M.R.O. 1—32,400—23-11-30.

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 135 Press Mis.

Dated 12. 4. 1830

B. Ors. 1-3 18/19

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department, for the month of April 1860.

Read the following papers:—

No. 1. From Messrs. PARRY and Co., to the Chief Secretary to Government, Financial Department, Fort Saint George, dated 13th March 1860.

We are requested by Mr. James Hall Banker of Ootacamund to apply to the Honorable the Governor in Council for permission to be accorded him to draw money, as he may require it, from the Coimbatore Treasury, (and subsequently from the Ootacamund Treasury when that is opened) in exchange for Bills on ourselves at short sight, the payment of said Bills being assured by a deposit of Government securities to their full amount.

It is of course here intended to abide by any regulations which the Financial advisers of Government may require, and Mr. Hall's indents for cash would be made strictly subservient to the convenience of Government. He does not state his probable requirements, but we do not suppose they will ever exceed twenty thousand Rupees in any month.

Referred to the Accountant General for report.

(Signed) T. PYCROFT,
Chief Secretary.

No. 2. From R. P. HARRISON, Esq., Accountant General, to the Chief Secretary to Government, Fort Saint George, dated 30th March 1860, No. 507.

I have the honor to acknowledge the receipt of the Order of Government, dated 20th Instant, referring to me for report, an original letter to Government from Messrs. Parry and Co. dated the 13th I dem, in which they communicate a request from Mr. James Hall, Banker of Ootacamund, to be permitted to draw money as he may require it, from the Coimbatore Treasury, and eventually from the Ootacamund Treasury, in exchange for orders to be drawn by him on the abovementioned firm, secured by the deposit of Government securities to their full amount. It is added that Mr. Hall's indents for cash, which Messrs. Parry and Co. suppose will not exceed 20,000 Rupees per mensem, will be made strictly sub-servient to the convenience of Government, and that it is intended he should abide by any regulations which the Financial advisers of Government may require.

2. It would in my opinion be highly objectionable to allow officers in charge of Public Treasuries, to cash private Bills, or orders, whether secured by the deposit of Government Promissory Notes or otherwise. The state of the Coimbatore Treasury moreover is such, and has been such for some time, as not to admit of bills being drawn upon it, except for Railway purposes, and, to a very limited extent, for the benefit of parties on leave and residing on the Hills. If therefore the Government consider it necessary or advisable that funds should be provided at Ootacamund to meet the wants of the public, it will be necessary to make large specie remittances to that Treasury at considerable expense. Bills might them be granted at a premium sufficient to cover the cost of remittance, for cash paid into the General Treasury; but I would not under any circumstances recommend that the Treasury officer at Ootacamund should cash private bills. If this is allowed to one firm, or individual, the same indulgence might reasonably be asked by others.

No. 3. To Messrs. PARRY and Co., Agents at Madras, dated Fort Saint George, 12th April 1860, No. 135.

I am directed by the Honorable the Governor in Council to acknowledge the receipt of your letter of the 13th ultimo, and to state that the Government having received from the Accountant General a report upon the application therein preferred, regret that they are unable to comply with it.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

CIVIL SERVICE ANNUITY FUND.

At the ANNUAL GENERAL MEETING *of the* SUBSCRIBERS *to the* CIVIL SERVICE ANNUITY FUND, *held at the* GOVERNMENT HOUSE *in* FORT ST. GEORGE *on Friday the 3rd February* 1860.

PRESENT.

HON. W. A. MOREHEAD,
MESSRS. H. FRERE,
G. T. BEAUCHAMP,
C. PELLY.
A. HALL,
A. J. ARBUTHNOT,
MESSRS. J. D. SIM, *Trustee*,
G. F. FULLERTON,
W. HUDLESTON, *Secretary*,
L. FORBES,
AND
C. G. MASTER.

The Honorable W. A. MOREHEAD is requested to take the Chair.

The Secretary is directed to read the following Report of the Managers.

REPORT.

1. THE Managers for the year 1859 beg to commence their Report by appending in the margin, for the information of the Subscribers, a Statement of the Appropriated Fund of this Branch, showing the Capital with respect to the triennial adjustments of 1846, 1849, 1852, 1855, and 1858.

Capital on 1st May 1859, of the Appropriated Fund of the Civil Service Annuity Fund, C. Rs. 55,52,531-14-4. Vide Appendix B.

2. The Managers have to report, that three out of the five Extra Annuities granted by the Home Government and, in accordance with the votes of the Service,* declared available on 1st May 1859, were assigned to the undermentioned Gentlemen, they being the three senior Applicants.

* Annuity Fund Proceedings, 15th March 1859.

Thomas Boone Roupell, Esquire.....£750.
Charles James Bird.....£738.
Archibald Stirling Mathison.....£735.

The Annuities available for the year 1859-60 were assigned to the undermentioned Gentlemen, they being the six Senior Applicants. The remaining two extra Annuities out of the five granted by the Home Government are included in this number.

George Stanley Hooper, Esquire.....£1000.
John Goldingham.....£1000.
Walter Elliot.....£ 600.
William Elphinstone Underwood.....£1000.
Guy Lushington Prendergast.....£1000.
Frederick Bayard Elton.....£ 711.

The publication of Mr. Prendergast's name in the Official Gazette was however not sanctioned by Government, pending the decision of the Home Government on that Gentleman's case, which has not yet been communicated to the Managers.

3. The Managers have also to submit a Statement of the Assets of the Civil Service Annuity Fund, showing a balance at credit on 1st May 1859 of Co.'s Rs. 5,24,507-14-8.

4. The Managers have further to report, that the Privy Council having affirmed* the Decree of the Supreme Court at Madras in the late suit Robertson *vers.* The East India Company and the Managers of the Annuity Fund, the excess subscription at the credit of Mr. Robertson with Interest up to the date of the Decree in the Original Suit,† was refunded to that Gentleman in accordance with the terms of the Decree. Mr. D. Eliott's case being identical on all points with that of Mr. Robertson, the Managers have, on the application of that Gentleman and with the sanction of the local Government, refunded to him also the excess subscription at his credit at the period of his attaining his Annuity with Interest up to the date of the Refund.‡

* Vide Appendix A.

† Principal....Rs. 39,014-0-1
Interest..... „ 5,055-0-0
Rs. 44,069-0-1

‡ Principal, Rs. 1,28,185-14-11
Interest.. „ 8,791-9-0
Rs. 1,36,977-7-11

5. Similar applications have also been received from the Gentlemen named in the margin,§ but as their cases differed on some material points from those of Messrs. Robertson and Eliott, and did not appear to the Managers to be affected by the decision of the Privy Council, they were not admitted, but the fact of their having been advanced was reported to the local Government.

§ Sir T. V. Stonhouse, *Bt.*
Mr. G. S. Hooper,
„ John Goldingham,
„ W. E. Underwood.

W. HUDLESTON,
Secretary.

Managers of the Civil Service Annuity Fund.
J. GOLDINGHAM,
E. MALTBY,
T. PYCROFT,
J. D. BOURDILLON,
R. P. HARRISON,
J. D. SIM.

The Meeting confirm the Proceedings of the Managers detailed in the foregoing Report.

With reference to the Resolution passed at a Quarterly General Meeting held on the 13th January 1849, the Meeting proceed to the election of seven Managers for the present year in the room of Messrs. J. Goldingham, E. Maltby, J. D. Bourdillon, H. D. Phillips and J. D. Sim who go out by rotation.

The ballot being closed, the majority appears in favor of Messrs. H. Frere, C. Pelly, A. Hall, J. D. Sim and G. F. Fullerton as Managers, and Messrs. H. D. Phillips and J. D. Bourdillon as the two Provisional Managers.

The thanks of the Meeting are unanimously voted to the Hon. W. A. Morehead for his conduct in the Chair.

W. HUDLESTON, *Secretary.* W. A. MOREHEAD, *Chairman.*

APPENDIX A.

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of THE EAST INDIA COMPANY *v.* ANDREW ROBERTSON *and the* TRUSTEES *of the Madras Civil Service Annuity Fund, from the Supreme Court of Judicature at Madras; delivered 20th June, 1859.*

PRESENT.

LORD JUSTICE KNIGHT BRUCE, | LORD JUSTICE TURNER,
SIR EDWARD RYAN, | SIR CRESSWELL CRESSWELL.

SIR LAWRENCE PEEL.

THIS is an Appeal by the East India Company from a decree of the Supreme Court of Judicature at Madras, by which the Court declared the Respondent, Andrew Robertson, to be entitled to a refund or repayment of the surplus or excess paid by him to the Madras Civil Service Annuity Fund, as a subscriber to the said fund, with interest from the 28th of April, 1855 (the date to which the respondent's account was made up by the Trustees of the fund), to the day of payment, at the rate of 5*l.* per centum per annum; and the Court decreed the East India Company to pay to the respondent the sum of 44,069 rupees, the amount of such surplus or excess and interest; and the Court also declared that the East India Company was liable to pay to the respondent an annuity of 1,000*l.* up to the time of his death, and decreed the Company to pay the same accordingly; and, further, decreed the Company to pay the respondent's costs of the suit. There were some further directions in the decree as to acts to be done by the Trustees of the fund, for the purpose of effectuating the payments decreed to be made by the Company, but it is unnecessary to refer particularly to those directions, the Company having very properly, upon the hearing of the appeal, taken upon themselves the case of the Trustees.

Trustees' case, page 10.

The Madras Civil Service Annuity Fund had its origin in the year 1800 when it was determined that the objects of an institution, which had been founded in the year 1787 to provide for the widows and children of the civil servants of the Madras Presidency, should be extended for the purpose of securing to a certain number of the civil servants of the Presidency annuities on which they might retire from the service.

This extension was carried into effect by a Deed Poll dated the 1st of September, 1800. In the year 1814, the funds of the institution, to which the East India Company were large contributors, had greatly accumulated, and it was determined to separate the Charity and Annuity branches of the Fund, and to increase the number of the annuitants.

A Deed Poll, dated 1st of July, 1814, was accordingly executed by a large number of the civil servants of the Presidency. The provisions of this Deed were to this effect: The accumulated funds of the institution were assigned to trustees, as to five-eighths, in trust for the Charity branch; and as to the remaining three-eighths, in trust for the Annuity branch. There were to be seven trustees of the funds, of whom the Chief Secretary and the Accountant General of the Madras Government were to hold the office *ex officio*, and the others were to be annually elected. The Sub-Treasurer of the Madras Government was to be the Treasurer of the institution, and the moneys belonging to the fund were either to be kept in the public Treasury, or invested on public Government securities; and as to the Annuity branch, in order to secure the payment of twenty-three Annuities of 400*l.* each, a capital of 2½ lacs of star pagodas was to be raised by the three-eighths of the capital belonging to the fund and the accumulations upon it, and by the contributions of the East India Company, and the payments of the parties to the Deed. Each party was to pay to the Annuity branch 2 per cent. per annum on all his salaries, allowances, emoluments, and fees of office, until the 2½ lacs of star pagodas should have been accumulated; but no party was to be required to subscribe towards forming the accumulated capital more than 2,500 pagodas. When the 2½ lacs of star pagodas should have been accumulated, the rate of subscription was to be reduced to such an amount as would provide the annual sum of 8,000 pagodas, being the sum required, with the interest on the accumulated capital, to answer the twenty-three annuities of 400*l.* Each of the annuities was to be payable for the life of the person accepting it. The annuities were to be offered to the civil servants, parties to the Deed, according to their seniority, but no party was to be allowed to accept an annuity from the fund until he should have paid to the Annuity branch the sum of 2,000 pagodas. The number of the annuities was not to exceed twenty-three, unless the Court of Directors should previously sanction an increased number. Any party accepting an annuity was to resign the service before the 1st of January next following his acceptance.

