

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1933**

**The Murshidabad Estate
Administration Bill**

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1933.

| Serial No. | Short title of the Bill. | Date of presentation. | Remarks. |
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| 1. | The Hedjaz Pilgrims (<u>Muallims</u>) Bill. | 6.2.33. | |
| 2. | The Workmen's Compensation (Amendment) Bill. | 14.2.33. | |
| 3. | The Land Acquisition (Amendment) Bill. | 14.2.33. | |
| 4. | The Auxiliary Force (Amendment) Bill. | 14.2.33. | |
| 5. | The Indian Wireless Telegraphy Bill. | 23.2.33. | |
| 6. | The Indian Railways (Amendment) Bill (Sec. 51). | 24.3.33. | |
| 7. | The Indian Income-tax (Amendment) Bill. | 1.4.33. | |
| 8. | The Indian Income-tax (Second Amendment) Bill. | 10.4.33. | |
| 9. | The Indian Medical Council Bill. | 1.9.33. | |
| 10. | The Indian Merchant Shipping (Second Amendment) Bill. | 4.9.33. | |
| 11. | The Murshidabad Estate Administration Bill. | 7.9.33. | |
| 12. | The Reserve Bank of India Bill. | 20.11.33. | Report of the Joint Committee |
| 13. | The Imperial Bank of India Bill. | 20.11.33. | -do- |
| 14. | The Indian Khaddar (Name Protection) Bill by Mr. Gaya Prasad Singh. | 29.11.33. | |
| 15. | The Indian Tariff (Second Amendment) Bill. | 1.12.33. | |

LEGISLATIVE ASSEMBLY.

We, the undersigned, Members of the Select Committee to which the Bill to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. *Clause 4.*—A considerable sum of money has been deposited in Court as compensation for the acquisition of certain lands belonging to the estate. Section 32 of the Land Acquisition Act, 1894, forbids the payment of such sums to any one who, like the Nawab Bahadur, is only the holder of a life interest in the land acquired; and requires the Court either to purchase other land in place of the land acquired, or to invest the money in approved securities and direct the payment of the interest to the life interest holder for the time being. The Murshidabad Act, 1891, which entitles the Secretary of State to enter upon the estate, makes no clear provision whereunder the Secretary of State or the Manager may assume possession and management of this sum of money. We have

accordingly added a "*fourthly*" in this clause which will entitle the Manager to assume control.

Clause 14.—We have added a sub-clause giving priority (after the claims mentioned in clause 7) to—

- (a) arrears of wages due to servants of the Nawab Bahadur, and
- (b) small debts not exceeding Rs. 500, which are mostly due to tradesmen and shopkeepers.

We have also provided for an annual ratable distribution of residues, so that none of the remaining creditors will be prejudiced by being postponed to any others.

Clause 11, 12, 14, 19 and 22.—We have made small drafting changes and corrections in these clauses.

3. The Bill was published in the Gazette of India, dated the 1st October, 1932.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

B. B. GHOSE.

B. J. GLANCY.

SATISH CH. SEN.

*S. C. MITRA.

L. GRAHAM.

*MOHD. AZHAR ALI.

*GAYA PRASAD SINGH.

*R. S. SARMA.

SHER MOHD. KHAN.

*A. SUHRAWARDY.

*K. C. NEOGY.

*G. MORGAN.

SIMLA;

The 6th September, 1933.

* Subject to a minute.

MINUTES.

A number of creditors of the Nawab Bahadur have obtained decrees in the highest judicial courts. We feel sure that these decrees will not be lightly re-opened by the Manager under the powers which this Bill confers on him, but will be accepted as *prima facie* proof of the respective debts.

K. C. NEOGY.

R. S. SARMA.

S. C. MITRA.

GAYA PRASAD SINGH.

G. MORGAN.

A. SUHRAWARDY.

I agree with the former portion, *i. e.*, from "A large number of creditors" to "confers on him", in the minute of Messrs. Neogy, Sarma and others.

