or Ever minded any Inquiry
Whether he had so or not -
6. Your Petitioner submits that there was no
Evidence before the Court that the said
Claimants Father or that the said Claim-
-ants or any of them Ever Enquired into the
Receipts for any of the said Loans or
Whether any of them were Contracted for
the benefit of the said Nabob or of his
Estate or that the said Claimants Father
or the said Claimants acted with due or
any Caution or that he or They was or were
in any Way deceived or misled respecting
the same or respecting any Supposed
Receipts for Contracting the same or
respecting their being for the benefit
of the said Nabob or for his Estate
or respecting the said Prince's Authority
to Contract the same so as to make
the same binding on the said Nabob
& his Estate.
7. That the Evidence shows that the
said Prince White Nabob Munkler
Received regularly the whole of the
large fixed income averaging £

10

120000 a Year (besides the Jaghire
at Hydrabad and the landed Estates at
Arcot and Trichinopoly belonging to the
Nabob of the Carnatic) allotted for
the support of the said Nabob his State
and Dignity and that the said Nabob while
a Minor resided with Her Highness
the Bhow Begum his Mother and received
only at first 200 Rs a month and lately
only 400 Rs a month as a personal
allowance and your Petitioner submits
that shows not shew that the said
income of the said Nabob had been
fully expended by the said Prince
Azeem Jah or that the same was not
amply sufficient for all the purposes
of the said Office of Nabob.
8- Your Petitioner submits that there
was no Evidence before the Court of any
Extraordinary or unforeseen cause of
Expence during the Regency of the said
Prince Azeem Jah Bahadoor which
ordinary prudence would have been
amply sufficient -
9 .... That the Onus of proof
was altogether on the Claimants
& your Petitioner submits that they

done

were bound to call the said Rungo Azeem Jah Bahadoor in their Writings to - Your Petitioner submits that this Honble Court might to have disallowed all such 5 last mentioned items with costs -

Rec'd & Read 2 Jan 1861

Pol. Dept. No. 830.

Political Department.

Proceedings of the Madras Govt.

Read the following letter from the Advocate General.

Here enters 14th December 60.

Order thereon 15th January 1861. No. 36.

The Govt. have perused with much interest the full report made by the Advocate General on the claim of Ghoolam Moorteza Khan Bahadur against the Estate of the late Nabob - as well as the judgment delivered by the Honble the Puisne Judge.

2. The report amply shows the great exertions of the Govt. Law Officers in this arduous and protracted case - The Government have learnt with much satisfaction

the

the successful result of
their labors_

J.P.

To The Advocate General
" Govt. Solicitor } dated 16th

Political 1861 Sept.

Coll. Lr. to Govt. 25th Jan.
No. 2. of 1861.

No. 36.

Fd. 1821 of 62

9/15 January 1861

Observing that
the Government have
perused with much
interest the full report
made by the Advocate
General on the claims of
Gholam Mortoza Khan
Bahadur against the
Estate of the late Nabob
as well as the Judgment
delivered by the Honble
the Puisne Judge

67 + 68