Another Deed Poll dated the 1st May, 1818, was afterwards executed by many of the civil servants of the Presidency. By this deed, after reciting the Deed Poll of 1814, it was agreed that sixty annuities of 600*l.* sterling should thereafter be granted and paid to the persons who were parties to the recited deed and to that deed, under the same provisions, however, as were contained in the recited deed as to the annuities of 400*l.*; it was further agreed that none of the parties to the deed should be allowed to accept an annuity of 600*l.* until he should have paid to the annuity branch of the fund the sum of 5,490 pagodas, except that a remission or abatement was to be made in favour of certain parties. It was also agreed that

the increased monthly contribution to the Annuity branch of the Fund should be paid by each of the parties to the deed so long as he continued to receive salary, allowance, emoluments, or fees of office, notwithstanding he might have subscribed the whole of the 5,940 pagodas; and the contribution thereafter to be made by the parties to the Annuity branch was fixed at the rate of $3\frac{3}{4}$ per cent. per annum, on all salaries, allowances, emoluments, and fees.

In the year 1824, the East India Company concurred with their civil servants in Bengal in the establishment of a fund for granting them annuities on their retiring from the service. The principles on which that fund was to be established, and the rules by which the application of it was to be governed, are contained in a despatch from the Court of Directors to the Government of India, dated the 8th December 1824, and in a paper appended to that despatch, containing the regulations of the fund as proposed by a Committee of the Bengal Civil servants, with the alterations in those regulations which the Court of Directors considered to be necessary.

The despatch is to this effect: It notices, in the early part of it, the Annuity Funds at Madras, and that at Madras the condition of the grant of the annuities was that the grantee should have paid, either in subscriptions to the fund, a certain aggregate sum, or that he should pay the difference between such sum and the amount of his subscriptions. It then points out, in paragraph 40, that an Annuity Fund to be successful must derive material assistance from the Company; and then in paragraphs 41, 42, 43, proceeds thus:—

"41. A contribution to an Annuity Fund from the Company is evidently a boon to the service, and operates precisely in the same way as if the Company itself were to grant annuities to Civil servants upon retirement, so that the real pecuniary advantage to the service of a Fund so constituted, is, that a Civil servant, when he retires, has in addition to his own savings, whether they have accumulated in the shape of subscriptions to the Fund, or in any other mode, a life annuity proportionate to his share of the Company's contribution to the Fund; and if, in aid of their direct contribution, the Company protect the Fund from loss by establishing fixedrates of interest and exchange, then the servants derive the further advantage of individual protection from these contingent losses to the extent of their individual property in the Fund.

"42. With a view to establish a Fund on such liberal principles as to insure its success as a measure highly beneficial to the whole service, we conceive that the Company's contribution should be proportionate to the contribution of the service, and the amount of both must necessarily be fixed in relation to the extent of the advantages which the Fund may be destined to afford.

"43. These advantages should certainly be considerable, because, in order that the Fund may be beneficial to the service, it is important that all the annuities from it, as they accrue, should be accepted by old servants, so as that the Fund may not be instrumental to the retirement of young and active servants; and it cannot be expected that old servants in the possession, as they generally are, of lucrative offices, would be tempted to retire if the annuity did not afford a material addition to such income as the party may possess."

Then in paragraph 44, it states that the attention of the Court of Directors has been directed to four particulars: the amount of each annuity; the number of the annuitants; the proportion of the value of the annuity which should be paid by the annuitant; and the security that the annuities will be regularly paid.

As to the amount of the annuity, it states, in paragraph 46, that the Directors have come to the determination that the annuities should not fall short of 10,000 rupees each, payable in England at the rate of 2*s.* the rupee, being 1,000*l.* sterling.

Then, as to the number of the annuities, it proceeds thus:—

"47. The next point which has called for consideration is the number of annuities which should be granted in each year, upon which we have found it necessary, in the first place, to determine what should be the qualification of an annuitant in respect of length of service; and we have resolved that a Civil servant should not be eligible to accept an annuity unless he have been actually in the Civil service the full period of twenty-five years, or upwards, and resident in India in the service not less than twenty-two years.

"48. We are also of opinion that the Fund should be so constituted as to afford a reasonable expectation that at the end of twenty-five years from the date of appointment to the service, a Civil servant, having completed the term of actual residence already specified, would obtain the offer of an annuity."

And then, in paragraph 51, it states that the Directors have determined that nine should be the number of the annuities in each year. It then enters upon the question as to the proportion of the value of the annuities which should be paid by the annuitants; as to which it proceeds thus:—

"52. The third point requiring attention, is the proportion of the value of the annuity which should be paid by the annuitants, or, in other words, what shall be the sum paid by a servant, including his accumulated subscriptions, to entitle him to an annuity if otherwise eligible; upon which point we must observe that we consider it of essential importance that, so far as may be practicable, the advantages afforded by the Fund should be available by those eligible to *receive them upon terms of strict equality.*

"53. If the annuitants were all of the same age when they became such, this point could, in a great degree, be accomplished by fixing an aggregate sum as the purchase money for the annuity, but as the ages of the annuitants must naturally vary, it follows that, to maintain strict equality, the amount of the purchase money should depend upon the value of the annuity, which, of course, is regulated by the age of the annuitant.

"54. The Committee of the servants upon your establishment propose that 'any subscriber who may accept the tender of an annuity shall be required, to entitle him to such an annuity, to pay to the institution the difference between two-thirds of the actual value of the annuity on his life and the accumulated value of his previous contributions, in case the latter quantity shall be less than the former."

"55. But as, for the reasons already assigned, we have determined that the annuity be 10,000 rupees, we are of opinion that, in order to render that arrangement of important value to the service, the proportion of purchase-money should be reduced, and we have accordingly resolved to fix it at one-half the value of the annuity, according to the following table, which is calculated upon the principle of our allowing an interest of 6 per cent. per annum upon all the balances of the Fund, as hereafter explained, viz.:—

		Rupees
If of the age of	40 years	1,07,050
,,	41 ,,	1,05,800
,,	42 ,,	1,04,730
,,	43 ,,	1,03,560
,,	44 ,,	1,02,350
,,	45 ,,	1,01,100
,,	46 ,,	99,800
,,	47 ,,	98,410
,,	48 ,,	97,070
,,	49 ,,	95,630
,,	50 ,,	94,170
,,	51 ,,	92,730
,,	52 ,,	91,290

"56. Upon this principle, a servant getting an annuity at the expiration of twenty-five years' service, and at the age of forty-five, will pay altogether, including interest upon his subscriptions, 50,5 50 rupees, for an annuity of 10,000 rupees, instead of 47,180 rupees, the sum proposed by the Bengal Civil servants, for an annuity of 7,000 rupees.

"57. But although in the mode here proposed all servants, upon becoming annuitants, will pay half *the value of their respective annuities, and no more,* and will so far be placed upon an equal footing, yet it has not escaped our observation that there will be a material *difference in the value of the risks incurred by the several subscribers of losing, by death or early retirement, the amount of their contributions.*"

And after pointing out in this 57th paragraph the differences of risk arising from the different amounts which would be payable by the different subscribers and the different periods for which they would pay, it brings this part of the subject to a conclusion in the same 57th paragraph, in these words:—

"Thus it is clear that subscribers becoming annuitants during the first twenty-five years, will not have incurred a risk of equal amount, either relatively one with another or with those who become annuitants after the expiration of that period. Of this advantage, however, existing servants could not be deprived without sacrificing one important object of the Fund, viz., the inducement which it will afford to old servants to retire; and it may also be observed that the benefit which the younger servants will derive from such retirements, together with the advantage which they will severally possess of accumulating a fund for the purchase of the annuity by gradual deposits, improved at a fixed and favourable rate of interest, will, in a great degree, countervail the difference of risk as compared with their seniors, who will not have enjoyed to the same extent the benefit either of accelerated promotion or accumulation by gradual deposits at interest."

Proceeding then to the fourth head, that of security, it points out, in paragraph 58, that when an annuity was granted, the value of it should be set apart; and it then enters upon the means by which the advantages to be derived from the Annuity Fund are proposed to be secured, and states those means to be, first, by subscriptions from Civil servants proportioned to their official income, the rate of which is fixed at 4 per cent. upon the salaries and allowed emoluments of subscribers; secondly, by contributions from the Company, as to which there are the following provisions:—

"61. With a view essentially to promote the welfare of this important class of the Company's servants, to whom is intrusted the discharge of very arduous and responsible duties, and from a conviction that pecuniary advantages of equal extent could not so beneficially be communicated in any other mode, we have resolved, that, provided an Annuity Fund be formed in Bengal, upon the principles explained in this despatch, and under such a modification as we shall prescribe, of the regulations framed by a Committee of the Civil servants, on the 28th January 1822, the Company shall contribute *whatever sum may be required in addition to the contributions of subscribers, to enable the Fund to grant such number of annuities as may be accepted under the prescribed regulations, not exceeding nine per annum.*

"62. With this view we desire that the Fund be annually credited with a sum equal to the amount yielded within the year by the subscription of 4 per cent. on the official incomes of the subscribers, and that you receive into deposit, and allow interest at 6 per cent. per annum, to be computed annually upon the balance belonging to the Fund; we also desire that if, at the expiration of five years from the date of the institution of the Fund, the balance shall be less than the amount apparent in the prospective calculation contained in a subsequent part of this despatch, the Fund be credited by you with the amount of the deficiency; that if, on the other hand, the balance shall exceed the balance so calculated, then an annual deduction equal to the income derived from the excess of balance shall be made either from the Company's contri-

bution, or from the rate of interest allowed on the accumulations of the Fund, at the option of the Court of Directors; that *a similar adjustment be effected* at the expiration of each succeeding five years; *and that* when the *Fund* shall have arrived at the twenty-fifth *year of its operation* the table of the valuation of annuities be corrected according to the experience of the intervening period, and the Company's contribution be then finally limited to the sum which, when added to the contributions of subscribers, and to the income derived from the accumulated balance, will make a total income equal to the grant of nine annuities annually, according to the valuation which shall then be fixed.

" 63. *Upon the principles which* we have thus explained, the number of nine annuities annually is virtually *guaranteed by the Company*, and the Company's contribution is limited to the amount necessary for the *accomplishment of that important object.*

" 64. We have further resolved that an interest of 6 per cent. per annum be allowed on the funds set apart for the payment of annuities."

And, thirdly, by fines from subscribers on becoming annuitants, which are referred to in paragraph 66, in these terms:—

" 66. There is another large source of income; viz., the difference between the accumulated value of a subscriber's contributions and one-half of the value of his annuity. This, in the earlier periods of the operation of the Fund, will be considerable, but its amount will, of course, decrease annually until the end of twenty-five years, when we calculate that the accumulated value of a subscriber's contributions for the whole of that period will average 38,876 rupees; that the age of the subscriber will be about forty-five, and half the value of the annuity 50,550 rupees; so that the fine to be paid up on becoming an annuitant, after having subscribed to the Fund for twenty-five years, will be about 11,674 rupees. In this view, therefore, when the Fund shall have been in operation twenty-five years, its income from fines will probably average 1,05,066 rupees per annum."