MOHD. AZHAR ALI.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the Committee.]

THE MURSHIDABAD ESTATE ADMINISTRATION BILL.

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BILL

TO

Provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager.

WHEREAS the Murshidabad Act, 1891, confirming and giving effect to an Indenture between the Secretary of State and the Nawab Bahadur of Murshidabad Amir-ul-Omrah, provides that in case the said Nawab Bahadur or any of his lineal heirs male successors to the titles shall contravene any of the terms of the said Indenture or shall disable himself from duly maintaining the dignity of his position and station it shall be lawful for the Secretary of State for the time being to enter into and upon the immoveable properties mentioned in the Indenture and to exercise certain powers therein specified in the manner therein set forth; **XV of 1891.**

AND WHEREAS it is expedient to make further provision for the due exercise of these powers by the Secretary of State by the appointment of a Manager who shall on behalf of the Secretary of State exercise the powers aforesaid, and by defining the duties and powers of such Manager, and the manner in which the rents, issues and profits of the immoveable properties of the estate and the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal shall be applied;

AND WHEREAS it is further expedient to afford to the Nawab Bahadur protection against the disabilities to which he is exposed by reason of his embarrassed circumstances and to prevent further increase in his debts and to provide means for such repayments to his creditors as are compatible with the payment to the Nawab Bahadur of a sum sufficient for the maintenance of his position and dignity;

It is hereby enacted as follows :—

1. (1) This Act may be called the Murshidabad Estate Administration Act, 1933.
Short title and extent.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

(1) " immoveable properties of the estate " means the properties contained in the Schedules of immoveable property annexed to the Indenture included in and confirmed by the Murshidabad Act, 1891, with any additional immoveable property added thereto under subsection (1) of section 3 of that Act, and **XV of 1891.**

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- I of 1894. includes all immoveable property acquired under the provisions of section 32 of the Land Acquisition Act, 1894 ;
- (2) " issues and profits of the immoveable properties of the estate " includes all money awarded under the Land Acquisition Act, 1894, as compensation for the acquisition of any of the immoveable properties of the estate together with interest thereon ;
- I of 1894.
- (3) " Manager " means the officer appointed under section 3 ;
- (4) " Nawab Bahadur " means the Nawab Bahadur of Murshidabad for the time being ;
- (5) " Local Government " means the Government of Bengal ;
- (6) " Board of Revenue " means the Board of Revenue, Bengal ;
- (7) " prescribed " means provided for by this Act or by rules made under section 28.

3. The Local Government may, at any time after the Secretary of State has entered upon the immoveable properties of the estate in accordance with the provisions of the Murshidabad Act, 1891, by an order published in the Calcutta Gazette appoint an officer for the management on behalf of the Secretary of State of the whole or any portion of these properties and of the rents, issues and profits thereof and for the reception and application of the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal :

Provided that the management shall cease from such date as may be notified by the Local Government in the Calcutta Gazette as the date of withdrawal by the Secretary of State from entry upon the immoveable properties of the estate :

Provided also that in the event of the death of a Nawab Bahadur the management shall not continue for more than sixty days after the date of his death.

4. On the publication of an order for the appointment of a Manager under section 3, the following consequences shall ensue :—

first, all proceedings which may then be pending in any Civil Court in respect of any debts or liabilities to which the Nawab Bahadur may be subject shall be barred, and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void ;

secondly, so long as such management continues, no suit or proceeding shall lie against the Nawab Bahadur, or the Secretary of State, or the Manager, in respect of any debt or liability to which the Nawab Bahadur is subject, nor shall the Nawab Bahadur be liable to arrest for or

in respect of the debts and liabilities to which he was at the time of such publication subject or in execution of any decree obtained before such publication nor shall his moveable property be liable to attachment or sale, under process of any Court for or in respect of such debts and liabilities ; *

