M.R.O. 1—82 400—29-11-30

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	374	Press ~~Mis.~~
Dated	26 · 6 · 1857	

B. No. 14-15

Not to be folded or roughly handled

Fort Saint George, Financial Consultation, 30th June 1857.

Read again letter from Honorable Company's Solicitor, dated 17th and recorded in Diary to Consultation of 23rd June 1857.

No. 14. From S. D. BIRCH, Esq., Secretary to the Civil Fund; to E. MALTBY, Esq., Acting Chief Secretary to Government, dated 24th June 1857, No. 95.

SIR,

I am instructed by the Trustees of the Civil Fund, in acknowledging receipt of order of Government, dated 22nd Instant, passed upon a letter of the Honorable Company's Solicitor submitting to Government the proposed answer in the Suit of Robertson *versus* the East India Company and others, which answer is also forwarded to the Trustees, with view to their supplying certain information required, and offering "any remarks on the correctness of the facts entered in it, which they wish to bring under the consideration of Government"—to return the answer with the information required, supplied so far as the Trustees have it in their power, and with the blanks duly filled in.

The Trustees direct me to observe that in treating the questions of the creation of the Fund, its constitution, the control exercised over it by the Honorable Court, the relative position of the East India Company with the Service, and the Contract between the two parties, the Counsel employed on behalf of Government has made such representation, as are in the views of the Trustees not consistent with the facts of the case, at least as understood by them.

They deem it their duty moreover to bring under the notice of the Government, that Mr. Boyson, the Solicitor, who conducted their defence in the Suit instituted by Mr. Davis against the Trustees, and to whose management the conduct of the present Suit was intrusted, has within the last few days, requested to be relieved, and the Trustees have been compelled to employ another Solicitor.

The grounds upon which this request was made will be submitted to Government so soon as Mr. Boyson has reported them Officially to the Trustees which he has promised to do; but it may be sufficient for the present purpose to remark, that, as the Honorable Company's Solicitor, he considered it inexpedient that he should undertake the conduct of the Suit on behalf of the Trustees as well as the Honorable Company, as he felt that they must of necessity sever in the answer they would have to file, and the defence on their respective parts rest on arguments in many very material points widely differing from each other.

Under these circumstances the Trustees would express a hope, that the Government will not consider them wanting in respect, if they state their inability to enter upon the question contained in the latter portion of the order,—they would remark that Mr. Dale and Mr. Boyson have been furnished with all the information they have required, and that the Honorable Company's Solicitor has had ample data before him from which to deduce the facts he has entered in his answer on the part of the Honorable Company.

(Signed) S. D. BIRCH,
Secretary.

No. 15. ORDER THEREON, No. 374; dated 26th June 1857.

In this communication Mr. Boyson submits with other papers the draft of the answer proposed to be filed in the Suit brought by Mr. A. Robertson against the East India Company and Trustees of the Civil Fund for such observations as the Government may think necessary.

2. As the line of defence to be taken must be left to their legal Advisers, the main point for the Government to consider was whether the facts stated in the draft are correct and the different letters and documents rightly quoted. On referring for information on this point to the Trustees of the Civil Fund, the Government learn that the Trustees have no remarks to offer except that as regards the creation of the Fund, its constitution, the control exercised over it by the Honorable Court, the relative position of the East India Company with the service, and the Contract qetween the two parties, the draft answer is not consistent with the facts of the case, as understood by them.

3. Government therefore return the draft Answer and leave it to the discretion of their Law Officers to file it, feeling assured that before doing so the points above alluded to will receive their mature attention.

that as regards the

No 374 Financial Sept 8

Extract from the Minutes of Consultation. 12
Under date 26th June 1857.

Read agaiⁿ letter from Hon Comptr Shedden
dated 17 June 1857 (No 338)
Read letter from the Secy to the Civil
Fund. (Dated 24th June 1857 - No 95.)

In the communication Mr Boyton
submits with other papers the
draft of the answer proposed to be
filed in the suit brought by
Mr A Robertson agt the East
India Company & Trustees of the
Civil Fund for such observations
as the Govt may think necessary.

2 - As the line of defence to be
taken must be left to their legal
advisers, the main point for the
Govt to consider was whether
the facts stated in the draft are
correct & the different letters &
documents rightly quoted - Reference for information on this
point to the Trustees of the Civil
Fund, the Govt leave the Trustees
have no remarks to offer except
that as regards the creation of the

Fund, to institute the enquiry
exercised over it by the Honble
Court, the relative position of the
East-India Company with the
Service, & the contract between
the two parties, the draft answer
is not consistent with the facts of
the case, as understood by them.

3- You will therefore return the draft
answer & leave it to the discre-
tion of their Law Officers to file
it, feeling spared that before
doing so the Joint above alluded
to will receive their mature
attention -

Ellis

To the Trustees of the Civil Fund Dispd 26th
" the Honble Co's Solicitor
Draft Answer sent by this Secretary } Dispd 26th

1/4

Inv Dr to Com. 30 June
Financial 1857 Despatch

Finl Ltr to Engd 24th Nov
No 23 of 1857
Inwards

No. 374

Extracts Minutes of Cons.

of 26th June /57

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