The despatch, then, after expressing the wish of the Directors to bring the fund into operation with the least practicable delay, sets out a prospective calculation of the receipts and disbursements of the Fund, proceeding upon this footing: first, the ages of the subscribers at the times when they would become annuitants are estimated, the age in the eighth and subsequent years being taken to be 45, and then the average of the salaries of the Bengal civilians at the several periods of their service are taken, and from these data the income to be derived from fines is calculated; then the entire income in each year from contributions and fines is computed, and the expenses and the value of the nine annuities at the expiration of the year are deducted, and thus the state of the Fund at the end of each of the first twenty-four years is ascertained; the result of the calculation, as summed up in paragraphs 72 and 73, being that, at the end of the 24th year, there will be an income exceeding the value of nine annuities, upon lives of 45.

Paragraphs 74 and 75 then point out possible disturbances in these calculations, in these terms:—

" 74. It is probable that in the *course of the years* included in the foregoing statement some of the subscribers, by obtaining accelerated promotion through the retirements occasioned by the Fund, will have contributed a *larger amount in the shape of subscriptions than has been assumed*, but this effect will in a great degree be counterbalanced by the cases in which the contributions of subscribers will be suspended for the period of their absence to Europe under the regulations announced in this despatch.

" 75. Any variation of importance that may occur in the actual result, as compared with our calculation, will be satisfactorily adjusted by the arrangement which we have prescribed in the paragraph."

And, lastly, the despatch states that the Directors have determined that every annuity, as it should become due, should be paid over by the Managers of the Fund to the Government of Bengal, and issued to the annuitant by the Company in England at an exchange of 2*s.* the sicca rupee.

The regulations of the Fund, as altered by the Court of Directors, which were appended to the despatch, so far as material to the question before us, were as follows:—

The subscribers were to contribute one twenty-fifth part of their salaries and other emoluments. The annuities were fixed at 10,000 rupees each, payable in England at 2*s.* the rupee, being 1,000*l.* sterling. They were to be tendered to the subscribers having served in the Civil service twenty-five years, and actually resided twenty-two years of that period in India, according to their seniority on the gradation list of the service as fixed by the Court of Directors: and the right of preference was not to be barred by refusal in a preceding year.

The number of annuities was not to be more than would complete nine per annum. The actual value of annuities tendered and accepted, was to be passed to a separate account on the books of the institution, under the head of Appropriated Funds, and to the debit of this account were to be entered all payments in satisfaction of annuities. Any subscriber having resided in India in the Civil Service not less than twenty-two years, and been a member of the institution the full period of twenty-five years, retiring from the service before the option of an annuity should devolve on him, was to be entitled to the same in his proper turn, without any payment to the Fund, save what might be claimable under the following rule: and any subscriber so retiring previous to having paid the subscription for the aforesaid period of twenty-two years, was similarly to be entitled, provided he continued to contribute for the deficient years, according to the average of the contributions of those of his own standing, or made such payment in hand as the manager should regard as equivalent. Any subscriber who might accept the tender of an annuity was, in order to entitle him to such annuity, to pay to the institution previous to the date at which the annuity was to commence, the difference between one-half of the actual value of the annuity on his life, and the accumulated

" I would here observe, with all respect, that when I became a subscriber to the Annuity Fund, I become a party to a joint assurance association, the benefits to be derived from which were contin- the future prosperity of the Fund, but I subscribed to certain terms, the principle of which, as laid y the Honourable Court was, that 'all servants, upon becoming annuitants, would have to pay half e of their respective annuities, and no more.' That the Civil Annuity Fund is exclusively the Fund Honourable Court, and not of the Civil Service, was shown in the proceedings on the admission of Mr. d others to annuities not provided for by the original terms on which the Fund was established. s unnecessary to revert to all that has been advanced, and might be advanced again, to show that ho agreed to become parties to the Honorable Court's Annuity Fund did so on the plain and simple anding that, under no contingency whatever, were they to pay more than half the value of an annuity, ıg to age when entitled to it, after a certain period. It is necessary for me only to observe, that I lfilled the agreement, on my part, which entitles me to one of the four annuities now open as gua- by the Court. It is upwards of thirty-five years since I arrived in the country;* my actual residence ountry much exceeds the period required; and my subscriptions to the Fund are greatly in excess of e value of an annuity of 1,000*l.*

ving fulfilled the conditions of the agreement on my side, I respectfully solicit the fulfilment of them lf of the Honourable Court. I now prefer a claim to an annuity of 1, 000*l.*, at half its value, and I t I may have it at half its value, 'and no more,' the surplus of interest and subscriptions, appearing redit with the Fund, being repaid to me on my retirement from the service, between the 1st May and y, 1853.'

eek for this from the known justice of the Honourable Court, and the consideration they evince for rvants in every department. I may assuredly trust that subscribers to the Civil Service Annuity vill not be regarded in a light less deserving consideration than were subscribers to the Native Pen- nd, who, when that Fund could no longer meet its engagements, received back from the justice of rt their subscriptions, with interest, the annuities already granted being, at the same time, continued xpense of Government.

vould, in conclusion, request that the Trustees will do me the favour to submit this letter for the ration of the Right Honourable the Governor in Council, when reporting the names of those gen- to whom annuities may fall this year.

" I have the honour to be, Sir,

" Your most obedient servant,

" A. Robertson."

Trustees, it appears, sent a copy of this letter to the Government, but nothing appears to have been pon it, and in September 1853, the annuity was again offered to the respondent, with reference to the Rules of the Fund. To this offer the respondent replied as follows:—

" To the Secretary to the Civil Fund, Madras.

Sir, " Waltair, October 11, 1853.

" I have the honor to acknowledge the receipt of your letter, tendering for acceptance one of the iesdeclared to be available from the 1st May next.

" Until the receipt of that communication I was under the impression that no change had taken n the Rules already in force, the changes which had been proposed to the service not having been by the Honorable the Court of Directors, as required by Rule 30 of the Regulations of the Fund.

" As introduction of the proposed new Rules before the allotment of the annuities at present under ight be hereafter advanced as a technical objection to my claims, I beg leave to enter my protest the enforcement of them before they receive the formal sanction of the Honorable Court.

" Under this protest, I request that you will inform the Trustees that I am ready to accept one of nuities now tendered, provided they are prepared to pay to me, on my retiring from the service, the t which may be at my credit in the accounts of the Fund in excess of the half-value of an annuity le by a Civil servant at the age which I shall then have attained.

" I have, &c.

" (Signed) A. Robertson."

The Trustees, however, declined to receive a conditional acceptance of the annuity, and upon their to do so, he again wrote to the Secretary in these terms:—

' To the Secretary to the Civil Fund, Madras.

Sir. " Waltair, September 25, 1854.

" I have the honor to acknowledge the receipt of your letter under date the 9th instant, tendering acceptance one of the annuities which will be available on the 1st May, 1855, and to request that ll inform the Trustees of the Civil Fund that I am quite ready to avail myself of this offer, on the on of their allowing me the refund of the amount overpaid by me to the Fund together with interest, erly allowed to those members of the Civil Service who obtained a refund of over subscriptions. I

" * 26th June 1817."

do not conceive that any votes of the majority of the Civil Service for the introduction of new regulations can affect a right acquired and asserted before the recent changes in the Civil Fund Rules were even proposed.

" I have, &c.
" (Signed) A. ROBERTSON."

The Trustees, however, still declining to accept the conditional offer, he ultimately, on the 17th October, 1854, wrote to them as follows :—

" To the Secretary to the Civil Fund, Madras.

" Sir, " Waltair, October 17, 1854.

" I have the honor to acknowledge the receipt of your letter under date the 7th instant, and, in consequence of the Trustees again declining to entertain a conditional application for an annuity, to apply for one of the annuities available on the 1st May, 1855, under protest, and with the full reservation of all my rights.

" It is my desire to secure the full amount of annuity.

" I was born on the 28th November, 1799. Should this form of application be objected to, which I do not expect, I request that you will send an answer to my address by the 30th instant, under cover to Mr. Will. Arbuthnot at Madras.

" I am, &c.
" (Signed) A. ROBERTSON."

And in reply to this letter the Secretary wrote to him thus :—

" To A. Robertson, Esquire,

" Sir,

" With reference to your application dated 17th October, 1854, I am desired by the Trustees of the Civil Fund to acquaint that an annuity of 1,000*l.* has devolved on you by rotation. The statement showing the amount of subscription paid by you, together with the document which will enable you to draw your annuity by quarterly instalments, and to the date of decease from the Honorable the Court of Directors, will be forwarded in due time.

" November 8, 1854." (Signed) S. D. BIRCH.

The Respondent having thus accepted the annuity under protest, and with full reservation of his rights on the 28th March, 1857, filed his Bill in the Supreme Court of Judicature at Madras, against the Company and the Trustees, to recover the excess of his subscriptions beyond the half-value of the annuity ; and it is upon this Bill the Decree under appeal was made.

Three points arise; and were argued upon the appeal:

1st. Whether, according to the original constitution of the Madras Civil Service Annuity Fund, as established in 1825, the respondent was entitled to have refunded to him the excess of his subscriptions to the Fund beyond one-half the value of his annuity ?

2ndly. Whether, if the respondent was not so entitled, according to the original constitution of the Fund, he afterwards became so entitled by virtue of any contract, or by reason of any course of dealing or conduct on the part of the East India Company, or of the Trustees ?

And 3rdly. Whether, if the respondent was so entitled, either according to the original constitution of the Fund, or by virtue of any subsequent contract, course of dealing, or conduct, the right which he thus acquired has been in any manner lost or destroyed ?

The first of these questions appears to their Lordships to be open to very serious doubts, and in the view which they have finally taken of the case, it might not be necessary for them to pronounce any opinion upon it : but the point was so fully and ably argued at the Bar, and it is so difficult fairly to estimate the weight which is due to the subsequent transactions, without first considering the position in which the parties originally stood, that their Lordships think it right to state the conclusion at which they have arrived on this part of the case.

The Rules and Regulations of the Madras Civil Service Annuity Fund, as established in the year 1825, were derived from the Rules and Regulations of the Bengal Fund then lately established, modified only so far as was necessary to meet the difficulties arising from the existence, at Madras, of the Funds created by the deeds of 1800, 1814, and 1818, and from the obligations consequent upon those deeds. The modifications which were introduced to meet these difficulties and obligations do not appear to their Lordships to affect the question as to the refunding of the excess of subscriptions, otherwise than as they would affect the Fund out of which the refund, if any, would be to be made ; and the East India Company must, of course, be taken to have foreseen to what extent the Fund would be thus affected. It is, indeed, plain, from the evidence, that they did foresee the effect which the modifications would have upon the Fund. In considering the first question, therefore, it appears to their Lordships that these modifications may be laid out of the case, and that this question must depend upon the interpretation to be put upon the despatch of the 8th December, 1824, and the Regulations for the Bengal Fund as altered by the Court of Directors : for their Lordships do not agree to the appellant's argument, that a part only of this despatch is to be looked at. Both the despatch and the regulations were forwarded to the Madras Government, and delivered to the

value of his previous contributions, in case the latter quantity should be less than the former. Any member so choosing, might decline paying the difference defined in the foregoing rule, and was, in such case, to be entitled to an annuity diminished in proportion to the sum by which the accumulated value of his contributions was less than one-half of the actual value of an annuity on his life. Rules 14 and 16 were as follows:—

" 14. Any subscriber who may be dismissed from the Honorable Company's service shall forfeit all right to benefit by the institution, and be entitled to no refund of payment which he may have made."

" 16. The resignation of the Honorable Company's service is an essential condition to entitle an individual to an annuity from the institution."