thirdly, so long as such management continues—

- (a) the Nawab Bahadur shall be incompetent to mortgage, charge, lease, settle or alienate the immoveable properties of the estate, or to grant valid receipts for the rents and profits arising or accruing therefrom ;
- (b) such property shall be exempt from attachment or sale under process of any Court ; and
- (c) the Nawab Bahadur shall be incapable of entering into any contract which may involve him in pecuniary liability ; and

fourthly, any amount awarded, before the entry of the Secretary of State upon the immoveable properties of the Estate, under the Land Acquisition Act, 1894, by way of compensation for immoveable properties of the Estate acquired under that Act, if the amount has been invested in securities under section 32 of that Act or is deposited in court pending such investment in land or securities, shall, together with all interest and other proceeds thereof not already paid to any person under the provisions of any law, be deliverable to the Manager on behalf of the Secretary of State to be disposed of in such manner as the Secretary of State may think fit.

5. So long as the appointment of the Manager continues—
Suits and appeals during management.

- (1) in every suit or appeal to which the Secretary of State in possession is a party the Manager shall be named as his representative for the purpose of such suit or appeal ;
- (2) in every pending suit or appeal concerning the properties under management the Secretary of State in possession shall be a party in place of the Nawab Bahadur and the Manager shall be named as the representative of the Secretary of State in possession for the purpose of the suit or appeal ; and no application in any such suit or appeal shall be made to the Court on behalf of the Secretary of State in possession except by the Manager ;
- (3) the Court upon application by the Manager or by any party to the suit may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (1) or that the Manager be named as the representative

of the Secretary of State in possession as required by clause (2) of this section.

6. (1) The Manager shall receive and recover all rents, issues and profits due in respect of the immoveable properties of the estate, and shall upon receiving such rents, issues and profits give receipts therefor.

Manager to receive rents, issues and profits.

(2) The Manager shall receive the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal and shall give receipts therefor.

7. (1) From the sums received under sub-sections (1) and (2) of section 6, the Manager shall pay—

Application by Manager of sums received.

first, to the Nawab Bahadur such monthly sum, not being in any case less than Rs. 9,583-5-4, as the Local Government may fix in this behalf ;

secondly, the Government revenue, cesses, rates and taxes and all debts and liabilities for the time being due or incurred to Government or to any local authority ;

thirdly, in the case of property held by the Nawab Bahadur as tenant, the rent and cess due to the superior landlord in respect of the said property ;

fourthly, the cost of such repairs and improvements of the immoveable properties of the estate as appear necessary to the Manager and are approved by the Board of Revenue,

and shall apply the residue to the discharge of the costs of the management, to the payment of expenditure incurred in litigation and to the settlement in accordance with the scheme approved by the Board of Revenue under section 14 of such debts and liabilities of the Nawab Bahadur as may be established under the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Manager to pay out of the sums received under sub-sections (1) and (2) of section 6 any sum required to meet such expenditure on any other object or for any other purpose as the Secretary of State may from time to time sanction.

8. As soon as may be after the publication of the order for the appointment of a Manager under section 3 the Manager shall publish in the prescribed manner a notice in English and Bengali calling upon all persons having claims against the Nawab Bahadur to notify such claims in writing to the Manager within six months from the date of the notice.

Notice to claimants.

9. Every such claimant shall, along with his claim, present to the Manager full particulars thereof, together with all documents on which he relies in support thereof, and the Manager may refuse to receive in evidence on the claimant's behalf at the investigation of the claim any document not so presented.

Presentation of claims.

10. Every debt or liability, except debts due or liabilities incurred to Government or to any local authority and rent due to a superior landlord from the Nawab Bahadur as tenant of any property, which is not duly notified to the Manager within the time and in the manner mentioned in sections 8 and 9 shall be barred :

Debt not duly notified to be barred.

Provided that if the Manager is satisfied that the claimant was for reasonable cause unable to comply with the provisions of sections 8 and 9, the Manager may admit his claim within the further period of six months from the expiration of the period of six months specified in section 8.

