ANNO QUADRAGESIMO SEXTO

GEORGII III. REGIS.

****

Cap. 133.

An Act for enabling the Commiſſioners acting in Execution of an Agreement made between the *Eaſt India* Company and the Private Creditors of the Nabobs of the *Carnatic*, the better to carry the ſame into Effect. [21ſt *July* 1806.]

Articles of Agreement between the Eaſt India Company and the Creditors of the Nabobs of Arcot, recited.

WHEREAS by certain Articles of Agreement indented, had, made, concluded, and agreed upon, and bearing Date the Tenth Day of *July*, in the Year One thouſand eight hundred and five, between the United Company of Merchants of *England* trading to the *Eaſt Indies* of the One Part, and the ſeveral Perſons whoſe Hands and Seals ſhould be thereto ſet and affixed, and who reſpectively were, or claimed to be, Creditors of His Highneſs the Nabob *Wallah Jah*, formerly Nabob of *Arcot*, and of the *Carnatic* in the *Eaſt Indies*, and now deceaſed, and of His Highneſs the Nabob *Omdut ul Omrah*, late Nabob of *Arcot*, and of the *Carnatic*, eldeſt Son and Succeſſor of His ſaid Highneſs the Nabob *Wallah Jah*, and now alſo deceaſed, and of His Highneſs the *Ameer ul Omrah*, the Second Son of His ſaid Highneſs the Nabob *Wallah Jah*, and now alſo deceaſed, or of ſome or One of them the ſaid ſeveral Nabobs, and the ſaid *Ameer* of the other Part: It is witneſſed and covenanted between the ſaid Parties, That the ſaid United Company and their Succeſſors ſhould, ſo long as the Adminiſtration of the Revenues of the *Carnatic Payen Ghaut* ſhould be veſted in them, ſet apart, annually, in their Treaſury at *Madras* the Sum of Star Pagodas Three Lac Forty Thouſand, if after defraying all the Charges of collecting the ſaid Revenues ſo much ſhould be realized to, and be received therefrom, by the ſaid United Company, into their ſaid Treaſury at *Madras*, in order to form a Fund for the Payment of all the juſt Debts to Private Creditors remaining unſatisfied of the ſaid Nabob *Wallah Jah*, the ſaid Nabob *Omdut ul Omrah*, and the ſaid

Ameer ul Omrah, in the Manner, and subject to the several Terms, Conditions, Provisoes, Stipulations, and Agreements thereinafter contained: And in and by the said Articles of Agreement it is amongst other Things further witnessed and covenanted that the said several Persons, Parties to the said several Articles of Agreement of the Second Part, did thereby severally and respectively, for themselves and their respective Heirs, Executors, and Administrators, accept the said Fund, so provided and to be administred as therein is mentioned, in full Satisfaction and Discharge of all Claims and Demands whatsoever which they the said Parties severally, ever had, directly or indirectly, on the said Nabob *Wallah Jah*, or the said Nabob *Omdut ul Omrah*, or the said *Ameer ul Omrah*, or any of them: And it was further agreed, That the Honourable *Richard Ryder* of *Lincoln's Inn* in the County of *Middlesex*, *Benjamin Hobhouse* of *Dover Street*, *Piccadilly*, in the County of *Middlesex*, Esquire, and *Thomas Cockburn* of *Devonshire Street*, in the Parish of *Saint Mary-le-Bone*, in the said County of *Middlesex*, Esquire, and their Successors, to be appointed in Manner thereinafter mentioned, should be Commissioners and Referees in *England* for the Investigation of the Origin, Justice, and Amount of the several Debts claimed to be due to the several Persons, Parties thereto, of the Second Part, and of the Rights of such Claimants to such Debts, and to participate in the Fund thereby created for the Discharge thereof, and also for the Apportionment of the said Fund amongst the Parties entitled thereto, and for doing and ordering such other Matters as it was thereby agreed should be done or ordered by them: And in order to the more complete Investigation of the Matters thereby submitted to the said Commissioners in *England*, it was thereby declared and agreed, that the Governor General of *Fort William* in *Bengal*, in Council for the Time being, should appoint Three Persons from amongst the covenanted Civil Servants of the said United Company on the *Bengal* Establishment, to sit at *Madras*, and to be and act as Commissioners and Referees in *India* for the Purposes therein mentioned: And it was thereby further agreed, That Two Persons, to be called Registers of the Debts of the Nabobs of *Arcot* should, from Time to Time, be appointed by the major Part in Value of the said Creditors, subject always to the Approbation and Dismissal of the Court of Directors of the said United Company, One of which Registers should act in *London*, and the other of them at *Madras*, and it should be their Duty respectively to enter in proper Books, to be kept for that Purpose, Accounts of all the Sums to be allowed by the said Commissioners in *England*, as the Amount of the Debts of the several Creditors, according to the Classes therein mentioned, and of all Transfers and Assignments to be made as therein is mentioned by the said Creditors respectively, and their Executors, Administrators, and Assigns, of the Whole or any Part of the Sums to be awarded by the said Commissioners in *England* to the said Creditors respectively, and also of all Sums which thereafter might be transferred or assigned, from Time to Time, to any other Person or Persons whomsoever: And it was thereby further agreed, that after the final Allowance and absolute Establishment by the said Commissioners in *England*, of the Sums respectively to be allowed to the several Creditors, and in respect of which they were to be admitted into either of the Classes therein mentioned, such Sum should be carried to the Credit of the respective Creditors, in the Books to be kept by the Register in *London*, or in the Books to be kept by the Register at *Madras*, at the Option of the several Creditors:

Creditors: And it was thereby further agreed, That the said Commissioners in *England*, without Delay, should cause such Notices as they should see fit to be published, calling upon all Persons resident, as well in *Europe*, as in the *East Indies*, or elsewhere, and who claimed to be Creditors of the said several Nabobs and the said *Ameer*, to send in to the said Commissioners Accounts of their Claims, and they should cause Schedules of such Claims so made before them, to be published from Time to Time in *London* and at *Madras*, in order that all such Persons as should have any Interest to oppose or impeach the same, might have sufficient Opportunities so to do; and the said Commissioners should cause Schedules or Lists of the Claims, and Objections to be delivered to the Court of Directors of the said United Company, and the said Commissioners should give such reasonable Time, as they should see fit, to the several Claimants, to support their Claims by Proof, and to all Persons having any Interest in the said Fund thereby created, to impeach, object to, and oppose such Claims respectively, by Argument or Proof, and the said Commissioners should be at Liberty to receive Proof for or against any Claims to be preferred before them by the Testimony *vivâ voce*, or by Examination, or written Interrogatories, or by Affidavit of Witnesses, and by Production of written Documents, and by such other Ways and Means, as therein mentioned: And it was thereby further agreed, That the said Commissioners in *India* should be at Liberty originally to receive the Claims of Creditors to be preferred to them at *Madras*, and Objections to be made to any Claims, whether preferred in *England* or at *Madras*, and to publish Schedules of such Claims and Objections, and to cause Copies of such Schedules to be delivered to the Governor in Council of *Fort Saint George*, and to receive Proofs in support of such Claims and Objections, and to proceed in the Investigation thereof in such Manner as is therein agreed upon as to the Proceedings of the said Commissioners in *England*; and the said Commissioners in *India* should also proceed in Investigation of such Matters as should be referred to them by the Commissioners in *England*; in pursuance of such Instructions as from Time to Time should be sent to them for that Purpose, as by the said Articles of Agreement, Relation being thereunto had, may, amongst many other Things, more fully and at large appear: And whereas it is expedient, That Provision should be made by Law for the due and faithful Execution of the Trusts reposed in the said Commissioners, as well in *England* as in *India*, and for the legal Administration of Oaths to the Parties and Witnesses to be examined on the Investigation to be made by the said Commissioners, and that they should be authorized to compel the Attendance and Examination of Witnesses, and the Production of Proofs, May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Commissioners herein-before mentioned, as soon as they conveniently can after the passing of this Act, and before they proceed further in the Execution of the Trusts reposed in them, and all future Commissioners to be named and appointed for the Purposes aforesaid, as well in *England* as in *India*, before they respectively shall enter upon the Execution of the Trusts to be reposed in them, shall take the Oath following; (that is to say,)

Expediency of giving Powers to the Commissioners to administer Oaths, &c.