The affairs of the institution were to be managed by a Committee of nine, of whom four were to be *ex officio :* the Chief Secretary to Government, the Accountant-General, the Sub-Treasurer, and the Civil Auditor ; the others were to be elected at a general meeting. Rule 21 was as follows :—

" 21. The Sub-Treasurer of Government shall, with the permission of His Excellency the Most Noble the Governor General in Council, be requested to act as Treasurer to the Fund, and all money, and securities for money, belonging to the Fund in India, shall be kept in the public Treasury, subject to the direction and control of the Trustees and Managers of the Fund."

The funds of the institution, as well those set apart for the payment of annuities as those arising from the accumulation of capital, were to be deposited in the Public Treasury. All questions proposed at a general meeting, whether annual or special, were to be determined by a majority of three-fourths of the members who might either be present at such general meetings or vote thereat by proxy, and upon all general questions involving any increase or diminution of the rate of contributions, or any essential addition to or alteration in the original rules and principles of the institution ; all subscribers in India who might not be able to attend the meeting in person were to be allowed to deliver their sentiments and votes by a written communication to be signed by them and addressed to the Chairman of the meeting ; provided always that no decision upon such question should be valid or have any effect until sanctioned and approved by the Court of Directors of the Company, to whom all parties considering themselves aggrieved by such decision should have a right of appeal, and the decision of the Court of Directors was, in all cases, to be final. The actual value of an annuity on the life of any subscriber was to be determined by a Table annexed. Paragraphs 34 and 35 were as follows :—

" 34. To determine the accumulated value of the contributions of any subscriber, the accountant shall keep separate accounts of the receipts from each member, and these accounts shall be annually made up with the rate of interest at which it shall appear the funds of the institution may have improved.

" 35. At the close of every third year the Managers shall, according to the annexed Table, calculate the actual value of the pending annuities, and shall then compare the total of their values with the assets belonging to the appropriated funds of the institution. Should those assets exceed in value the said total, the difference shall be carried to the credit of the unappropriated funds of the society, and be available for the purposes of the institution. On the other hand, should the value of the said assets be less than the total aforesaid, the deficiency shall be supplied by a transfer from the latter fund to the former."

The plan of the Bengal Fund having been thus arranged, the East India Company were desirous of providing for their Civil servants at Madras the same advantages as had been conceded to those in Bengal ; and accordingly they caused a copy of their despatch, as to the Bengal Annuity Fund, and of the regulations under which they had given their sanction to that Fund, to be laid before the Managers of the Civil Fund at Madras, with an intimation that if the subscribers to that institution would effect such alterations and modifications of the Annuity branch as would make it correspond with the regulations prescribed for the Bengal Fund, and would fix their subscriptions to that branch at a rate equal to that which had been fixed for the Bengal servants, they (the Company) would be prepared to make the necessary addition to their contribution to the Fund.

In consequence of this communication, the Trustees of the Madras Civil Service Fund made a Report to their subscribers, dated 22nd July 1825, by which, after noticing that the Court of Directors required a contribution of 4 per cent. upon the salaries and other emoluments of their Civil servants, and also required the payment, as a fine, of half the estimated value of every annuity granted, after allowing the annuitant credit for his subscriptions and for interest thereupon, and after referring to the other parts of the Company's plan, and to the difficulties arising from that plan, differing in several material points from that by which the subscribers to their Fund stood pledged to one another, they proceeded to point out the rules by the introduction of which they might be enabled to carry the Company's plan into effect, and which were as follows :

" Rule 1. That the present capital of the annuity branch of the Civil Fund shall be set apart as *appropriated funds* for the payment of outstanding annuities, and of the annuities of 400*l.* which have still to be granted as lapses occur.

" Rule 2. That those annuities shall be paid—1st, from the Honorable Court's annual donation of 35,000 rupees to the annuity branch of the Civil Fund ; 2ndly, from the interest, at the rate of 8 per cent. allowed by the Honorable Company on the capital to be set apart ; and, 3rdly, as far as necessary, from the capital itself.

" Rule 3. That the subscriptions of those Civil servants, who may assent to the plan sanctioned by the Court of Directors, shall commence at the rate of 4 per cent. on their salaries and other official emoluments from the 1st May 1825.

" Rule 4. That credit shall be given as heretofore to each subscriber for the amount of his past contributions to the annuity branch of the Civil Fund, but without interest, none having heretofore been allowed.

" Rule 5. That those subscribers to the Civil Fund of 1818 whom circumstances may not permit to take advantage of the Honorable Court's plan shall continue their subscriptions at the rate of $3\frac{3}{4}$ per cent., and in their turn, as heretofore, shall succeed to annuities of 600*l.* on the terms prescribed by the Annuity Fund of 1818.

" Rule 6. That subscribers to the Annuity Fund of 1818 who may assent to the Honorable Court's plan, but may afterwards be precluded by circumstances from qualifying themselves to succeed to annuities according to that plan, shall be permitted to revert to the present Annuity Fund, under the 5th Rule.

" Rule 7. That each member of the Civil Service in India shall be required to declare his choice whether he will assent to the Honorable Court's plan within from the present date, and each member of the Civil Service absent from India, within from the date of his return to India."

The subscribers to the Madras Fund, at a meeting held on the 24th August, 1825, approved of the adoption of the Company's plan in the mode proposed by the Trustees' Report; and the Report having been forwarded to the Madras Government, the Governor in Council approved of the mode suggested by it, as affecting as near a conformity between the Annuity branch of the Madras Civil Fund and the plan for granting annuities sanctioned by the Court of Directors, as the nature of the case would allow; and, subject to the confirmation of the Court of Directors, sanctioned, from the 1st May 1825, the operation of the new Annuity Fund in the manner suggested by the Report. Ultimately the Court of Directors, in a despatch to the Government of Madras, dated the 10th of November, 1826, approved of the modifications suggested by the Trustees' Report, as the means of introducing the new plan, except that in the first instance they declined to sanction the reversion to the old fund by those who might join the new scheme, and be unable to complete the requisite period of service; but we collect from the Trustees' Report of the 9th October, 1851, that they afterwards conceded this right. There are some passages in this despatch of the 10th of November, 1826, which seem to be worthy of attention. They are as follows:—

" 20. We acquiesce in the proposition that subscribers to the new Fund shall have credit for the amount of their past contributions to the annuity branch of the old Fund, but without interest, none having heretofore been allowed: interest at the rate of 6 per cent. per annum, to be computed annually, will be allowed by us upon the subscription to the new Fund agreeably to the regulations contained in our despatch to the Government of Bengal, dated the 8th December, 1824.

" 21. Referring to the principle explained in paragraphs 49 to 51 of that despatch, we have determined that the number of annuities to be granted annually to civil servants upon your establishment shall be four; which number, however, is to include any of 600*l.* and of 400*l.* to persons not yet retired from the service, either by resignation or by an absence of more than five years from India, as well as those of 1,000*l.* under the new plan.

" 22. In order to accomplish these objects, a larger proportionate contribution than is allowed to the Bengal Fund will probably be required from the Company, because the Bengal allowances being upon a larger scale than those of Madras, the annual contributions of the service in the shape of per-centage upon salaries will be larger in Bengal than at Madras; but, on the other hand, the eventual payments in the shape of fines or difference between the aggregate of annual contributions and half the value of the annuity to be received from annuitants who have not subscribed, or who have not long subscribed to the old Fund at Madras, may be larger than the sum to be received from annuitants in Bengal.

" 23. Another circumstance, therefore, which may occasion the necessity of a larger proportionate contribution from the Company to the new Fund upon your establishment is, that as most of the subscribers have already contributed to the old Fund, the amount of those contributions will go in reduction of the sum payable upon their becoming annuitants.

" 24. We have not the means of making a prospective calculation of the progress of the new Fund at your Presidency, because we are not in possession of the amounts already contributed to the old Fund by subscribers to the new Fund, which will materially affect the receipts of the latter during the first years of its operation.

" 25. Neither are we informed how frequently existing annuities upon the old Fund may be calculated to fall vacant. This consideration will affect the number of annuities expected to become chargeable upon the new Fund.

" 26. We desire that you, who have the means of obtaining this and all other requisite information, will cause such a calculation to be made, embracing the period comprised in the prospective calculation included in our despatch to the Government of Bengal, dated the 8th of December, 1824.

" 27. This computation will enable you to judge how far an annual contribution on our part, equal in amount to the contributions of our civil servants, is likely to render the Fund adequate to the probable demands upon it. We estimate 4 per cent. upon their salaries to produce 1,18,000 rupees per annum. If a contribution of this sum shall be shown to be inadequate, we authorize you to increase it, provided it shall not exceed, for the present, the sum of rupees 1,50,000.

" 28. You will be enabled to adjust the actual results to the necessities of the Fund every five years, as directed in the 62nd paragraph of our despatch to the Bengal Government; so that the Company's contribution from year to year may not materially vary in amount, and may ultimately be fixed and determined at the sum necessary to enable the fund to grant four annuities annually.

" 29. We also authorize you to credit the new Fund with interest upon the balances at the rate of 6 per cent. per annum.

" 30. We shall not object to the new Fund being brought into operation from the 1st of May, 1825; that is to say, that the contribution of the service and of the Company shall commence from that date, and that the first set of annuities shall commence from the 1st of May, 1826."

In 1838 the rules of the Madras Fund, as established in the year 1825, were published in Madras. They provided, in the first place, for the appropriation of the capital of the Annuity branch of the Civil Fund to the payment of the outstanding annuities, and of the annuities remaining to be granted out of that Fund. Rules 4 and 5 were as follows:—

" 4. That those subscribers to the Civil Fund of 1818 whom circumstances may not permit to take advantage of this plan shall continue their subscriptions at the rate of $3\frac{3}{4}$ per cent., and in their turn, as heretofore, shall succeed to annuities of pounds sterling six hundred on the terms prescribed by the Annuity Fund of 1818.

" 5. That subscribers to the Annuity Fund of 1818 who may assent to this plan, but may afterwards be precluded by sickness (certified to be of such a nature as to render it improbable that they can return to the Service), from qualifying themselves to succeed to annuities according to it, shall be permitted to revert to the Annuity Fund of 1818 under the terms of the deed, but the refund of any sum in which the accumulated amount of their subscriptions to this plan may exceed the sum payable for the Annuity Fund of 1818 shall not be allowed."

The subscribers were to contribute 4 per cent. of their salaries and public emoluments. The annuities were fixed at 1,000*l.* sterling, and were to be tendered to subscribers who had served in the Civil Service twenty-five years, and actually resided twenty-two years of that period in India, according to their seniority on the gradation list of the Service as fixed by the Court of Directors, and the right of preference was not to be barred by refusal in a preceding year. Rules 13, 14, 15, 16, 17, 22, 23, 30, 34 and 35 were as follows:—

" 13. The number of annuities offered shall not be more than may complete four (4) per annum, from the 1st of May 1826; these shall be tendered to all the qualified subscribers, according to the gradation list, with the understanding that persons parties to this plan will obtain annuities of pounds sterling one thousand on the condition herein specified, and persons who may have adhered to the fund of 1818 will obtain annuities of pounds sterling six hundred on the terms of that deed. Civil servants succeeding to an annuity on this plan shall not become chargeable on the annuity branches of the Civil Funds of 1800, 1814, or 1818.

" 14. The actual value of annuities of pounds sterling one thousand, or pounds sterling six hundred, as the case may be, tendered and accepted as above, shall be passed to a separate account on the books of the institution, under the head of Appropriated Funds; and to the debit of this account shall be entered all payments in satisfaction of annuities.

" 15. Should any subscriber having resided in India in the Civil Service not less than twenty-two years, and been a member of the institution the full period of twenty-five years, retire from the Service before the option of an annuity may devolve on him, he shall be entitled to the same in his proper turn without any payment to the Fund, save what may be claimable under the following Rule.

