

ACT No. II OF 1859.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 5th February 1859.)*

*An Act to amend Act XXX of 1858 (to provide for the administration of the Estate, and for the payment of the debts of the late Nabob of the Carnatic).*

WHEREAS, in pursuance of the provisions of Section XIV of Act XXX of 1858, numerous declarations were filed in the Office of the Registrar of the Supreme Court of Judicature at Madras, within three months from the passing of the Act, by persons claiming to be creditors of the late Nabob of the Carnatic, but as yet, with very few exceptions, such persons have not made any application to the Court under the provisions of Section XIX of the said Act, to appoint a day for ascertaining the amount of their debts, or furnished any particulars of their claims; and whereas, since the passing of the said Act, two of the seals formerly belonging to the said Nabob have been unlawfully taken away by some person or persons unknown and there is reason to believe that they have been feloniously stolen, and it is necessary, in order to guard against fraud, to limit the time within which particulars of the said claims shall be furnished, and to require all documents intended to be used in support thereof to be filed, and

also

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also to enable the Court upon the application of the Government of Madras to fix a day for the investigation of any of the said claims: It is enacted as follows:—

I. Every person who has filed a declaration under the provisions of Section XIV of the said Act, shall file in the Office of the Registrar of the Supreme Court at Madras, full particulars of his claim with dates and items, within one week after the publication of this Act in the Fort Saint George Gazette or within such time, not exceeding one month after such publication, as may be allowed by the said Court or a Judge thereof, for any special reason which may appear to the said Court or Judge to be sufficient.

II. If the particulars filed as above provided be insufficient, the said Court or a Judge thereof may, upon an application on the part of Government, make an order for the filing, within a time to be specified in such order, of such further particulars as the said Court or Judge may consider necessary.

III. If the particulars be not filed within the time limited by Section I of this Act—or in the case of an order for further particulars under Section II of this Act, if such further particulars be not filed within the time limited by the order—the said Court or a Judge thereof, upon an application on behalf of Government, shall make an order barring the claimant from proceeding under Section XIV or any subsequent Section of Act XXX of 1858, and from the benefits of the provisions of Section XXV of the said Act; and in such case the claimant shall not be entitled to proceed under Section XIV or any subsequent Section of the said Act, or to be paid under the provisions of Section XXV of the said Act.

IV. Every

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IV. Every person who has filed a declaration under the provisions of Section XIV of the said Act, shall file in the Office of the Registrar of the said Court, all documents intended to be used on the investigation in support of his claim (whether the same are intended to be used as independent or corroborative evidence or otherwise) within one week after the publication of this Act in the Fort Saint George Gazette, or within such time, not exceeding one month from the time of such publication, as may be allowed by the said Court or a Judge thereof for any special reason which may appear to the said Court or Judge to be sufficient.

Time limited for filing documents to be used in support of claim.

V. Whenever the particulars of a claim or any document is filed under the provisions of this Act, a memorandum shall be made thereon of the date on which the same is filed.

Memorandum to be made on particulars of claim or documents, of the date when they are filed.

VI. The Solicitor to Government, and such other persons as may be authorized by him, may examine and take copies of the particulars of any claim or of any document filed under the provisions of this Act.

Solicitor to Government may examine and take copies of particulars, &c.

VII. No document shall be admitted in evidence in support of any claim, or used by the claimant upon the investigation thereof under Section XXII of the said Act, unless the same shall have been filed in the manner and within the time required by this Act; and upon every investigation under Section XXII of the said Act, the claimant shall be bound by the particulars of his claim, in the same manner and to the same extent as a plaintiff is bound by the particulars of his demand in an action brought in the said Court.

No document to be received in evidence in support of claim, unless filed as required by this Act.

Claimants to be bound by particulars filed.

VIII. Whenever

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VIII. Whenever particulars of a claim shall have been filed under the provisions of this Act, it shall not be necessary for the claimant to furnish particulars under Section XX of the said Act.

If particulars of claim are filed under this Act, particulars under Act XXX of 1858 not necessary.

IX. The Supreme Court of Judicature at Madras or a Judge thereof may, upon application on behalf of the Government of Madras, appoint a day for ascertaining the amount due to any of the persons who have filed a declaration under Section XIV of the said Act, and in such case notice of the day so appointed shall be given to the claimant. The day so appointed shall not be less than twenty-one days from the time when the said application shall be made.

Supreme Court to appoint a day for ascertaining the amount due to any person who has filed declarations under Act XXX of 1858.

X. If the claimant shall appear on the day so fixed, or on any other day to which the Court may think fit to postpone the investigation, all such proceedings shall be had for ascertaining and determining the amount due to the claimant, and for payment of the amount so ascertained, as if the day for ascertaining the amount of the debt had been appointed upon the application of the claimant under Section XIX of the said Act, except that it shall not be necessary for the claimant to furnish particulars under Section XX of the said Act.

Proceedings if claimant appear on day fixed.

XI. If the claimant do not appear on the day fixed as provided by Section IX of this Act, or upon the day to which the Court may postpone the investigation, the Court, upon proof of service of the notice required by Section IX of this Act, shall make an order barring the claimant from proceeding under Section XIV or any subsequent Section of Act XXX of 1858 and from the benefit of the provisions of Section XXV of the said Act; and in such case the claimant shall not be entitled to proceed under Section XIV or any subsequent Section of the said Act, or to be paid

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be paid under the provisions of Section XXV of the said Act, unless within one week from such day, or within such time as the said Court or a Judge thereof shall appoint for investigating the excuse for not appearing, the Court shall be satisfied that he had a reasonable excuse for not appearing and shall fix another day for the hearing of his claim.