The Commissioners to be sworn.

I *A. B.*

"I *A. B.* do swear, That according to the best of my Skill and Know-
"ledge, I will faithfully, impartially, and truly execute the several
"Powers and Trusts vested in me by certain Articles of Agreement,
"bearing Date the Tenth Day of *July*, in the Year of our Lord One
"thousand eight hundred and five, and made between the United Com-
"pany of Merchants of *England* trading to the *East Indies*, of the One
"Part, and the several Persons whose Hands and Seals are thereto set
"and affixed, and who respectively are, or claim to be, Creditors of His
"Highness the Nabob *Wallah Jah*, formerly Nabob of *Arcot* and of the
"*Carnatic* in the *East Indies*, and then deceased, and of His Highness
"the Nabob *Omdut ul Omrah*, late Nabob of *Arcot* and of the *Carnatic*,
"eldest Son and Successor of His said Highness the Nabob *Wallah Jah*,
"and then also deceased, and of His Highness the *Ameer ul Omrah*, the
"Second Son of His said Highness the Nabob *Wallah Jah*, and then also
"deceased, or of some or One of them, of the other Part, according to
"the true Intent and Meaning of the said Articles of Agreement, and of
"the Parties thereto, So help me God."

Which Oath shall and may be administered by any One of the Persons already appointed, or hereafter to be appointed a Commissioner, as well in *England* as in *India*, to any other or others of them.

The Commissioners, and Courts and Magistrates, authorized to administer Oaths to Parties and Witnesses.

II. And be it further enacted, That it shall and may be lawful for the said Persons already appointed, or hereafter to be appointed Commissioners, as well in *England* as in *India*, or any Two of them, and they are hereby authorized and empowered to examine, *vivâ voce*, or upon written Interrogatories, upon Oath or Affirmation, (which Oath and Affirmation they, or any Two or more of them, are hereby authorized to administer), all Persons, whether Parties or Witnesses, touching any Matter referred to the said Commissioners, and that it shall and may be lawful to and for the said Commissioners already appointed, or hereafter to be appointed, as well in *England* as in *India*, or any One of them, and for all Courts, Judges, Masters in Chancery, Magistrates, and Justices of the Peace, and for all Masters Extraordinary in Chancery, and all Commissioners, and Persons who are or shall be authorized by any Court of Record to take Affidavits, and all Persons in the *East Indies* duly authorized to administer Oaths or Affirmations, to administer an Oath or Affirmation to any Person or Persons making any Affidavit or Deposition in Writing touching any Matter referred to the said Commissioners, or relating to the Execution of the Trusts reposed in them.

Persons guilty of false and corrupt swearing to be punished for Perjury.

III. And be it further enacted, That in case any Person or Persons, upon Examination upon Oath, or being a Quaker or Quakers upon Affirmation, before the said Commissioners already appointed, or hereafter to be appointed, whether such Commissioners shall be acting in *England* or in *India*, or any Two of them, or in any such Affidavit or Deposition so to be sworn or affirmed before the said Commissioners or any One of them, or before any such Court, Judge, Master in Chancery, Magistrate, Justice of the Peace, Master Extraordinary in Chancery, Commissioner, or Person so authorized to administer an Oath or Affirmation as herein-before is mentioned, shall wilfully and corruptly give false Evidence, or make any false Answer, Statement, or Deposition, every such

Person

Perſon ſo offending, and being thereof duly convicted, ſhall be, and is hereby declared to be ſubject and liable to ſuch Pains and Penalties as by any Law now in force Perſons convicted of wilful and corrupt Perjury are ſubject and liable to.