" 16. Any subscriber who may accept the tender of an annuity of pounds sterling one thousand shall be required, to entitle him to such annuity, to pay to the institution, previous to the date at which the annuity is to commence, the difference between one-half of the actual value of the annuity on his life and the accumulaled value of his previous contributions, in case the latter quantity shall be less than the former; *but should the contributions be in excess, such excess shall be refunded.* These values shall be determined as below provided. Such annuity, if required, may be made payable either to the date of decease only or quarterly, and to the date of decease; the first benefit may be secured previous to the date at which the annuity is to commence by payment as fine of the value of half a year's annuity of Company's rupees five thousand, as computed in the subjoined Table; the latter by paying, in addition to that fine, the value of an addition of Company's rupees two hundred and twenty-five, as computed in the same Table. Subscribers retiring on annuity cannot be allowed to purchase only the benefit of a quarterly payment, but there will be no objection to the other benefit being taken singly.

" 17. Any member so choosing may decline paying the difference defined in the foregoing Rule and shall in such case be entitled to an annuity, diminished in proportion to the sum by which the accumulated value of his contributions is less than one-half of the actual value of an annuity on his life."

" 22. The affairs of the Institution shall be managed by a Committee of seven, of whom two shall be *ex officio*, the Chief Secretary to Government and the Accountant-General. The other five shall be subscribers, and elected at a general meeting; the members of the Committee shall be also the Trustees for the funds of the Institution.

" 23. The Sub-Treasurer of the Government of Fort St. George shall, with the permission of the Right Honorable the Governor in Council, be requested to act as Treasurer to the Institution, and the funds, as well those set apart for the payment of annuities as those arising from the accumulation of capital, shall be deposited in the public Treasury, subject to the direction and control of the Trustees and Managers of the Fund.

" 30. *All questions* proposed at a general meeting, whether quarterly or special, shall be deter-

mined by a majority of *three-fourths* of the members, who may either be present at such general meetings or vote thereat by proxy, but the concurrent voices of nine members, at least, shall be requisite to determine upon any question whatever; and upon all general questions involving any increase or diminution of the rate of contributions now fixed, or any essential addition to, or alteration in, the original rules and principles of the Institution which are now established, all subscribers in India who may not be able to attend the meeting in person, shall be allowed to deliver their sentiments and votes by a written communication, to be signed by them, and addressed to the Managers of the Fund, accompanied, if they are at Madras on the day of such meeting, by the certificate of a medical gentleman, stating the inability of the party to attend the meeting in person; *provided always, that no decision upon such question shall be valid, or have any effect, until sanctioned and approved by the Court of Directors* of the East India Company, to whom all parties considering themselves aggrieved by such decisions shall have a right of appeal, and the decision of the Court of Directors shall, in all cases, be final.

" 34. To determine the accumulated value of the contributions of any subscriber, the accountant shall keep separate accounts of the receipts from each member, and these accounts shall be annually made up with the rate of interest allowed by the Company.

" 35. At the close of every third year, the Managers shall, according to the annexed Tables, calculate the actual values of the pending annuities, and shall then compare the total of their values with the assets belonging to the appropriated funds of the Institution. Should those assets exceed in value the said total, the difference shall be carried to the credit of the unappropriated funds of the society, and be available for the purposes of the Institution; on the other hand, should the value of the said assets be less than the total aforesaid, the deficiency shall be supplied by a transfer from the latter fund to the former."

At the foot of these rules there was a Table, showing the value of an annuity of 10,000 rupees on lives from 30 to 76, and there was a column in this Table in which the half value of the annuity was set out.

In the same year, 1838, the Trustees of the Madras Fund forwarded to the Government of Madras calculations which had been made by them in conformity with the requisition contained in the 26th paragraph of the despatch of the 10th November, 1826, and in a letter from the Trustees which accompanied these calculations there were the following passages :—

" 2. These calculations are two-fold, the first exhibiting the prospective assets of the Fund established by the Honorable Court, and the income with which it would commence its twenty-fifth year, the second the actual results for the period of ten years, from 1825-26 to 1834-35 inclusive, during which the Fund has been in operation.

" 3. As stated in our predecessors' letter to your address under date 4th July 1827, we have experienced some difficulty in framing the required calculations, as we are not aware of the exact data on which they should be made. We have, however, carefully followed the instructions furnished to the Bengal Government; and though we still entertain* doubts regarding the correctness of the data we have adopted, we think it better to submit the calculations, in order that they may be strictly scrutinized by the home authorities, and that the error, if any, may be the sooner pointed out and corrected.

" 7. In the actual operation of the scheme, we have made the adjustment required by the 35th Rule, regarding the actual values of pending annuities at the close of every third year. The difference which should be credited to the Fund, as directed in paragraph 62 of the despatch we have not yet applied for, because we are desirous that the calculations should be previously verified and approved by the Honorable Court, but if verified we shall make due application for it.

" 8. The Honorable Court will have now an opportunity of viewing the results of two successive quinquennia lperiods : and, in order to render the information complete, we have caused a separate statement to be prepared, showing the amount of fine paid by each annuitant in the years under consideration, and the age of such annuitants respectively."

These calculations were also accompanied by the accounts on which they proceeded, and in these accounts there were the following items: In the statement of the names of gentlemen who have taken annuities from 1825 to 1836, together with their ages and the fines paid by them, this item, " Mr. C. Harris, 1000*l.* (the amount of the annuity), (65 the age), and 3,492*l.* 6*s.* 11*d.* refunded;" and in another account this item, " Amount repaid Mr. C. Harris, being the overpayment of the fine due by him."

There was also in these accounts an item of 213*l.* 6*s.* 3*d.* refunded to Mr. Wm. Oliver, on which some reliance was placed on the part of the appellants, as having been calculated to induce them to believe that these refunds were not in respect of excess of subscriptions, it being admitted that the refund to Mr. W. Oliver was not on that account; but it is to be observed that a sum of 4,205 rupees is mentioned in the accounts as having been paid for fine in respect of Mr. Wm. Oliver's annuity, and that there is no mention in the accounts of any sum paid for fine in respect of Harris' annuity.

It appears also that in the year 1838 the Court of Directors detected what they considered to be an error in some of the accounts of the Trustees of the Fund, arising from their having considered the Madras rupee as equivalent to the Sicca rupee, and gave directions by a despatch dated the 5th September 1838, that immediate measures should be taken to correct the error.

In the year 1840 the Trustees of the Fund claimed to be entitled against the Government to credit for an unappropriated balance of 4,34,494 rupees, and the letter by which the requisition was made not been

" * Note.—The balance at the end of 13th year in the prospective calculation then begins to *diminish*, instead of increasing as previously.'

signed by the Accountant-General, one of the *ex officio* Trustees, he was called upon by the Government to state whether he considered the Civil Service to be entitled to this credit. His letter, in answer, dated 27th May, 1840, contains the following passage :—

" 2nd. In the fifth paragraph of their despatch to the Government of India in the financial department, No. 7, of 1835, dated 27th May, 1835, the Honorable Court of Directors declare that they will be willing to acquiesce in a regulation to the following effect, if adopted by the subscribers, viz., ' that at the close of every year the number of unaccepted annuities be publicly declared, and that two-thirds of them be appropriated to subscribers duly qualified in the order of seniority as respects the applicants within the period of three months from the time of the surplus being declared, and as respects other applicants in the order in which they may apply for annuities, upon payment of one-fourth instead of one-half of the value of the annuity, and that in the event of the accumulated subscriptions, with interest, exceeding the said one-fourth, the balance, with interest, be returned to the subscriber; that the remaining one-third of annuities, together with such of the two-thirds as shall not be claimed within the period of three years from the time of declaring the surplus, shall lapse to the Fund.' "

The Government of Madras also, in the year 1840, called upon the Trustees for a report on all the branches of their Fund, and the Trustees accordingly furnished these accounts. In the accounts thus furnished the repayment to Mr. Harris again appears, and there appears also this entry, " Amount repaid to Mr. N. Webb, being the over-payment of fine due by him, 9,221 rupees, 9 annas, 11 pice;" and in the letter of the Trustees accompanying these accounts, dated the 15th April, 1841, there are the following passages :—

" 2nd. The enclosed accounts, marked A. and B. respectively, contain detailed statements of the Annuity Fund of 1825, since its commencement up to the 30th April, 1840, or for fifteen complete years since its establishment, divided into its two branches of ' unappropriated' and ' appropriated' respectively, and the statement No. 1, is an abstract of the account, A.

" 3rd. From that statement it will be perceived, that since the year 1825-26, when the Company's annuity plan commenced, up to last year, 1839-40, during the fifteen years it has been here in operation, there has been contributed to it—

	Rs.	A.	P.
" By the subscriptions of the service	20,85,752	0	2
" By the Company	20,85,752	0	2
" *By the annuitants' balance of fines and penalties, &c. not included in the first item	14,36,966	3	5
" By interest	1,92,448	6	2
" Making a total Fund of Rupees	58,00,918	9	11
" From which there has been expended, for charges and refunds	1,04,354 15 3		
" Appropriated to annuities already granted, forming what is called the ' Appropriated Fund'	52,89,619 8 5		
	53,93,974	7	8
" Leaving a balance unappropriated, as stated at the close of account A., of rupees	4,06,944	2	3

" This constitutes what is called the " Unappropriated Fund.' "

" 49th. In conclusion, we have to state that when the subscriptions to the Annuity Fund of 1818 and 1825 *conjointly* exceed the fine payable by any individual claiming an annuity from the latter, *the excess has been repaid to him* in the rare instances noted in the margin.† We notice this merely that the Honorable Court of Directors may render uniform the practice in this respect at all the Presidencies."

In the year 1844 a further correspondence took place between the Trustees of the Fund and the Madras Government. The Trustees applied to the Government for assistance, pointing out that the Company's contributions to the fund fell short of the 1,50,000 rupees, authorized by the Company's despatch of the 10th November, 1826. The Government required explanations as to the state of the Fund, and the Trustees again furnished detailed statements of the accounts, in which the refunds already mentioned, and a further like refund to Mr. Lushington in the year 1843, appeared. These accounts were forwarded to the Court of Directors, and on the 30th July, 1845, they sent a despatch to the Madras Government, which contained these passages :—

" * The statements 2 and 3 show that part of their payments are also included in the first item to the extent of—

Rs.	A.	P.	
63,328	9	0	for the reduced annuitants, 14.
6,66,796	6	11	full ditto, 46.
7,30,124	15	11	

" But these two sums include also interest, or part of the fourth item here."

* * * * *

	Rs.	Excess.
" † In 1834-35 to Mr. C. Harris	3,492	6 11
" In 1837-38 to Mr. N. Webb	9,221	9 11"

" 1. We approve your having sanctioned the usual number of four annuities for the Madras Civil Service for the present year.

" 2. The documents which you have forwarded to us, however, clearly show that the Madras Civil Service Annuity Fund is incapable of providing for the continual grant of this number of annuities annually, without further support. Indeed, the capital on the 1st of May, 1845, will amount only to 2,61,143 rupees, 10 annas, 6 pice, which sum, after adding to it the fines payable on the four annuities which you have sanctioned, will probably be insufficient to provide for their value to be transferred, in accordance with the Regulations, to the appropriated capital of the Fund.

