

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 376

Press
~~Mis.~~

Dated 26. 6. 1857

B.no. 17

6-1

Not to be folded or roughly handled

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

No. 17.

MINUTE OF CONSULTATION,—No. 376 ; dated 26th June 1857.

Despatch from the Honorable the Court of Directors, dated 26th May, No. 12 of 1857.

Forwards copy of their Counsel's opinion, and state that they decline joining in a special Case to be submitted to the Supreme Court on the subject of Mr. Robertson's claim to a refund of excess subscription to the Civil Fund. But, in the event of Mr. Robertson instituting Proceedings, direct that the Trustees shall require the East India Company to be made parties so as to enable them to defend the Suit. Direct also that, in the possible event of an adverse decision, the judgment of the Supreme Court be carried by appeal to the Privy Council.

Ordered that a copy of this Despatch, and the copy of Counsel's opinion which accompanied it, be furnished to the Trustees of the Civil Fund, and also to the Company's Solicitor for information and guidance, with reference to the correspondence noted in the margin.

From H. C. Solicitor, dated 3d March 1857, No. 105

Order thereon " " " " 126

From H. C. Solicitor, " 9th " " " 113

Order thereon " 10th " " " 143

Exd. J. A. Wilson.

No. 376.

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

Read the following Despatch from the Honorable the Court of Directors, dated 26th May No. 12 of 1857.

OUR GOVERNOR IN COUNCIL AT FORT ST. GEORGE.

Letter from, dated 13th March 1857, No. 5.
Transmit copies of communications from the Company's Acting Solicitor and enclosures intimating that Mr. A. Robertson, late of the Civil Service, has instructed his Attorney to institute proceedings in the Supreme Court for the repayment of the amount contributed by him to the Civil Fund in excess of the half value of his Annuity, and communicating a request to be informed whether the East India Company and Trustees were prepared to join in a special case to be submitted to the Supreme Court for its opinion and decision on the subject. The Government have apprized Mr. Wilkins, (Mr. Robertson's Attorney) that pending a reference to the Court they were not prepared to join in a special case.

1. Having referred these papers to Counsel, we are advised that it would be undesirable to join in a special case to be submitted to the Supreme Court on the subject of Mr. Robertson's claim. We therefore decline that course. But in the event of Mr. Robertson instituting proceeding, we direct that the Trustees of the Civil Fund shall require the East India Company to be made parties so as to enable them to defend the Suit; and we have further to direct that in the possible event of an adverse decision, the judgment of the Supreme Court be carried by Appeal to the Privy Council.

2. We forward in the Packet a copy of our Counsel's opinion.

LONDON,
The 26th May 1857.

We are,
Your loving friends
(Signed) ROSS D. MANGLES,
(„) F. CURRIE,
and other Directors.

OPINION OF COUNSEL.

We are of opinion that it will be unadvisable to attempt to state Mr. Robertson's claim in the form of a special case for the opinion of the Court; there appears to us no prospect that the parties would agree upon the facts which ought to be stated in such a case, in order properly to raise the question in that form; and we think that the attempt to agree in a special case would only lead to useless expense. If Mr. Robertson shall institute a Suit to assert his claim the material documents may be admitted without formal proof and by that course all needless expense be avoided. We are therefore of opinion that in reply to the letter from the Government of Madras of the 13th of March last it will be proper to state that the East India Company consider it undesirable and therefore decline to join in a special case as proposed on the part of Mr. Robertson. We think it will be also advisable to direct that the Trustees of the Fund should be reminded (in accordance with our opinion of 12th January last) that if Mr. Robertson shall institute proceedings it will be their duty to require the East India Company to be made parties so as to enable them to defend the Suit and to appeal in the possible event of an adverse decision.

(Signed) LOFTUS WIGRAM,
(„) W. HENRY MELVILL.

May 2nd 1857.

From H. C. Solicitor, dated 3rd March 1857, No. 105.
 Order thereon dated " " " No. 123.
 From H. C. Solicitor, dated 9th " " " No. 113.
 Order thereon dated 10th " " " No. 143.

Order that a copy of this Despatch, and the copy of Counsel's opinion which accompanied it, be furnished to the Trustees of the Civil Fund, and also to the Company's Solicitor for information and guidance, with reference to the correspondence noted in the margin.

(True Extract and Copies.)

To the Trustees of the Civil Fund,
 with original Enclosure.
 " Company's Solicitor.

Acting Chief Secretary.

We are,
 Your Obedient Servant,
 (Signed) ROBERT D. MANLY,
 Esq.,
 and other Directors.

OPINION OF COUNSEL

We are of opinion that it will be unadvisable to recommend the Trustees of the Civil Fund to make any further advance in the purchase of the land in question, as the same is now held by the Company, and the Trustees of the Civil Fund are not entitled to purchase the same without the sanction of the Company's Directors. The Trustees of the Civil Fund are, however, entitled to be kept informed of the progress of the purchase, and the Company's Directors are bound to furnish them with such information as may be required.

W. HENRY REEVES

Exd. J. A. Wilson.

Financial Department.

N^o 376

Extract from the Minutes of Consultation.

Dated 26th June 1857.

Read the following Despatch from the Hon. the Court of Directors dated 26th May N^o 12 of 1857.

Forward copy of their Council's opinion, and state that they decline joining in a special case to be submitted to the Supreme Court on the subject of Mr. Robertson's claim to a refund of excess subscriptions to the Civil Fund. But, in the event of Mr. Robertson instituting proceedings, direct that the Trustees shall require the East India Company to be made parties so as to enable them to defend the suit. Direct also that, in the possible event of an adverse decision, the judgment of the Supreme Court be carried by appeal to the Privy Council.

Ordered that a copy of this Despatch, and the copy of Council's opinion which accompanied it, be furnished to the Trustees of the Civil Fund, and also to the Company's Solicitor for information and guidance, with reference to the correspondence noted in the margin.

H. W.

From N. C. Solicitor 23rd March 1857 No. 115.
Order thereon — " — " — " No. 126.
From N. C. Solicitor 29th " — " — " No. 113.
Order thereon — 2nd April — " — " No. 143.

To the Trustees of the Civil Fund.
with origl. enclosure (to be returned) } Dispt. 20th
Company's Solicitor — Dispt. 20th
with origl. enclosure (to be returned) } Dispt. 20th

Recd. B. Smithy.

Financial Department

Letter from the Honorable

the Court of Directors

of 26th May No. 12 of 1857

Understand 26th June
1857 No. 376

Extract of the
Journal of the
17th Nov 1851

Vol 2 the one. 30 down
Financial History of the
17th Nov 1851

No. 376

Extract of the
Journal of the
17th Nov 1851

Vol 2 the one. 30 down
Financial History of the
17th Nov 1851

17

Extract of the
Journal of the
17th Nov 1851