IV. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners already appointed, or hereafter to be appointed, whether ſuch Commiſſioners ſhall be acting in *England* or in *India*, or any Two of them, if they or any Two of them ſhall ſee fit, either of their own Motion, or at the Inſtance of the ſaid United Company, or their Agent or Agents, or any Perſon or Perſons having or claiming any Intereſt to ſupport or oppoſe any Debt or otherwiſe in any Matter referred to the ſaid Commiſſioners, to iſſue their Precept or Precepts, under the Hands and Seals of any Two or more of them, ſummoning any Perſon or Perſons whomſoever to attend them, or any Two of them, to declare the Truth touching any Matters or Things referred to the ſaid Commiſſioners, and to bring or produce any Book, Deed, Paper, Account, or Writing, or any Books, Deeds, Papers, Accounts, or Writings relating to any ſuch Matters, or as ſhall be neceſſary for executing the Truſts repoſed in the ſaid Commiſſioners, and all and every ſuch Perſon and Perſons, ſo ſummoned, is and are hereby required and directed, upon reaſonable Notice of any ſuch Precept, punctually to attend the ſaid Commiſſioners at ſuch Time and Times, Place and Places, as ſhall be by them, or any Two of them, appointed.

The Commiſſioners authorized to compel the Attendance of Witneſſes, and Production of Papers.

V. Provided always, and be it enacted, That in or at the Foot of every Precept to be iſſued for the Attendance of any Witneſs, or the Production of any Book, Deed, Paper, Account, or Writing, it ſhall be ſpecified whether the ſame is iſſued on the proper Motion of the Commiſſioners, or at whoſe Inſtance the ſame is iſſued.

Precepts to be ſpecified.

VI. And be it further enacted, That if any Perſon or Perſons ſhall abſcond or wilfully avoid being ſummoned by any ſuch Precept, or if any Perſon or Perſons ſummoned upon reaſonable Notice to appear before the ſaid Commiſſioners, or any Two of them, ſhall wilfully neglect or refuſe to appear before the ſaid Commiſſioners, or any Two of them, or to bring or produce any Book, Deed, Paper, Account, or Writing relating to any Matter referred to the ſaid Commiſſioners, that ſhall be in his, her, or their Poſſeſſion, Cuſtody, or Power, and which he, ſhe, or they ſhall have been required by ſuch Precept to produce, or ſhall refuſe to be ſworn, or, being Quakers, ſhall refuſe to affirm, or being ſworn, or, being Quakers, having affirmed, ſhall refuſe to anſwer to and before the ſaid Commiſſioners, or any Two of them, any Queſtion on Oath or Affirmation, touching or concerning any Matter referred to the ſaid Commiſſioners, then, and in every ſuch Caſe, it ſhall and may be lawful to and for the ſaid Commiſſioners, or any Two of them, and they are hereby authoriſed and empowered to make and iſſue their Warrant or Warrants, under their Hands and Seals, or under the Hands and Seals of any Two of them, for taking and apprehending any ſuch Perſon or Perſons, and committing him, her, or them to ſuch Priſon as the ſaid Commiſſioners, or any Two of them, ſhall think fit; there to remain, without Bail or Mainprize, until he, ſhe, or they ſhall ſubmit to be ſworn and examined, touching and concerning all or any of the Matters re-

Authorizing the Commiſſioners to commit Perſons refuſing to be examined.

ferred to the said Commissioners, or to make such Production as aforesaid, as the Case may be.

No Person in Great Britain or Ireland shall be compellable to go to India, nor in India to England.

VII. Provided also, and be it further enacted, That no Person, resident or being in the United Kingdom of *Great Britain* and *Ireland*, shall be compellable, by virtue of this Act, to go to, or appear before the Commissioners to act in *India*, or to go out of the said United Kingdom; and no Person, resident or being in the *East Indies*, shall be compellable, by virtue of this Act, to come to or appear before the Commissioners to act in *England*, or to go out to the *East Indies*.

Payment of the Witnesses' Costs and Charges.