" 3. 'We were not wholly unprepared for this result. The privileges conceded to the Madras service upon the establishment of the Annuity Fund of 1825, that previous subscriptions to the old Fund should be reckoned in diminution of the fines for annuities from the new Fund, and the grant of 600*l.* annuities upon the terms of the old Fund, have necessarily had a considerable effect in keeping down the means of the new Fund. This possible result we had in view when, in our despatch dated the 10th of November, 1826 (Public Department), we stated that if the contribution from the Company of an amount equivalent to that from the service should be shown to be inadequate for the object mentioned, it might be increased, 'provided that it shall not exceed, for the present, the sum of 1,50,000 rupees.' "

In the conclusion of this despatch, the Court of Directors authorize the Madras Government to credit the unappropriated branch of the fund with the difference between the full amount of the 1,50,000 rupees per annum, with interest at 6 per cent., and the amount which had been actually paid by them; and this credit was given accordingly.

In the year 1847, the Fund having become deficient for payment of the annuities, the Court of Directors, by a despatch dated the 23rd of June, 1847, authorized the Madras Government to pay the deficiency to meet the current payments. The 6th paragraph of this despatch was as follows :—

" 6. We consider it unnecessary to enter into a calculation with the view of estimating the probable amount of a fixed annual contribution that may be required from the Company to enable the Fund to grant four annuities annually. It will be sufficient if the necessary means be provided as the exigency arises. We therefore authorize you to pay to the fund any actual deficiency to meet the current payments that may have existed in 1846-47, after the acceptance of the prescribed number of annuities, and to adopt the same course, when necessary, in future years."

In another despatch of the same date, after a statement of the amount of the charge against them to meet the annuities, there is this passage :—

" 6. This forms a serious demand against the Company; but we nevertheless feel that, under the arrangements which have had our sanction for the benefit of the Civil Service, we cannot refuse to meet it.

On the 6th February, 1850, the Court of Directors addressed the following despatch to the Governor General of India :—

" 1. We consider it desirable to direct your attention to an important point of difference in the practice of granting annuities from the Civil Service Annuity Funds at Madras and Bombay, as compared with the practice in Bengal, in view to your devising measures to remedy the inconvenient results which we shall now point out.

" 2. The point to which we allude is the system of refunding at Madras and Bombay to parties on becoming annuitants the sums which they may have subscribed to the Funds in excess of half of the value of their annuities, whilst in Bengal no such refund is allowed.

" 3. In the year 1841, the question of a refund came under our consideration from Bengal, to which we replied in paragraph 2 of our despatch dated 1st September in that year, No. 29, as follows :

" 'With respect to refund of subscriptions, we are disposed to meet the views of the majority of the subscribers to the extent of confining refund to the excess which may have been paid beyond the half value of the annuity, such an arrangement being in accordance with the Regulations of the Fund.'

" 4. The Bengal Civil Service refused to adopt the principle of refunding, by passing a Rule to the contrary, whereupon a few members of the service who had contributed to the Fund an amount beyond the half-value of an annuity appealed to us to obtain a return of the excess. In reply, we stated in our despatch to the Government of Bengal dated 20th September, 1843, No. 29, 'that we cannot interfere in any way to relieve them from the operation of the Rules of the Civil Service Annuity Fund, and that every annuity taken must be subject to those Rules as they may exist at the time.

" 5. The question of refunding to the servants on the Bengal establishment having thus been disposed of, the point for consideration is whether the same principle should not be adopted at the other Presidencies. We admit that we have hitherto not objected to the Rules which were passed at those Presidencies, allowing the system of a refund, but we are now of opinion that the operation of such Rules is alike disadvantageous to the service and to Government, by retarding promotion, from the continuance of men in office after their capability for efficient employment has ceased; besides which, the Company have to contribute more largely, particularly to the Madras Fund, to supply the regulated number of annuities, than was contemplated at the formation of the general scheme in the year 1825.

" 6. The refunding of subscriptions, with accumulations of interest, can scarcely be justified; nor can we consider that the Funds at Madras and Bombay have any claim on the Company for additional contributions to supply the fixed number of annuities annually whilst any refund of subscriptions is allowed.

" 7. We, therefore, desire that you will give the subject of this despatch your best consideration with a view of procuring an alteration in the Rules of the Civil Service Annuity Funds at Madras and Bombay, in order that the principle of refunding may be abolished, and that the operation of the Funds at the several Presidencies may be uniform on the point herein specified.

" 8. We shall transmit a copy of this despatch to the Government of Madras and Bombay, with instructions to them, respectively, to co-operate with you in view to proposing to the subscribers the alterations in the Rules which we have indicated."

The Court of Directors, at the same time, sent a copy of this despatch to the Government of Madras accompanied by the following letter :—

" 1. We forward in the packet copy of a despatch* which we have addressed to the Government of India relative to a discrepancy of some importance between a Rule of the Civil Service Annuity Fund at your Presidency, which allows of contributions to the Fund in excess of half the value of the annuities to be refunded to parties on becoming annuitants, and the Rule in Bengal, which precludes a refund.

" 2. We have expressed our opinion to the Government of India of the disadvantages attending the refunding system, and we desire that you will adopt such measures, in co-operation with that Government, as may appear best calculated to *induce* the Civil Service at your Presidency to abrogate it."

The Governor General of India, afterwards, on the 30th March, 1850, in pursuance of the despatch of the 6th February 1850, wrote to the Government of Madras, requesting that the views of the Court of Directors should be submitted to the Managers of the Fund at Madras, with the desire that they would circulate, for consideration and votes of the service, how far they might be willing to accede to the Court's wishes that the practice of refund hitherto allowed by the rules of the Madras Fund, should be abrogated. The despatch of the Court of Directors was accordingly forwarded to the Trustees of the Fund, and a special meeting of the subscribers to the Fund was summoned by them for the purpose of considering the question whether the practice of refund, hitherto allowed, should be abrogated. This meeting was held on the 26th September, 1850, when the votes of the subscribers, having been taken upon the proposition, a majority of more than three-fourths were against the abrogation of the practice. This result having been communicated to the Madras Government, and by them to the Court of Directors, the Court, on the 20th May, 1851, sent the following despatch to the Madras Government :—

" 1. The proposition for abrogating the Rule of the Madras Civil Service Annuity Fund, which provides for refunding to its members, on becoming annuitants, the amount which they may have contributed in excess of half the value of their annuities, having been circulated for the votes of the service, and rejected, we consider it necessary to lay down a principle for regulating the interest to be allowed on such excess when it occurs.

" 2. We therefore direct that 4 per cent. annual interest only be allowed on the subscriptions of members in excess of half the value of their annuities, and that their accounts with the Fund be adjusted accordingly."

In the year 1851, the period having arrived when, according to the calculations made upon the institution of the Fund, there ought to have been an accumulation sufficient to answer the four annuities, the Trustees furnished to the Government of Madras, to be laid before the East India Company, accounts containing a review of the Fund from its commencement down to that date, from which it appeared that the Fund was wholly deficient. In these accounts, the refunds already mentioned, and several others (there were in all nine refunds), appeared. The Court of Directors had before this time, in a despatch dated the 20th August, 1851, communicated to the Madras Government, and through that Government to the Trustees, their determination that refunds of excess of subscriptions were in no case to be made at the expense of the Government; and, after the receipt of the last-mentioned accounts in the month of October 1852, they addressed another despatch to the Madras Government, dated 20th October, 1852, which contained this passage :—

" 19. We must here remark upon the practice which has been allowed at Madras, of refunding to retiring subscribers any balance of subscriptions standing at their credit in excess of the half value of their annuities. The original Rules, as sanctioned by us, made no provision for that purpose. It would appear, however, that, in 1838, the Trustees inserted, in a new edition of the Rules, a clause to the effect, that, if the contributions of any subscriber be in excess of the half value, 'such excess shall be refunded.' But this clause, so far as we can ascertain, was never submitted to the subscribers, as required by the Rules. It certainly never received our sanction; it was not even reported to us; and yet it has been acted upon as if it had been duly authorized. We observe that, since the institution of the Fund of 1825, there have been nine cases in which this refund has been granted, to the aggregate amount of 1,89,529 rupees, 7 pice, and that in the last year, 1850-51 (which, being the twenty-sixth year of the Fund's existence, is not embraced in the present calculations), there was a further repayment allowed to the amount of 9,623 rupees, 6 annas, 10 pice. The sums refunded have, of course, contributed to swell the deficit of the Fund. This deficit has been made up from the Government Treasury, upon which, consequently, has fallen exclusively the charge of the refunds. Of the whole number, no less than three, aggregating 86,749 rupees, 7 annas, 8 pice, were granted in the year 1849-50, when there was a deficiency (irrespective of the amount refunded) to the extent of 1,02,654 rupees 1 anna, 2 pice. In that year, therefore, when the contribution from the State was augmented to the sum of 2,52,654 rupees, a further burden, which raised that sum to the large total of

" * No. 5, dated February 6, 1850."

3,39,403 rupees,* was thrown on the public, for the improper object of making refunds—an object which, even in the most prosperous condition of the Fund, could not be pursued without weakening and ultimately destroying it. In every case in which a refund has been granted, there was a balance of subscriptions to the old Fund at the credit of the party before the year 1825. The result is, therefore, that the Fund has absolutely paid away as refunds sums which it never received, and which, moreover, in accordance with the provisions of the Deed of the Fund of 1818, ought not to have been refunded to any of the subscribers to that Fund. We regard with strong feelings of disapprobation the whole of this most irregular proceeding; and we repeat the desire we have recently expressed, that no refunds be upon any account allowed in future.

With this despatch, the Court of Directors also forwarded to the Madras Government proposed new Rules for the regulation of the Fund, in which the provision for refund, contained in the Rules published in 1838, was omitted; the 8th of these Rules being as follows:—

"8. Every subscriber to whom an annuity shall be assigned shall be required, in order to entitle him to the full annuity fixed by Article II. to pay, on or before the date from which the annuity is to commence, the difference between one half of the value of the annuity and the accumulated amount of his contributions, whenever the latter shall be less than the former."

These Rules were taken into consideration at a special general meeting of the subscribers to the Fund, which was held on the 17th June, 1853, and were then adopted by the subscribers, and the differences between the Company and the Trustees appear then to have ceased.

The Respondent Andrew Robertson, however, was a subscriber to the Fund of 1818, and upon the institution of the Fund of 1825 became a subscriber to that Fund. In the years 1842, 1843, 1844, 1850, and 1851, he was informed by letters from the Secretary of the Fund that annuities were open for acceptance, and was invited to state whether he would accept an annuity of 1,000*l.* Each of these letters contained a passage in these words:—

"4. In order to entitle you to the full annuity of 1,000*l.*, it is necessary that before the time of the commencement of your annuity, you shall pay the difference between one half of the value of an annuity of 1,000*l.* for your life, and the accumulated value of your previous contributions, these values being determined in the manner provided by the rules of the institution. In the event of your not paying that difference, you will only be entitled to an annuity diminished in proportion to the sum by which the accumulated value of your contribution is less than one half of the actual value of an annuity on your life."

The respondent does not appear to have taken any notice of these letters, but, on the offer being again made to him in the year 1852, by a letter from the Secretary of the Fund dated the 15th October, 1852, in the same terms, he wrote to inquire whether, in the event of his accepting the annuity, the Trustees would refund to him the excess of his subscriptions beyond the amount payable for the annuity, the amount of his subscriptions having, it appears, equalled the half-value of the annuity in or about the year 1848. In answer to this inquiry, the Respondent was referred by the Secretary to the despatch of 1851, prohibiting the refund of subscriptions unless the existing state of the Fund would permit it, which he was informed it would not then do. The respondent then returned the Secretary's letter of the 15th October 1852, with the following memorandum, signed by him, at the foot of it:—

"I agree, on the terms above specified, to accept the annuity conditionally tendered to me, provided that on retirement the excess which may be paid by me, with interest, beyond the half-value of an annuity of 1,000*l.*, payable to the date of decease, and by quarterly payments, be refunded to me; not otherwise. Vide separate letter transmitted with this.

