

# MADRAS RECORD OFFICE.

Government of Madras.

*Financial* DEPARTMENT.

|                    |                          |
|--------------------|--------------------------|
| G.O. No. 566       | Press<br><del>Mis.</del> |
| Dated 6. 10. 1857. |                          |

B. no. 3-6

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Financial Department,  
from 5th to 21st October 1859.*

Read the following Papers :—

No. 3. Read the following letter from Surgeon W. C. MACLEAN; to the Chief Secretary to Government, Fort Saint George, dated 27th September 1859.

I have the honor to inform you that the Trustees of the Madras Civil Fund, have paid to me on account of Mr. Andrew Robertson, late of the Madras Civil Service, the sum decreed by the Supreme Court less the Taxed costs of suit, amounting to Rupees four thousand five hundred and twenty-eight, (4528). In a letter dated 26th instant, the Secretary to the Civil Fund, informs me that "as at present advised the Trustees of the Fund are not prepared to admit the liability of the Civil Fund to provide this charge."

I have now to forward the Power\* of Attorney under which I am acting and to beg the favor of your obtaining the sanction of Government for the payment of this money to enable me to fulfil my instructions.

\* To be returned at the Chief Secretary's convenience.

Part of the costs of this suit have to be paid to Mr. Daniel Elliot, and the Agents of that gentleman are pressing me for payment.

No. 4. From WILLIAM HUDLESTON, Esq., Secretary to the Civil Fund; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 1st October 1859, No. 270.

With reference to Extract Minutes of Consultation, dated 10th September 1859, No. 505, and the correspondence connected with it, I am directed by the Trustees of the Civil Fund to state for the information of Government, that they forwarded to Doctor Maclean an order on the Treasury for the amount of surplus subscriptions claimed by Mr. Robertson with interest, but that they received a further demand from that Gentleman for the sum of Rupees 4,528, being the Plaintiff's taxed costs of the suit. The Trustees were not prepared to admit the liability of the Fund to this charge, and have accordingly referred Doctor Maclean to Government.

The grounds for their decision were, that it was by the Act of the Home Government disallowing refunds in future, that the Trustees were driven into Court to defend their refusal to do what they were otherwise prepared to have done, and which the highest Court has now decided that they ought to have done.

That in their Despatch No. 12 of 1857, Financial Department, dated 26th May 1857, the Honorable the Court of Directors directed, that, in the event of Mr. Robertson instituting legal proceedings, the Trustees were to require that the East India Company should be made parties to the suit, to enable them to defend it, and they further desired, that, in the event of an adverse decision, the judgment should be carried by appeal to the Privy Council.

That the decision in the original suit decreed payment of the surplus subscriptions with interest and costs of suit against the East India Company, while the Trustees were merely decreed to draw such cheques or orders, as might be necessary to enable the Plaintiff to obtain his refund—which they have now done.

And finally, that from the appeal decree which affirmed that passed in the original suit, it appears that the East India Company took upon themselves the case of the Trustees, though, as the Notes of the short-hand writers are with the Government Law Officers, the Trustees are not able to ascertain the precise terms in which they did so.

For these reasons which they trust will appear sufficient to Government, the Trustees declined to admit the liability of the Fund to pay the costs of the Plaintiff.

less

*Proceedings of the Madras Government, Financial Department,  
from 5th to 21st October 1859.*

No. 5. From J. R. BOYSON, Esq., Government Solicitor, Madras; to the Chief Secretary to Government, Fort Saint George, dated 3rd October 1859, No. 1594.

1. I have the honor to bring to the notice of Government, that by the Decree of the Supreme Court, in the Suit noted in the margin\* the late East India Company were directed to pay to the Plaintiff Mr. Andrew Robertson, the sum of Rupees 39,014 being the amount of his subscription (inclusive of Interest) to the Madras Civil Service Annuity Fund, in excess of the half value of his Annuity of 1000£ a year, the further sum of Rupees 5,055 for Interest upon such excess and his taxed costs of suit, which costs were taxed (as between party and party) at the sum of Rupees 4,500-10, also that the decree of Her Majesty in Council (on appeal) affirmed the decree of the Supreme Court at Madras, "with the sums of £759-2-4 sterling for the costs of "Andrew Robertson Respondent, and the sum of £571-2-10 sterling for the costs of the Trustees and Managers of the Fund."

2. The Solicitor for the Trustees and Managers of the Fund has asked me if I am prepared to pay him the equivalent in Madras currency of the costs of appeal awarded to the Trustees and Managers, and I am in daily expectation of receiving a similar application from Mr. Robertson's Solicitors for payment of the aggregate amount of the 4 sums payable to Mr. Robertson under the Decrees.