VIII. Provided always, and be it enacted, That no Person or Persons whomsoever shall be compelled or compellable to appear before the said Commissioners now appointed, or hereafter to be appointed, either in *England* or in *India*, or to bring or produce to or before them any Books, Deeds, Papers, Accounts, or Writings, unless at the Time of Service of the Precept for such Attendance or Production, or at a reasonable Time before the Day appointed for such Attendance or Production, the probable Amount of the Costs and Charges of the Person or Persons summoned, and a reasonable Compensation for his, her, or their Loss of Time to be occasioned by such Attendance or Production, shall be tendered to him, her, or them; and every Person who shall attend the said Commissioners, or produce any Documents in pursuance of any Precept, shall be entitled to be reimbursed and paid by the Person or Persons at whose Instance such Precept shall have been issued, his or her reasonable Costs and Charges, and a reasonable Compensation for his or her Loss of Time; and in case any such Precept shall be issued on the proper Motion of the said Commissioners, such Costs, Charges, and Compensation shall be advanced and paid by the said United Company, to be afterwards charged and borne as Part of the Expences incidental to the Execution of the Trusts reposed in the said Commissioners; and all Persons entitled to any such Reimbursement or Payment shall be entitled to recover the same by Action at Law against the Person or Persons liable to the Payment thereof, or his, her, or their Successors, Executors, or Administrators, together with full Costs of Suit: And the said Commissioners, as well in *England* as in *India*, are hereby authorized and required, at the Request of any Person or Persons entitled to any such Reimbursement or Payment, to settle and adjust the Amount thereof, and to make an Order, to be signed by the said Commissioners, or any Two of them, fixing a Time and Place for the Person or Persons liable to the Payment thereof to pay and discharge the same; and in such Case the Person or Persons entitled thereto, or his, her, or their Executors or Administrators, shall be at Liberty to make their Election to accept thereof, or to proceed generally for the Recovery of their reasonable Costs, and Charges, and a resonable Compensation for their Loss of Time; and in case of the Election by any Person or Persons to accept of the Sum or Sums so to be ordered to be paid, if the Person or Persons liable to the Payment thereof shall make Default in such Payment pursuant to such Order, then the Person or Persons entitled thereto shall recover the specific Sum or Sums so ordered to be paid, together with double Costs of Suit.

IX. Provided

IX. Provided alſo, and be it further enacted, That the Commiſſioners, acting from Time to Time in *England* under or by virtue of the ſaid Articles of Agreement, ſhall, within Twenty-one Days after the Commencement of the next and every ſubſequent Seſſion of Parliament, preſent to both Houſes of Parliament, a Liſt of all the Claims which have been or ſhall be preferred to them, or to the Commiſſioners in *India* from Time to Time, and alſo a Liſt of ſuch Claims as from Time to Time ſhall have been decided upon, either proviſionally or abſolutely, by the ſaid Commiſſioners, with the Grounds of their Deciſion thereon: Provided always, That this Act ſhall in no Ways be conſtrued to extend to ratify or confirm the ſaid Articles of Agreement, or to make the ſame, or any Matter or Thing therein contained, available further or otherwiſe than the ſame would have been binding, effectual and available, in caſe this Act had not been paſſed.

The Carnatic Commiſſioners ſhall lay a Statement of the Claims preferred to and decided by them before Parliament, and that the Act ſhall not confirm the Articles of Agreement.

X. And be it further enacted, That if any Action or Suit ſhall be brought againſt any Perſon or Perſons for any Thing done in purſuance of any of the Proviſions hereinbefore contained, ſuch Action or Suit ſhall be commenced within Six Calendar Months next after the Fact committed, and not afterwards, and ſhall be laid in the County or Place where the Cauſe of Complaint did ariſe, and not elſewhere, and the Defendant or Defendants in every ſuch Action or Suit may plead the General Iſſue, and give this Act and the ſpecial Matters in Evidence at any Trial to be had thereupon, and if the Plaintiff or Plaintiffs in any ſuch Action or Suit ſhall diſcontinue or become nonſuit, or Judgement ſhall be given againſt him, her, or them therein, the Defendant or Defendants ſhall have his, her, or their Coſts, with the like Remedy for Recovery thereof as in Caſes where by Law Coſts are given to Defendants.

Limitation of Actions.

XI. And be it further enacted, That this Act ſhall be deemed and taken to be a Publick Act, and ſhall be judicially taken Notice of as ſuch by all Judges, Juſtices, and others, without being ſpecially pleaded.

Publick Act.

XII. And be it further enacted, That the Powers and Authorities by this Act given to the ſaid Commiſſioners now appointed, and to the Perſon and Perſons hereafter to be appointed Commiſſioners, as well in *England* as in *India*, ſhall continue in Force until the Firſt Day of *Auguſt*, which will be in the Year One thouſand eight hundred and ten, and from thence until the End of the then next Seſſion of Parliament.

The Commiſſioners Powers under this Act to continue until 1ſt of Auguſt 1810.

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