"It is my wish to have the said annuity made payable by quarterly instalments, and to the date of decease.

"Waltair, November 17, 1852. A. ROBERTSON."

And he at the same time wrote to the Secretary as follows:—

"To S. D. Birch, Esquire, Secretary to the Civil Fund, Madras.

"Sir, "Waltair, November 17, 1852.

"I have the honor to acknowledge the receipt of your letter under date the 9th instant, informing me that the despatch of the Honorable the Court of Directors, No. 16 of 1851, prohibits the refund of excess subscriptions, unless the existing state of the Annuity Fund permit of it, which it does not at present; and transmitting a Memorandum exhibiting the probable amount which will have been paid by me on the 1st May 1853, beyond the half-value of an annuity of 1,000*l.*, payable to the date of decease, and by quarterly payments.

"Together with this communicatien, I transmit my acceptance of one of the four annuities open to the service, on condition of my being allowed the refund of the excess of my subscriptions beyond one-half of the value of an annuity, &c.; and I beg leave to prefer a claim to this on the fundamental principles of the constitution of the Fund, as laid down by the Honorable Court.

	Company's rupees.
"* Contribution of East India Company.. ...	1,50,000
"Deficit	1,02,656
"Amount refunded	86,749
Total ..	3,39,403"

Trustees of the then existing Madras Funds. Both of them formed the basis of the contract with the Madras subscribers, and each of them must, in their Lordships' opinion, be looked at in its entirety in determining what that contract was.

This despatch, in paragraph 4, notices the fact that, according to the constitution of the then existing Funds at Madras, the grantees of annuities either paid in subscriptions to the Fund a certain aggregate sum, or paid the difference between that sum and the amount of their subscriptions.

In paragraph 41, in pointing out the advantages derived from the Company's contributions, the despatch speaks of the Civil servant when he retires having, in addition to his own savings, whether accumulated in the shape of contributions to the Fund, or in any other mode, an annuity proportional to his share of the Company's contributions to the Fund.

In paragraphs 53, 54, 55, in treating of the purchase money of the annuities, it fixes the amount at the difference of half the value of the annuity and the accumulated value of the subscriber's previous contributions; and in paragraph 57, it states broadly, that according to the mode proposed, all servants upon becoming annuitants would pay half the value of their respective annuities, and no more; and in the same paragraph 57, it refers to the advantages which the subscribers would possess of accumulating a fund for the purchase of the annuity, by gradual deposits, improved at a fixed and favourable rate of interest; and Rule 11 of the Regulations as altered, provides for subscribers who may accept annuities, paying to the Institution the difference between half the value of the annuity, and the accumulated value of their previous contributions, in case the latter quantity shall be less than the former. These provisions certainly point at half the value of the annuity as the sum which each subscriber, on becoming an annuitant, was to pay for the purchase of his annuity, paying it either by contributions, or by making good the deficiency of his subscriptions. But on the other hand, the expression "no more," in paragraph 57, so much relied on upon the part of the respondent, may, as was suggested on the part of the appellants, have meant only that the subscribers were to pay one-half, and not two-thirds of the value of the annuity, the proportion which in paragraph 54 is mentioned to have been proposed by the Bengal Civil servants, although the context does not appear to their Lordships to favour this conclusion; and whatever the meaning of these words "no more" may have been, there is certainly no limit to the payment by subscribers of their annual contributions, and no provision for refunding any excess of those contributions beyond the half of the value of the annuity; and by paragraphs 61 and 63, what the Company are to contribute, is expressed to be whatever sum may be required in addition to the contributions of subscribers, to enable the Fund to grant such number of annuities, as may be accepted under the prescribed Regulations, not exceeding nine per annum, and the obligation of the Company is expressed to be a virtual guarantee of the nine annuities, and a contribution limited to the amount necessary for the accomplishment of that object; and all these latter provisions indicate that all the subscribers' contributions, whatever the amount of them might be, were to go into and remain in the Fund.

It is very difficult to collect from a despatch and from rules thus loosely worded on so important a point, and plainly imperfect in other respects, what the real meaning of the parties was; but it is to be observed that the object which they had in view was, as appears by Sections 35, 36, and 42, to provide a fund for the payment of annuities to the civil servants who should retire from the service, and that the payments of each subscriber were not merely for the purpose of purchasing his own annuity, but of providing annuities for the other subscribers. The payments made by each subscriber were to go into the funds, to be applied for the benefit of all the subscribers; and they were to do so equally, whether the subscriber who made the payment had or had not paid the half-value of his annuity, or had or had not had the option of an annuity. There cannot, as it seems to their Lordships, be any reasonable doubt that each subscriber was intended to go on paying his subscription until he had the option of an annuity, and if the option did not reach him before the amount of his subscriptions exceeded the half-value of his annuity, their Lordships find it difficult to suppose that it could have been intended that a refund should be made to him when the amount which he had paid would or might have been applied to the payment of other annuities; and if it was not so intended in the case suggested, their Lordships think it scarcely less difficult to suppose that it could have been so intended when the subscriber had had the option of the annuity and had refused it, in which case it is to be observed that his refusal would bring upon the fund the charge to which his payment was applicable. If the half-value of the annuity was in all cases to be the limit of the subscriptions, there seems to be no reason why the payment of the subscriptions was to continue after the half-value of the annuity had been paid; for the annuity would, of course, decrease in value as the subscriber advanced in age, and the benefit of accumulation held out to the subscribers in the despatch is confined to accumulation for the purchase of the annuity. It is to be observed, too, that the calculations on which the despatch proceeds, are founded upon the assumption that each subscriber would, after the expiration of the first few years, become entitled to an annuity at the age of forty-five, in which event, according to the calculations, he would in no case have paid half the value of his annuity; and it seems probable, therefore, that it was not thought necessary to provide for the excess of the subscriptions.

In that view of the case, what has occurred in this instance and in others, would be left unprovided for by the contract; and it being clear that the subscription was properly payable into the Fund, there would seem to be no ground for taking it out again.

The case does not appear to their Lordships to be one to which the doctrine of resulting trust could be applied.

After weighing all these considerations on the one side and the other, the better opinion appears to their Lordships to be, that if this case was to be decided upon the first point only, the decision ought to

be in favour of the appellants, the East India Company; but their Lordships have not come to this conclusion without great doubt and hesitation, and they very much incline to the opinion that this contract does not provide for the event which has occurred, and that in order to determine the rights of the parties, what has subsequently occurred must be looked at, not, indeed, for the purpose of varying the contract, but for the purpose of supplying what has been left unprovided for by it. They proceed, therefore, to the consideration of the second point: Whether the respondent became entitled to the refund of his excess of subscriptions by virtue of any subsequent contract, or by reason of any conduct or course of dealing on the part of the East India Company or of the Trustees?

It is material in considering this point, in the first place, to observe the position in which the East India Company stood under the contract. By the contract, whatever its effect may have been in other respects, the annuities were to be provided for by the contributions of the subscribers and the contributions of the Company. These contributions were to be received by the Trustees, and applied by them to make good the annuities, and the deficiency was to be supplied by the Company. The Company, therefore, had a direct and immediate interest in the application of the funds by the Trustees. The Trustees were responsible, not merely to the subscribers but to the Company, for the due application of the funds. The Company, then, being in this position—having the right to call for the accounts of the Trustees, and to check and control those accounts, we find that the practice of refunding to subscribers the excess of subscriptions beyond the half-value of the annuity, commenced as early as the year 1834, for in that year there was a refund to Mr. Harris on this account. We then find that in the year 1838, accounts of the Trustees in which this refund appeared, were laid before the Government of Madras, and that in the same year, 1838, the Rules of the Fund were published at Madras, and that, by the 16th of those Rules, as published, it was expressly stated that the contributions of the subscribers in excess beyond the half-value of their annuities, were to be refunded. We further find that this course of refunding to subscribers the excess of their subscriptions was continued by the Trustees in the years 1837, 1843, 1845, and 1848; that accounts of the Trustees, showing these refunds, were laid before the Court of Directors, and that no objection was made to them, although on other minor points objections were raised and the accounts were required to be rectified; and although, in the year 1841, the attention of the Government was directly called to the point, and in the years 1844 and 1847 they were required to make, and did make, additional payments to the Fund. We also find that it was not until the year 1850 that any question was raised as to this practice of refunding, and that the question then raised was not as to the right of the subscribers to the refund, but as to the expediency of continuing the practice; that the Company then, so far from asserting that the subscribers were not entitled to the refund, desired the Madras Government to adopt such measures as might induce the subscribers to abrogate the practice; that, with this view, they submitted the question to the consideration of the subscribers; and that, upon the subscribers adhering to the practice, they did not, in the first instance, persist in objecting to it otherwise than by threatening to reduce the interest upon the excess of the subscriptions—a threat which it appears they did not carry into effect. Ultimately we find that, later in the year 1851, they objected to the refunds being made at their expense, and that in the year 1853 the system of refunding was put an end to by the new Rules proposed by them, and adopted by the votes of the subscribers. Upon these facts, this part of the case appears to their Lordships to present two questions for their consideration: 1st, whether, assuming the practice of refunding to the subscribers the excess of their subscriptions beyond the half value of the annuity not to have been warranted by the original Rules, there was not such an alteration of those Rules as was sufficient to warrant it; and, 2ndly, whether, even if there was no such alteration of the Rules, the Company have not, by their conduct, precluded themselves from disputing the right of the subscribers to the refund.

With respect to the first question, by Rule 30 of the Bengal Regulations, all questions proposed at a general meetiag, whether annual or special, were to be determined by a majority of three-fourths of the members, and upon all general questions, involving amongst other things any essential addition to or alteration in the original rules and principles of the institution, all subscribers in India were to be allowed to vote, but no decision upon such question was to be valid, or to have any effect, until sanctioned and approved by the Court of Directors of the East India Company, whose decision was in all cases to be final. This rule became part of the original Rules of the Madras Fund. The Rules of that Fund, published in 1838, having contained the provision that the excess beyond the half-value of the annuity should be refunded, the question whether that practice should be abrogated was put to the vote at a special general meeting of the subscribers held on the 26th September, 1850, and it was determined by a majority of more than three-fourths that the practice should not be abrogated. There was here, therefore, upon the assumption that the original Rules did not warrant the practice, a clear alteration of those Rules, made in conformity with the 30th of the original Rules, and this alteration, if sanctioned and approved by the East India Company, was valid and effectual.

Now, how did the Court of Directors deal with this alteration of the Rules? They did not repudiate it, but they directed the interest upon the excess of the subscriptions to be reduced—a direction, however, which was not carried into effect. If the case had rested here they might, in the opinion of their Lordships, well be taken to have sanctioned and approved this alteration of the Rules; but it appears that they afterwards in the same year, 1851, protested against any further refunds being made at their expense, and although they did not rest upon this protest, but subsequently, in the year 1853, in some measure treated the alteration as valid by again, in effect, submitting the question to the votes of the subscribers upon the new Rules which they at that time proposed, and which were then adopted, they do not appear ever to have withdrawn their protest, and the course which they adopted in proposing the new Rules may well be regarded as having been resorted to for the more conclusive settlement of the question. If the subscribers had not adopted those Rules, the Company could not, as their Lordships think, be held, in the face of their

protest, to have sanctioned and approved this alteration; and upon the whole, therefore, their Lordships consider that, whatever effect may be due in other respects to what passed as to the alteration of the Rules, it would be going too far to hold that the resolution of the subscribers in 1851 effected such an alteration as rendered it obligatory upon the Company to refund the excess of the subscriptions. There remains, then, on this second head of the case, the question as to the effect of the course of dealing and conduct on the part of the Company and of the Trustees.

