M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Financial **DEPARTMENT.**

G.O. No. 143 Press ~~Mis~~.

Dated 10. 3 1857.

B. No. 23-24.

Not to be folded or roughly handled

38-31

Copy Opinion

As I understand this matter no suit has as yet been instituted, but that it is proposed by Mr Robertson's Solicitor that a Special Case should be submitted to the Supreme Court for their decision under the provisions of Act No 17 of 1852.

I have looked through the papers submitted to me, and abstractedly, I should have advised that Mr Wilkins' suggestion should have been adopted, but understanding that the result of the former suit brought by Mr Davis against the Trustees of the Civil Fund, has been communicated to the Court of Directors so far back as August or September last, and that this Government has not since received any communication from the Honorable Court showing their views, although an application has been lately made to the Honorable Court by (or on behalf of) Mr Robertson, for a refund of the amount which he claims (and now seeks to recover) as having been paid by him in excess of the price (as he alleges) fixed by the rules for the purchase of his Annuity and further understanding that the Honorable Court have so peremptorily refused Mr Robertson's application, I cannot advise this Government to deviate from the strict course - I therefore recommend that the Honorable Company's Acting Solicitor be directed to communicate to Mr Wilkins that Government are not prepared at present to join in a Special Case as he suggests -

If Government deem it desirable, the Solicitor might at the same time inform Mr Wilkins, that the Honorable Court will be addressed by the next Mail, soliciting instructions on the subject, and if he determines on awaiting a reply, the same shall be communicated to him immediately after its receipt -

The Government not now joining in a Special Case - (unless Mr Wilkins elects to wait for a reply from the Honorable Court) Mr Robertson will be left to pursue the ordinary steps of

of instituting a suit and proceeding with it in the usual manner should Mr Wilkins now proceed and hereafter any Communication be received from the Honorable Court which would allow of a submission to the Supreme Court of a Special Case, the subject can then be reconsidered.

(Signed) Clemt Dale.
Madras, March 9 1857.

True Copy
J R Boyson
Actg Under Sec to Govt

Public Record Office
1/2

India Office Records
1857

No 113

From J. K. Boyton, Honorable Company's Acting Solicitor

To The Chief Secretary to Government

Madras March 9. 1857.

Sir,

With reference to the Extract from Minutes of Consultation noted in the Margin I have the honor to state that no Suit has yet been instituted by Mr. A. Robertson for enforcing Repayment from the Madras Civil Fund of the Amount Contributed by him to that Fund in excess of the Sum (according to the Table) of his Annuity and to which excess Mr. Robertson claims to be entitled, but that if a Suit is instituted for that purpose the Defendants will be The East India Company and the Trustees or Managers of the Fund, and that Mr. Hilkins proposal of submitting to a Special Case was made with a view of rendering a formal Suit unnecessary.

In Obedience to the Order of Government, I submitted the Papers in Mr Davis' late Suit against the Trustees and Managers of the Fund, Mr. Hilkins letter to my address of the 2d. instant and

and

Consultation dated 3d March 1857 No 126.

and the Extract from the Minutes of Consultation above noted for the Consideration of Sir H. Dale and know forward a Copy of his opinion —

I have the honor to be,
Sir,
Your most obed.t Servt.
J. A. Boyson
Actg. Under Secy. of State

No 24 Robertson No. 143. Dated

Mr H C Clk. Solicitor will, as suggested by Mr Dale, inform Mr Wilkins Attorney to Mr A Robertson that the Lords cannot be prevailed at present to join in a Special Case in the matter of his claim to a refund of excess subscriptions to Lt Cist Fund — but that they will address to the Court of Directors on the subject of the proper Legal and official steps & instructions, if Mr Wilkins is willing to await it.

Whitehall, 10th March 1857

Copy to H C Solicitor Dup. to
" Trustees C. Fund with copy of the letter Dup. to
& Encls: —

In Consltn March

Financial 1857 Depart.

From the Hon: Compy

to Leiston - No 113.

Dated 9th

Rd 10 March 1857

1 Encls.

No 116

State that no Suit has yet been instituted by Mr. R. Edwardson for enforcing payment of the Subscription paid by him in excess to the Civil Fund - That if a Suit is instituted the Defendants will be the East India Company and the Trustees or Managers of the Civil Fund. Submits opinion of Mr. Dale on the matter.

With an Order

to

Sole Dept 13 March No 50 of 1857

Copy to the Encolee
Civil Fund with copy of
the Encls: 19/3/57 - No 143.

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