

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. <i>524</i>	Press ~~Mis.~~
Dated <i>17. 9.</i>	18 <i>59</i>

B.No. 7-9

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Not to be folded or roughly handled

MR

*Proceedings of the Madras Government, Financial Department,
from 17th to 23rd September 1859.*

Read the following papers:

No. 7. From W. HUDLESTON, Esq., Secretary to the Civil Fund; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 3rd September 1859, No. 239.

I am directed by the Trustees of the Civil Fund to report for the information and instructions of Government, that a claim has been preferred to them by Sir Vansittart Stonehouse, since the decree of the Privy Council in the appeal suit of Robertson *versus* the East India Company was passed, for the refund of the surplus subscriptions to the Fund, beyond the half value of his Annuity, standing at his credit, when he obtained the Annuity in 1857, amounting to Rupees 47,378-3-6.

An *unconditional* application for an Annuity was received from Sir Vansittart Stonehouse on 30th September 1856, and on the same date there was also received a separate letter asserting his claim to a refund, to which the Trustees replied that they were not at liberty to recognize this claim.

He now renews his claim on the ground, that the original and appeal decrees in the recent suit maintain the equitable right of Annuitants on the Fund, to a refund of their surplus subscriptions in excess of the half value of their Annuities, and he lays stress on the fact, that, in the latter decree, it is expressly ruled that the compulsory adhesion to the rules adopted by the service in 1853, at the instance of the Court of Directors, could not operate retrospectively to destroy rights acquired before those Rules were passed.

The Government are in possession of the recent decree and of the papers connected with the case, and to enable them to form an opinion on the merits of the present claim, it only appears necessary that I should add, that, at the date of the adoption of the New Rules, Sir Vansittart Stonehouse had been 37 years in the service and 34 years resident in India, and therefore had been for some time qualified to obtain an Annuity from the Fund.

Referred for the opinion of the Advocate General.

FORT SAINT GEORGE,
5th September 1859.

(Signed) T. PYCROFT,
Chief Secretary.

No. 8. From J. R. BOYSON, Esq., Government Solicitor; to the Chief Secretary to Government, Fort Saint George, dated 13th September 1859, No. 1533.

Order of Government, dated 5th September 1859, on letter from the Secretary to the Civil Fund to Government, dated 3rd September 1859, No. 239.

1. I have the honor to acknowledge the order of Government noted in the margin.

2. I submitted same with all such further information and instructions as seemed to me necessary for the consideration of the Advocate General, and I have since conferred with him thereon.

3. I now forward a copy of his opinion.

Copy Opinion.

I have already stated in my opinion of the 3rd instant, on the subject of the Privy Council's decision in Mr. A. Robertson's suit, that I thought Sir V. Stonhouse had a very strong moral claim to a refund. The present letter of the Secretary to the Civil Fund, Mr. Huddleston, does not give any materials for forming any further opinion on the subject. It merely states that Sir V. Stonhouse asserted his claim to a refund on the 30th September 1856, being upwards of three years after the passing of the rule abolishing refund. The question is—firstly—did Sir V. Stonhouse ever assert his right to a refund before June 1853, when the rule abolishing refunds was

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passed; secondly—supposing him to have done so, had he notice of the meeting summoned to consider the question of abolishing refunds, and if so how did he act? Was he present at the meeting, or did he protest against it and stay away? If present did he side with the majority or the minority?

If he assented to the abolition of refunds, of course, he could not claim a refund afterwards; and if his claim of 30th September 1856 to a refund was the first time he claimed it as his right, then in my opinion, the Privy Council's decision is no authority in his favor. I can say nothing more till the Secretary of the Civil Fund gives the necessary information on the above points.

September 12th, 1859.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

No. 9.

ORDER THEREON, 17th September 1859, No. 524.

Copy of the Advocate General's opinion received with this letter, will be furnished to the Trustees of the Civil Fund in reference to their Secretary's letter of the 3rd instant, No. 239.

(Signed) T. PYCROFT,
Chief Secretary.

*Recd. Letter to Govt. 21st October
N. 24 of 1859.*

*Replied to 29th March N. 21 of 60
" " 15 June N. 41 of 60*

*Forwarded to the
Govt. of India 25th Jan'y
1861 N. 39.*

*Consol of 23 Sept
Financial 1859 Deptt.*

*From
The Government Solicitor
To the Chief Secy to Govt*

*Date 13 September
Received*

N. 1533.

By Mr. R. L. S. S. S.

N. 441.

*returns the proceedings of Govt.
dated 5th September 1859, with
with a copy of the Advocate
General's opinion regarding
Mr. V. Storhove's claim for
refund of subscriptions paid
to the Civil Service Amenity
Fund, in excess of the half
value of his Amenity*

With an Order.

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Read letter from the Secy. to the Civil Fund 8/13th Sept. No. 239.
" " " Government Solicitor 8/13th Sept. 1533.

No. 524 - 17 September 59

Copy of the Advocate General's Opinion received with this letter, will be furnished to the Trustees of the Civil Fund in reference to their Secretary's letter of the 3rd Inst. No. 239.

W. L.

W. L.

J. J.

R. A. G. G. G. G.

The Trustees of the Civil Fund. } Sept 20