

MADRAS RECORD OFFICE.

Government of Madras.

Revenue
Judicial

DEPARTMENT.

G.O. No. 2532

Press

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Dated

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Not to be folded or roughly handled

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[Signature]

REVENUE DEPARTMENT.
FORT ST. GEORGE,
2nd October 1868.

No. 2,532.

No. 35.

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT (LEGISLATIVE.)

SIR,

Land Revenue.

1. With advertence to the telegram from this Government, dated 1st July 1868, requesting that all action on the Madras Inam Titles Bill might be suspended, I am directed by the Right Honorable the Governor in Council to forward the accompanying letters from the Advocate General at Madras, and the Proceedings of Government thereon dated 10th September 1868, No. 2,354.

* Dated 3rd July 1868, No.

2. The circumstances under which the preparation of the Bill had become necessary were fully detailed in the enclosures to the letter from this Government, in the Legislative Department, under date 27th May 1868, No. 173, and it will now be observed that the Advocate General, when in consultation with the Government Solicitor as to the proper form of Title Deed to be adopted in future, has discovered that the existing Deeds are even more defective than was anticipated when the Bill for their amendment was framed.

3. The Advocate General points out (1) that these documents purport to be executed by the Inam Commissioner on behalf of the Governor in Council, whereas, under the provisions of the Statutes noted in the margin,† they should have been executed on behalf of the Secretary of State for India, either by the Governor in Council himself, or by his order; and (2) that the Inam Commissioner, who did execute the Deeds, does not appear to have been formally authorized so to do on behalf of the Governor in Council. Mr. Norton adds that, in his opinion, the Courts of Law having in view these unfortunate defects in the Title Deeds will necessarily hold that the Deeds hitherto issued are altogether invalid.

4. There are but two means which occur to Mr. Norton by which these errors may be remedied: either an application must be made to Parliament for a special Act, declaring that the Deeds hitherto issued shall have the same effect as if they had run in the name of the Secretary of State for India, or all the defective Deeds must be re-called, and new ones must be issued in a proper and legal form. He expresses himself in favor of the latter course, for he is of opinion that unless it could be shown that to re-call the old Title Deeds would be attended with dangerous or serious consequences, an application to the Home Government for an Act of Parliament of the nature indicated would be refused, in as much as the existing Acts of Parliament are perfectly clear and explicit, and should have been conformed to in the first instance.

5. Under these circumstances, and in consideration of the very strong and decided opinion which is expressed by the Advocate General, as to the course

which the Government should adopt, in order to remedy the additional defect which has been discovered in the Deeds, the Right Honorable the Governor in Council has resolved to re-issue these documents in a new and legal form; and I am, therefore, directed to report these proceedings to the Government of India, with the request that no further steps may be taken in regard to the Inam Titles Bill, as the course now ordered will render unnecessary any enactment of the kind.

I have the honor to be,
Sir,

Your most obedient servant,

(Signed) R. A. DALYELL,
Acting Secretary to Government.

Encl. F. R. Batteman.

22. Oct. /58.3

Revenue Department.

2532.

To,
The Secretary to the Government
of India
(Council of Regulations)
Sir,

With reference to the telegram from this Govt. dated 1st July 1868 requesting that all action on the Madras Inam Titles Bill might be suspended, I am directed by the Right Honorable the Governor in Council to forward the accompanying letter from the Advocate General

* dated 3rd July /68 N^o

pt

at Madras. and the
Proceedings of Govt. thereon
dated 10th September 1868,
N^o 2354.

The circumstances
under which the prepara-
tion of the bill had
become necessary were
fully detailed in
the enclosures to the
letter from this
Government, in
the Legislative
Department) under
date 27th May 1868
N^o 173, and it will
now be observed
that the Advocate
General, when
in

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in consultation
with the Government
Solicitor as to the
proper form of
title deed to be adopted
in future, has discovered
that the existing
deeds are even more
defective than was
anticipated when
the bill for their
amendment was
framed.

The Advocate
General points
out (1) that these
documents pur-
= port to be executed
by the same form =
= rippers on behalf
of the Governor in
Council, whereas,
under

under the provisions
of the Statutes noted
in the Margin, they
should have been
executed on behalf
of the Secretary of
State for India either
by the Governor in
Council himself
or by his order
and (2) that the
Inam Commissioner
who did execute
the deeds does
not appear to
have been for-
mally authorized
to do on behalf
of the Governor in
Council. Mr. Norton
adds

* 21 & 22 Vict. Cap 106 Sec 40 as
amended by 22 & 23 Vict. Cap 41-

together invalid

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adds, that, in his opinion,
the Courts of Law having
in view these unfortunate
defects in the Title deeds
will necessarily hold that
the deeds hitherto issued
convey no title whatever
to the Endowments because
the donor, that is the local
Court, had nothing to con-
vey, the estate in the Endow-
ments being vested in the Sultan,
and two Acts of Parliament
having expressly pointed
out how and by whom
any interest in such es-
tate is to be parted with
to third parties.

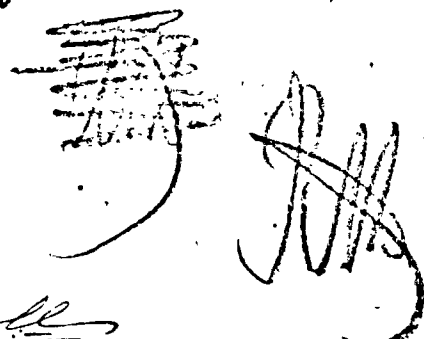
There are but two
means which occur to Mr.
Norton by which these
errors may be remedied.
Either an application
must be made to Parlia-
ment for a special Act
declaring that the deeds
hitherto issued shall have
the same effect as if they
had

had even in the name
of the Secretary of State
for India, or all the
defective deeds must
be recalled and new
ones must be issued
in a proper and legal
form - He expressed
himself in favor of
the latter course and
for he is of opinion
that unless it could
be shown that to recall
the old title deeds
would be attended
with dangerous or
serious

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serious consequences an
application to the Home
Govt for an Act of the
nature indicated would
be refused, in as much
as the existing Acts of
Parliament are perfectly
clear and explicit and
should have been con-
formed to in the first
instance.

Under these circum-
stances brought to notice
~~in the letter alluded to,~~
and in consideration of
the very strong and
decided opinion which
is expressed by the Secre-
tary General, as to the
course which the Govt
should adopt in order to
remedy

remedy the additional
defect which has been
discovered in the ~~Indian~~
~~Titles~~ Deeds, the Right
Honorable the Governor
in Council has resolved
to re-issue these docu-
ments in a new and legal
form; and I am therefore
directed to report these
Proceedings to the Govt
of India, with the re-
quest that no further
steps may be taken in
regard to the Indian Titles
Bill, as the course now
ordered will render un-
necessary any enact-
ment of the kind. —



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Revenue 1868 & 1869
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of the Government of India
House of Representatives
2/20 October 1868

Chas. Smith

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