11. The Manager shall in the prescribed manner determine the amount of the principal of all debts and liabilities not barred under section 10 justly due to the several creditors of the Nawab Bahadur and to persons holding mortgages, charges or liens on the property of the Nawab Bahadur, and shall determine in like manner the interest, if any, due at the date of such determination in respect of such debts and liabilities and may reduce the rates of interest charged as appears to him just and proper.

12. The Manager may inquire into the sufficiency of the consideration for leases, which any lease, settlement, grant, mortgage, charge or lien was given and whether it was given in contravention of the conditions of the Murshidabad Act, 1891, and if satisfied that the consideration was insufficient or that such lease, settlement, grant, mortgage, charge or lien was given in contravention of the said Act may, by order in writing, set aside or *modify* such lease, settlement, grant, mortgage, charge or lien ; and any such order, subject to the appeal provided in section 13, shall have the force of a decree of a competent Civil Court and be enforceable as such. XV of 1891.

13. (1) An appeal shall lie to the Board of Revenue against any order by the Manager--

- (a) refusing to receive a document under section 9 ; or
- (b) refusing to admit a claim under the proviso to section 10 ; or
- (c) determining the amount of a debt or liability or of interest thereon, or reducing the rate of interest, under section 11 ; or
- (d) setting aside or *modifying* a lease, settlement, grant, mortgage, charge or lien under section 12.

(2) If no such appeal is preferred within six weeks from the date of the order, the decision of the Manager shall, subject to the provisions of section 22, be final.

14. (1) When the amount due in respect of the debts and liabilities mentioned in section 11 has been finally determined, the Manager shall prepare and submit to the Board of Revenue a schedule of such debts and liabilities, and a scheme for

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the settlement thereof in whole or in part out of the residue referred to in section 7 annually available during the lifetime of the Nawab Bahadur ; and the Board of Revenue may approve the scheme without modification or subject to such modification as it deems expedient.

(2) The scheme shall provide for payment in full, as soon as may be, of—

- (a) first, arrears of wages due to servants of the Nawab Bahadur, determined in accordance with the foregoing provisions, and
- (b) secondly, claims of each creditor whose claims in the aggregate do not exceed five hundred rupees, as so determined ;

and the scheme shall further provide that any balance left after meeting the above claims and each annual residue thereafter shall be distributed ratably among the other creditors of the Nawab Bahadur in payment of their claims, as so determined.

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

16. The Manager may for the purpose of any investigation under this Act 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, 1908.

▼ of 1908.

17. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code ; and every statement made by any person examined by or before the Manager with reference to any such investigation, whether upon oath or otherwise, shall be deemed to be evidence within the meaning of the said Code.

XLV of 1900.

18. (1) The Collector of Murshidabad may on the application of the Manager order all persons who are or were in the employ of the estate of the Nawab Bahadur to attend before him ; and may order any person to deliver up any accounts, papers or moveable property belonging to the estate or any accounts or papers relating to the immoveable property of the estate or to any other property of the estate which the Manager has reason to believe are in such person's possession or control ; and may order all holders of tenures or under-tenures on any such property to produce their titles to such tenures or under-tenures.

(2) Any person who refuses to comply with an order under sub-section (1) may be punished by

the Collector of Murshidabad with fine not exceeding five hundred rupees :

Provided that an appeal shall lie to the Board of Revenue against any order of fine passed by the Collector under sub-section (2).

19. (1) The Manager shall have, for the purpose of realising and recovering the rents, issues and profits of the immoveable properties of the estate, the same powers as the Nawab Bahadur would have had for such purpose had the Secretary of State not entered into the said properties, and all arrears of rent and all demands recoverable as rent, and all interest due on such arrears or demands shall together with all costs incurred for realising the same be recoverable as public demands.

Powers of Manager for realisation of rents, etc.

(2) If such properties or any part thereof be in the possession of any mortgagee or conditional vendee, the Manager may apply to the Collector within whose jurisdiction the property is situated, and the Collector shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions elsewhere contained in this Act.

