

ACT No. XVII OF 1873.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th November 1873).

An Act to provide for the liquidation of the debts of the Nawáb Názim of Bengal, and for his protection against legal process.

WHEREAS divers large pecuniary claims have been made against Sayyid Mansúr 'Alí, the present Nawáb Názim of Bengal, Behar and Orissa, commonly called the Nawáb Názim, which he has not the means of satisfying, and for the purpose of recovering such claims divers suits have been brought against him, and divers attachments have been issued against his property in India : Preamble.

And whereas, with respect to certain jewels and immoveable property, it is disputed whether they belong absolutely to the said Nawáb Názim or are held by the Government of India for the purpose of upholding the dignity of the Nawáb Názim for the time being, and litigation has consequently arisen between the creditors of the present Nawáb Názim and the Government of India :

And whereas the Government of India is desirous of freeing the said Nawáb Názim and his property, respectively, from such suits and attachments, and of discharging such portions of the said claims as are proper to be paid, and of settling the said dispute as to the said jewels and immoveable property :

And whereas in the meantime and for the future, it is expedient to exempt the said Nawáb Názim, except as hereinafter mentioned, from the jurisdiction of the

Civil

Civil Courts, and to render him incapable of contracting further pecuniary obligations ;

It is hereby enacted as follows :—

Short title. **1.** This Act may be called "The Nawáb Názim's Debts Act, 1873."

Local extent. It extends to all persons and places for whom and for which the Governor General in Council has power to make laws ;

Commencement. And it shall come into force at once.

Power to appoint Commission. **2.** The Governor General in Council may from time to time nominate and appoint such persons as he thinks fit to be a Commission for the purposes hereinafter mentioned.

All persons so nominated and appointed (hereinafter called "the Commissioners") shall continue to be members of the said Commission during the pleasure of the Governor General in Council, and shall hold their sittings at such place or places and time or times as they think fit.

Notice to claimants. **3.** The Commissioners shall publish thrice in the *Gazette of India* in English, and in the *Calcutta Gazette* in English, Urdú and Bengáli, and in such other mode and languages as they think fit, a notice calling upon all persons having claims against the said Nawáb Názim or his property, whether moveable or immoveable, to notify the same in writing to the Commissioners within six months from the date of the earliest of such publications.

Bar of debts not duly notified. **4.** Every debt or liability to which the said Nawáb Názim is subject, or with which his property, or any part thereof, is charged, and which is not duly notified to the Commissioners within the time and in the manner hereinbefore mentioned, shall be barred :

Proviso. Provided that, on sufficient cause being shown to the Commissioners, they may admit such claim within the further period of six months from the expiration of the said period of six months.

Particulars of claim. **5.** Every such claimant shall along with his claim present full particulars thereof.

Every

Every document on which he founds his claims, or on which he relies in support thereof, shall be delivered to the Commissioners along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the Commissioners, together with a copy of the entry on which he relies. The Commissioners shall mark the book for the purpose of identification, and after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Commissioners along with the claim, the Commissioners may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

The Commissioners may, from time to time, call for further and more detailed particulars of any claim preferred before them under this Act, and may at their discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

May call for or admit any further evidence.

6. For the purposes of this Act, the Commissioners may summon and enforce the attendance of witnesses, and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power of Commissioners to summon witnesses.

7. Every investigation conducted by the Commissioners, with reference to any claim preferred before them under this Act, or to any matter connected with any such claim, shall be deemed a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be a judicial proceeding.

And every statement made by any person examined by or before the Commissioners with reference to such investigation, whether upon oath or otherwise, shall be deemed to be evidence within the meaning of the same Code.

8. Every witness required by the Commissioners, except at the instance of a claimant, to attend and give evidence under the provisions of this Act, shall

Expenses of witnesses.

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be entitled to a reasonable sum (to be allowed by the Commissioners) for his expenses in travelling to and from, and remaining at, the place at which he is required to attend.

Commissioners to determine amount due to each claimant.

9. The Commissioners shall, by agreement with the claimant or, in default of such agreement, after due and full enquiry, determine the amount which, on the consideration of all the circumstances, they may consider each claimant ought in fairness and justice to receive. And in coming to such determination, they shall not be bound by any previous agreement or judicial proceeding.

Sum found due to be certified to Government.

10. The Commissioners shall certify in each case the amount so determined, and upon the Governor General in Council, within six months from the date of the certificate, paying or tendering to any claimant the amount so certified, all claims of such claimant against the Nawáb Názim or his property shall be satisfied and extinguished.

Bar of suits against Nawáb Názim.

11. No suit shall be commenced or prosecuted, and no writ or process shall at any time be sued for, against the person or property of the said Nawáb Názim, unless such suit be commenced, or such writ or process be sued for, with the consent of the Governor General in Council first had and obtained.

Such consent shall be certified by the signature of one of the Secretaries to the Government of India, and every such signature shall be judicially noticed.

And any suit which at any time shall have been, or shall be, commenced, and any writ or process which at any time shall have been, or shall be, sued for, against the person or property of the said Nawáb Názim, shall be of no effect unless and until the consent of the Governor General in Council certified in manner aforesaid is obtained.

Commissioners to ascertain the property held by Government for upholding the dignity of the Nawáb Názim's family.

12. The Commissioners shall ascertain what jewels and immoveable property are held by the Government of India for the purpose of upholding the dignity of the Nawáb Názim for the time being, and shall certify the particulars of such jewels and property; and their finding thereon shall be binding and conclusive on all persons whomsoever.

13. If

13. If any question of law, or as to the construction of a document, arises in any case under this Act, and the Commissioners think it necessary for the purposes of fairness and justice to obtain a judicial opinion thereon, they may draw up a statement of the case and refer it for the decision of the High Court of Judicature at Fort William; and the provisions of sections twenty-four and twenty-five and of the first sentence of section twenty-six of Act No. XI of 1865 shall apply as if, in section twenty-six, for the word "Court," the word "Commissioners" were substituted.

Power to refer questions of law to High Court.

And if, in the opinion of the High Court, the statement is imperfectly framed, the High Court may return it for amendment; and the costs (if any) consequent on any such reference shall be dealt with as the Commissioners shall in each case direct.

14. The said Nawáb Názim shall be incapable of entering into any contract which may give rise to any pecuniary obligation on his part.

Nawáb Názim to be incapable of contracting.

15. Nothing herein contained shall be deemed to render the Secretary of State for India in Council, or the Government of India, liable for any debt heretofore contracted by, or on behalf of, the said Nawáb Názim, or in respect of any claim to be reimbursed, which may be made by any person supplying him with necessaries.

Saving of Secretary of State in Council.

16. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith under this Act.

Bar of suit for acts done *bonâ fide*.