3. I would therefore beg to suggest that the Sub-Treasurer be authorised to disburse to me on my receipt and responsibility, such sums of money as I may from time to time apply to him for, to enable me to meet the required payments.

No. 6. ORDER THEREON, 6th October 1859, No. 566.

Resolved that the Government Solicitor be informed in reply to his above letter that the Government learn from Dr. Maclean that the Trustees of the Civil Fund have paid him, on account of Mr. Andrew Robertson, the sum decreed to that gentleman by Her Majesty's Supreme Court at Madras, less the taxed costs of suits.

2. Resolved further that the Sub-Treasurer be authorized to disburse to the Government Solicitor on his receipt such sums as will enable him to pay the appeal costs awarded to the Trustees and Managers of the Civil Fund, by the decree of Her Majesty's Privy Council £ (571-2-10) five hundred and seventy one, shillings two and pence ten, the appeal costs similarly awarded to the respondent, Mr. A. Robertson, £ (759-2-4) seven hundred and fifty-nine, shillings two and pence four, as also the taxed costs of Mr. Robertson in the original action stated by the Government Solicitor at Rupees (4,500-10-0) four thousand five hundred, and annas ten, but by Dr. Maclean at Rupees (4,528) four thousand five hundred and twenty eight.

3. Resolved also that the above order be communicated to Dr. Maclean and to the Trustees of the Civil Fund in reply to their letters of the 27th ultimo and 1st instant respectively.

(Signed) T. PYCROFT,  
Chief Secretary.

Exd. W. J. Boyton.

*Financial Department*

*Proceedings of the Madras Government.*

*Read the following Papers.*

*From Dr. W. J. Maclean*

*Madras*

*Here enter 27<sup>th</sup> Sept. 1859 No. 471*

*"To the Civil Fund"*

*"1<sup>st</sup> Oct. 1859"*

*Final order of Her Majesty in*

*Council in Appeal Secretary*

*of State in place of the East India*

*Company. vs. Robertson*

*"6<sup>th</sup> July 1859"*

*From Government Solicitor*

*"3<sup>rd</sup> October 1859"*

*Order thereon 6<sup>th</sup> October 1859 No. 566.*

*[Signature]*

*[Signature]*

*Resolved that the Government Solicitor be informed in reply to his above letter that the Government learn from Dr. Maclean that the Trustees of the Civil Fund have paid him on account of Mr. Andrew Robertson the sum decreed to that gentleman by Her Majesty's Supreme Court at Madras less*

*less*

less the taxed costs of suits-  
 2. Resolved further  
 that the Sub Treasurer be  
 authorized to disburse to the  
 Government Solicitor on  
 his receipt such sums as  
 will <sup>enable</sup> him to pay the  
 Appeal costs awarded to the  
 Trustees and Managers of the  
 Civil Fund by the decree of  
 Her Majesty's Privy Council  
 L<sup>5</sup> 71-2-10/ Five hundred  
 and seventy one, Shillings two  
 and pence ten - the appeal costs  
 similarly awarded to the  
 Respondent Mr. A. Robertson  
 L<sup>5</sup> 79-2-4/ Seven hundred  
 and fifty nine, Shillings two  
 and pence four, as also the  
 taxed costs of Mr. Robertson  
 in the original action stated  
 by the Government Solicitor  
 at Rupees 4,500-10-0/ four  
 thousand five hundred, and  
 Annas ten, but by D. Maclean  
 at Rupees 4,528/ four thousand  
 five hundred and twenty  
 eight.

3. Resolved also that  
 the

the above order be communi-  
 cated to D. Maclean and to  
 the Trustees of the Civil Fund  
 in reply to their letters of the  
 27<sup>th</sup> Ultimo and 1<sup>st</sup> instant  
 respectively.

*[Signature]*

To the Government Solicitor  
 " Sir W. C. Maclean M.D. with Power of Attorney  
 " Trustees of the Civil Fund  
 " Sub Treasurer  
 " Account General.

*[Signature]*

*[Signature]*

Forwarded to the  
Govt. of India with form  
1865 in 1869

No 566

Proceedings of the

27th Dec to the 1/59

explain the post collection  
 that the Postmaster has  
 observed that the conduct of the  
 Civil Guard during their tour on  
 account of the Robertson has  
 been observed to not gentleman  
 say to the Ordnance Court at  
 Dublin - particularly the sub.  
 measures to advise to the  
 Postmaster to pay the  
 special Civil Costs awarded  
 to the Director & Managers of  
 the Civil Guard by the award

of the very Council &  
Commenced the papers to  
be exchanged to the  
other.

2.5 Oct.  
Rb - m