(3) If such properties or any part thereof be in possession of a Receiver appointed by a Court, the Manager may apply to the Court, and the Court shall cause the same to be delivered to the Manager together with any receipts which may be in the hands of the Receiver or the Court at the time of the application.

20. The Manager may, subject to the prescribed conditions, make settlement of all or any of the immoveable properties of the estate and may for this purpose execute any lease or counterpart of a lease :

Power to lease.

Provided that, unless the settlement is of a kind authorised by rule made under section 28, its terms and conditions shall have been previously approved by the Local Government.

21. The Manager may enter into any contract or take any action which in his opinion is necessary for the proper care and management of the immoveable properties of the estate and of the rents, issues and profits thereof or for the maintenance of the position and dignity of the Nawab Bahadur and which is not inconsistent with any provision of this Act or with any rule made under section 28 :

Power of Manager to contract and take action for the benefit of the estate.

Provided that if he is not empowered by any other provision of this Act or by any rule made under section 28 to enter on such contract or to take such action he shall obtain the previous sanction of the Board of Revenue before entering upon the contract or taking the action.

22. (1) All orders or proceedings of the Manager in the exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue.

Powers of supervision and control.

(2) All orders or proceedings of the Board of Revenue under this Act shall be subject to the supervision and control of the Local Government.

(3) The supervising authority in each case may of its own motion review and if it thinks fit revise, modify or reverse any order or proceeding.

23. The Manager shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Manager to be deemed a public servant.

XLV of 1860.

24. Any fine imposed under this Act shall be recoverable as a public demand.

Recovery of fines.

25. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Bar of suits, etc., against certain persons.

26. If at the time of the withdrawal of the Secretary of State from entry upon the immoveable properties of the estate, any difficulty arises in connection with the restoration to the Nawab Bahadur or to his successor of the properties and rights possessed and exercised by the Secretary of State, the Local Government may by order authorise the doing of any matter or thing which appears to it necessary to facilitate such restoration.

Power of Local Government to make orders.

27. Notwithstanding anything contained elsewhere in this or any other Act, the withdrawal by the Secretary of State from entry upon the immoveable properties of the estate shall not have the effect of reviving any of the proceedings referred to in clause *first* of section 4 if the debt or liability in respect of which such proceedings were instituted is barred under section 10.

Effect of withdrawal from entry by Secretary of State.

Nothing in section 4 shall bar the revival after such withdrawal of any other of the proceedings referred to in the said clause :

Provided that no Court shall entertain any suit or proceeding against the Nawab Bahadur in which the amount claimed is in excess of the amount determined under section 11, 13 or 22 as the case may be, together with any further interest due thereon, or in which interest is claimed at a rate higher than the rate determined as just and proper under those sections.

28. (1) The Board of Revenue may, with the previous sanction of the Local Government, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

- (a) the security to be required from subordinate officers under this Act ;
- (b) the procedure to be followed by the Manager in the discharge of his functions under this Act, the accounts which shall

be kept by him, and the manner in which such accounts shall be audited ;

- (c) the terms, conditions and limitations under which leases may be granted ;
- (d) the notices to be given under this Act and the manner of publication of such notices ;
- (e) the procedure to be followed by claimants in presenting claims, and by the Manager in the investigation of such claims ;
- (f) the procedure to be followed in determining under section 11 the debts and liabilities due to creditors and other persons ;
- (g) the allowance of interest on the principal of each of the debts and liabilities as determined under section 11 from the date on which it was incurred to the date of the determination and on the aggregate amount of such debts and liabilities from the date of the determination to the date of payment ;
- (h) the preparation of the Schedule of debts and liabilities and of the scheme referred to in section 14 and the order of payment of such debts and liabilities ;
- (i) the powers of the Manager to make or sanction settlements ; and
- (j) the procedure to be followed in appeals under this Act.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill to provide for the appointment of a
Manager on behalf of the Secretary of
State of the properties of the Nawab
Bahadur of Murshidabad and to define
the powers and duties of the Manager,
with the Bill as amended.