M.R.O. 1—32,400—22-11-30.

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 750 Press ~~Mis.~~

Dated 25. 11. 1857

B. No. 1-2 3-3

Not to be folded or roughly handled

Fort Saint George, Financial Consultation, 1st December 1857.

No. 1. From the Honorable Company's Solicitor; to the Chief Secretary to Government, dated 17th November 1857, No. 673.

SIR,

I have the honor to acknowledge the Extract from Minutes of Consultation noted in the margin.

Minutes of Consultation, dated 12th November 1857, No. 720, Financial Department.

I herewith forward the papers noted at foot relating to the Suit instituted by Mr. A. Robertson, in the Supreme Court at Madras, against the East India Company, and the Trustees of the Madras Civil Service Annuity Fund, and beg to suggest that they be transmitted to the Honorable Court of Directors for their information.

I assume that copies of the Bill and the Answer of the Honorable Company in this Suit have already been sent to the Honorable Court, and I will submit at an early date copies of such of the Exhibits put in as evidence at the hearing as are not already amongst the Honorable Court's Records.

When I intimated to the Trustees of the Fund in June last, neither I, or my partner could continue to act as their Solicitor in this Suit, I communicated to the Senior Trustee and the Secretary to the Fund, verbally and most fully, the grounds which had led me to that conclusion. Some of these grounds were the very nature and object of the Suit; the relative positions of the parties Plaintiff and Defendant; that the Honorable Company and the Trustees *must* sever in their defence and answer separately; the line of defence and argument which I had reason to believe the Trustees would take and rely upon, that the Plaintiff might possibly have a right against the Trustees (as representing the Fund) to the re-payment which he claimed and yet have no claim whatever in respect thereof against the Honorable Company; that if the Plaintiff succeeded in obtaining a Decree against the Trustees it would lay the foundation for an application by the Trustees (as representing the Fund) to the Honorable Company for further pecuniary aid, that such application might be made the subject of a reference to me in my official capacity, &c., &c., and that looking at all the circumstances of the case and at the future questions that might arise out of the Decree in this Suit and the conflicting interests as between the Honorable Company and the Trustees of the Fund involved in the Plaintiff's claim, the position of the Honorable Company being that even if the Plaintiff had a right as against the Trustees (representing the Fund) to the re-payment which he claimed the Honorable Company would be in no way affected by such right either directly or indirectly, whilst the position of the Trustees (as representing the Fund) was that any claim which the Plaintiff had was equally binding on the Honorable Company, I thought it in the highest degree desirable that the answers of the Honorable Company, and the Trustees should be prepared and their respective defences framed by separate Solicitors wholly unconnected with each other, and that this was the only course for preventing difficulty thereafter and the possibility of either the Honorable Company, the Trustees or myself, being placed in a false position.

The Suit came on for hearing before the full Court on the 23rd of September last, and occupied the whole of that day, and the two following days. Messrs. Norton and Branson appeared as Counsel for the Plaintiff, Messrs. Salmon and Dale as Counsel for the Honorable Company, and Messrs. Ritchie and Mayne as Counsel for the Trustees. The Court reserved its Judgment which was subsequently delivered by the Chief Justice on the 16th of October last, and the Decree was served upon me a few days since.

By their Answer and their Counsel at the hearing the Trustees virtually conceded the Plaintiff's right to the refund which he claimed and merely contended that the claim should be met by the Honorable Company and that the Decree should be against the Honorable Company and not against the Trustees.

The Petition of Appeal against the Supreme Court's Decree is now in course of preparation. It will be settled by Mr. Advocate General in consultation with Mr. Dale, and a copy

of it as soon as it is completed shall be forwarded to Government for transmission to the Honorable Court together with such observations as Mr. Advocate General may think it necessary to offer on the case.

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

A copy of the Joint Answer of the Trustees of the Madras Civil Fund.
A copy of the Admissions.
A copy of the Judgment of the Supreme Court.
A copy of the Decree.

No. 2.

ORDER THEREON, No. 750; dated 25th November 1857.

Ordered that the foregoing letter and its enclosures, with the correspondence which has passed on the subject since the date of the last Despatch, be transmitted to the Honorable the Court of Directors, with reference to their letter of the 26th May, No. 12 of 1857.

Exd. J. A. Wilson.

No 750.

Ordered that the foregoing letter and its enclosures, with the correspondence which has passed on the subject since the date of the last Despatch, be transmitted to the Honble the Court of Directors with reference to their letter of the 26th May No 12 of 1857.

For Ft St George
25th November 1857

To the Trustees of the C. Fund 3 Desp. 27th
" Advocate 3