

ACT No. XXX OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 16th December 1863.)*

*An Act to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh.*

WHEREAS certain persons have made demands against the Government of India in respect of claims preferred by them, either in their own right or as the representatives of persons now deceased, against the late Native Government of Oudh: and whereas it is desirable that Commissioners should be appointed for the purpose of investigating the said claims; It is enacted as follows:—

Preamble.

I. It shall be lawful for the Governor-General of India in Council to issue a Commission to such persons as he shall think fit, for the purpose of enquiring into and reporting on such claims preferred against the late Native Government of Oudh, as shall be in the said Commission named and described. The said Commissioners shall fully enquire into the said claims respectively, and shall as soon as they conveniently can report to the Governor-General of India in Council the result of their enquiries, and shall in their report or reports make such suggestions, if any, as shall to them seem fit.

Appointment of Commission of Enquiry.

II. It shall be lawful for the Governor-General of India in Council to issue such Commission to one person only, if he shall so think proper: and if a Commission is issued to one person only, all the powers by this Act given to Commissioners shall and may be exercised by the sole Commissioner so appointed; and all the provisions of this Act as to appointing new Commissioners in the room of any of the Commissioners dying or resigning, or becoming unable or refusing to act, and

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as to the powers to be exercised by the new Commissioners so appointed, shall apply equally (so far as the same may be applicable) to the case of a sole Commissioner dying or resigning, or becoming unable or refusing to act, and of any new Commissioner appointed in his room.

III. In case of the death or resignation of any of the said Commissioners, Death or resignation of any of the Commissioners. or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone. It shall be lawful for the Governor-General of India in Council, from time to time, without issuing a new Commission, to appoint some other person or persons to act as a Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly-appointed Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner.

IV. The said Commissioners shall enter in public upon the enquiry into Claimants may appear to support their claims at time and place fixed by Governor-General. the said claims respectively, at such time and place as shall have been fixed by the Governor-General of India in Council, by notification published in the Calcutta Gazette at any time whether before or after the passing of this Act. It shall be lawful for any of the claimants preferring the claims in the said Commission mentioned, to appear at the time and place so appointed in support of their claims respectively, either in person or by Agent duly constituted. The Secretary of State for India in Council may also in like manner appear at such time and place in opposition to the said claims. No claimant who shall not appear at the time and place appointed shall be entitled to appear subsequently or to take any part in the proceedings unless the Commissioners shall in their discretion specially permit him so to do. It shall be lawful for the Governor-General of India in Council, by notification in the Calcutta Gazette, to vary or cancel any notification previously given as aforesaid.

V. The public enquiry into the several claims aforesaid shall be conducted by the said Commissioners so far as regards Mode in which public enquiry is to be conducted. adjournments, the examination of claimants and witnesses, the reception of documents and the rules of evidence, in like manner (so far

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far as the same may in the opinion of the Commissioners be possible) as an ordinary Civil suit under the Code of Civil Procedure. The persons appearing in support of any claim shall be deemed for the purpose of the enquiry to be the plaintiffs in the cause, and the Secretary of State for India in Council shall be deemed to be the defendant, and may oppose the claimants in like manner as a defendant in a Civil suit may ordinarily oppose the plaintiff therein.

VI. It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within British India, whose evidence shall in the judgment of the Commissioners aforesaid be material to any of the matters of the enquiry aforesaid; and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them the said Commissioners shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners; all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them and shall be in their custody and control or in the custody and control of any one of them, according to the tenor of the summons.

VII. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath or an affirmation in such form as to the said Commissioners shall seem fit, to all persons who shall be examined before them touching the matters to be enquired into: Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation unless they shall think it fit or expedient so to do.

VIII. If any person upon whom any such summons shall be served, by the delivery thereof to him or by the leaving thereof at his usual place of abode, shall without reasonable cause (to be allowed by the Commissioners aforesaid) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be), or shall not make answer to such questions

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questions as shall be put to him touching the matters directed, or which may hereafter be directed to be enquired into by the Commissioners aforesaid, or shall refuse or fail without reasonable cause (to be allowed by the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear, or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the Principal Court of Original Civil Jurisdiction within the limits of which the said person shall be residing may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

IX. Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector or Commissioner of the District or Division, such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the Principal Court of Original Civil Jurisdiction in the District or Division.

X. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid or any of them, shall wilfully give false evidence, shall be liable to the punishment provided in Section 193 of the Indian Penal Code for the offence of giving false evidence.