Now it appears to their Lordships to be put beyond all doubt, by the evidence in this case, that the Company sanctioned the refunds which were made, and sanctioned them, not merely with reference to the individual subscribers to whom they were made, but, generally, as having been made in the due course of practice. The Company's despatch of the 6th February, 1850, admits this to have been the case. Their course of proceeding, in submitting the question to the votes of the subscribers in that year, involves the same admission; and there is, indeed, hardly a step in all their proceedings, from the time of the institution of the fund in the year 1825, which does not lead to that conclusion. In determining the consequences which are to fallow from this conduct on their part, we must again revert to their position, and to that of the Trustees. The Company stand in the position of the ultimate beneficiaries of the Fund with which we have, in this case, to deal, subject to prior trusts for the benefit of the subscribers.

The Fund, as established in 1825, was instituted on their suggestion, and for the purpose of carrying out their views of promoting a more rapid succession among the Civil servants of their establishment. The Trustees were bound not to them only, but to the subscribers also, for the due management of the Fund, according to the Rules. If those Rules did not authorize the refunds being made, it was a breach of trust on the part of the Trustees to make them, and in that breach of trust the Company were concurring. It was admitted on their part that, with respect to the refunds actually made, they had no right to complain; but it was argued that the consequences of their conduct went no further, and that they cannot be held to have sanctioned the right of the subscribers to the refund in other cases. Their Lordships, however, find themselves unable to give their assent to this argument. By the Rules of the Fund, published in the year 1838, the Trustees held out to the subscribers generally that they were to be entitled to the refund of the excess of their subscriptions beyond the half-value of the annuity. The Company, as appears from their answer, knew of the publication of these Rules very soon after they were published. By allowing the refunds which were made, more especially after their attention had been called to the subject in the year 1840, they must, as their Lordships think, be considered to have authorized the Trustees to continue this Rule as to refund, as part of their rules. It is to be considered, then, how the subscribers were affected by the publication and continuance of this Rule, and it appears to their Lordships that their position was much altered by it.

To take, for instance, the case of this Respondent: He was a subscriber to the fund of 1818, and, according to the Rules of that Fund, would have been entitled to an annuity of 600*l.* a-year after payment of a specified sum. Is he not justly entitled to say that he paid the larger subscription, to the fund of 1825, and continued that subscription, upon the faith that he would be entitled to the larger annuity of 1,000*l.*, and also to the repayment of the excess of his subscriptions beyond the half-value of his annuity? And further, is he not also justly entitled to say that had he been aware that the Trustees or the Company would resist the repayment of the excess of his subscriptions, he would have accepted his annuity on the first opportunity which offered after he had paid the half of its value, or even before that time, when his interests or his views rendered it advisable or convenient for him to do so; and is not his having been deprived of these opportunities the result of the Company's conduct?

The true result of this case, with reference to the point now under consideration, appears to their Lordships to be that the ultimate beneficiaries under the trust have authorized the trustees to hold out to the prior beneficiaries advantages which were not warranted by the trust, and have thereby altered the position of the prior beneficiaries; and their Lordships think that, under such circumstances, both the trustees and the ultimate beneficiaries must be liable to make good to the prior beneficiaries the advantages which have been so held out to them.

The case was to some extent argued on the part of the Company as if the question had been simply this: whether the Trustees could recover at law against the Company any deficiency of the Fund for payment of the annuities occasioned by this practice of refunding; but their Lordships do not take that view of the case; they consider that, whatever might be the case at law, there is, under the circumstances of this case, an equity by which the Company is affected. It was also argued, on the part of the Company, that their conduct, and the conduct of the Trustees throughout, proceeded upon a mistaken supposition that the original Rules of the Fund, resting upon the Bengal Rules, required this excess to be refunded, and that they ought not to be bound by conduct resulting from such a mistake.

It would, perhaps, be a sufficient answer to this argument to say that there is no Bill to rectify any such supposed mistake; but their Lordships do not desire to rest their judgment upon so narrow a point.

Supposing the case to be entirely open upon this point, could the Company, and could the Trustees, under the circumstances of this case, be relieved from the consequences of this alleged mistake? Their Lordships are of opinion that they could not. They think that it would be an answer to such a case of alleged mistake that when the Trustees made the representation as to the refund of the excess which is contained in the Rules of 1838, and when the Company sanctioned that representation being made, they had possession of all the documents, and the full means of judging whether the Bengal Regulations did or did not give the right of refund; and further that, whether the Bengal Regulations did or did not give that right, the Company had the power of determining whether it should or should not be given at Madras; and yet further that the conduct of the Company, and of the Trustees, has altered the position of the subscrib-

ers. They think also that if this case was at all to be dealt with upon the footing of mistake, it would follow that the contract must be wholly undone, and the parties be restored to their original rights, and that the conduct of the Company has placed the subscribers in a position in which they cannot be restored to those rights. The subscriptions which have been paid beyond what ought to have been paid might, indeed, be refunded, but the parties could not be set right as to the period when they would have taken the annuity. It is hardly necessary to add that the case appears to their Lordships to be more strong against the Company from their having been parties to the contract, and having bound their Civil servants by covenant to the observance of it.

Upon this second head of the case, therefore, their Lordships are of opinion that the Company, though not bound by any positive alteration of the Rules, are precluded by their conduct from disputing the right of the respondent to have the excess of his subscriptions beyond the half-value of his annuity refunded to him.

We come then to the third question, whether the right to the refund of the excess of his subscriptions which the respondent acquired has been in any manner lost or destroyed. It was contended on the part of the Appellants that it had been lost or destroyed, because the revised Rules of 1853 did not contain the provision for refund which was contained in the Rules of 1838, and the Respondent being a subscriber to the fund was bound by those revised Rules; but it does not appear to their Lordships that the revised Rules could operate retrospectively to destroy rights which had been acquired before they were passed.

Upon this point, therefore, the question, as their Lordships view it, is, whether the respondent had or had not, before the revised Rules were passed, acquired a title to the refund of the excess of his subscriptions; and their Lordships are of opinion that he had: for in the year 1852 he had accepted the annuity on condition that the excess of his payments should be refunded to him. The Trustees, it is true, refused to receive this conditional acceptance, but in their Lordships' judgment, for the reasons already given, it was an error on their part not to have done so, and the Respondent cannot, as their Lordships' think, be affected by this erroneous judgment of the Trustees. They think, therefore, that the Respondent's title to the refund was complete in 1852, and was consequently unaffected by the revised Rules of 1853. Their Lordships therefore will humbly recommend Her Majesty to dismiss this appeal, and, their judgment agreeing with that of the Court in India, to dismiss it with costs.

APPENDIX B.

APPROPRIATED FUND.

Dr. Cr.

			Co.'s Rs.	A.	P.			Co.'s Rs.	A.	P.
1858 May 1st		By Balance						49,08,913	3	0
	,,	Amount of difference between the Capital standing under the head of Appropriated Fund and the actual values of pending Annuities under this date credited in conformity with the 12th of the Revised Rules	2,94,533	7	9					
1859 May 1st	,,	Amount received from the Unappropriated Fund being the value of the Annuity granted in 1858-59 to Mr. T. A. Anstruther including the value for quarterly payments and to the date of decease	1,12,655	0	0					
	,,	Mr. C. R. Baynes, do. do	98,009	13	7					
	,,	Mr. R. D. Parker, do. do	1,02,844	12	9					
	,,	Mr. S. Scott, do. do	1,14,272	0	0					
	,,	Mr T. B. Roupell, do. do	84,491	4	0					
	,,	Mr. C. J. Bird, do do	86,593	15	5					
	,,	Mr. A. S. Mathison, do. do	85,137	4	1					
	,,	Interest for 1858-59	3,02,055	1	9			12,80,592	11	4
		Carried forward						61,89,505	14	4

			Co.'s Rs.	A.	P.
1858 Aug	1st	To amount paid into the Honorable Company's Treasury being in discharge of the first quarter's payments of 37 Annuities at £1,000 each per annum, of one Annuity at £920 per annum, and of one Annuity at £790 per annum, from 1st May to 31st July 1858, which were on this date payable from the Honorable Court's Treasury in London	1,02,252	14	0
	6th	,, Amount paid to Messrs. Arbuthnot and Co., being the first quarter's Annuity due to Mr. D. Elliott, at £1,000 per annum from 1st May to 31st July 1858	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Sir H. C. Montgomery, *Bart.* at do. per do. from do. to do	2,662	8	0
	12th	,, Amount paid to do. being do. do. due to Mr. M. D. Cockburn at do. per do. from do. to do	2,662	8	0
Sep.	10th	,, Amount paid to the Oriental Bank Corporation, being do. due to Mr. W. A. Forsyth, at do per do. from do. to do	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Mr. R. T. Porter, at do per do. from do. to do	2,662	8	0
Oct.	1st	,, Amount paid to Messrs. Arbuthnot and Co., being do. do. due to Mr. T. L. Blane, at do. per do. from do. to do	2,662	8	0
Nov.	1st	,, Amount paid into the Honorable Company's Treasury being in discharge of the second quarter's payments of 36 Annuities at £1,000 each per annum, of one Annuity at £920 per annum, and of one Annuity at £790 per annum, from 1st August to 31st October 1858, which were on this date payable from the Honorable Court's Treasury in London	99,590	6	0
		Carried forward	2,17,818	4	0

APPENDIX B.

APPROPRIATED FUND.—continued.

Dr. **Cr.**

			Co.'s Rs.	A.	P.
1858		Brought forward...	2,17,818	4	0
Nov.	11th	To Amount paid to Messrs. Arbuthnot and Co., being the second quarter's Annuity due to Mr. D. Eliott, at £1,000 per annum, from 1st August to 31st October 1858	2,662	8	0
	,,	,, Amount paid to Messrs. Arbuthnot and Co., being the second quarter's Annuity due to Sir H. C. Montgomery, Bart. at £1,000 per annum, from 1st August to 31st October 1858	2,662	8	0
	15th	,, Amount paid to do. being do. do. due to Mr. M. D. Cockburn, at do. per do. from do. to do	2,662	8	0
Dec.	15th	,, Amount paid to the Oriental Bank Corporation being do. do. due to Mr. W. A. Forsyth, at do. per do. from do. to do	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Mr. R. T. Porter, at do. per do. from do. to do	2,662	8	0
	,,	,, Amount paid to Messrs. Arbuthnot and Co., being do. do. due to Mr. T. L. Blane, at do. per do. from do. to do	2,662	8	0
1859					
Feb.	1st	,, Amount paid into the Government Treasury being in discharge of the third quarter's payments of 36 Annuities at 1,000 each per annum, of one Annuity at £920 per annum, and of one Annuity at £790 per annum, from 1st Nov. 1858 to 31st Jany. 1859 which were on this date payable from the Home Treasury in London	99,590	6	0
	8th	,, Amount paid to Messrs. Arbuthnot and Co., being the third quarter's Annuity due to Sir H. C. Montgomery, Bart. at £1,000 per annum, from 1st Nov. 1858 to 31st January 1859	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Mr. D. Eliott, at do. per do. from do. to do	2,662	8	0
	14th	,, Amount paid to do. being do. do. due to Mr. M. D. Cockburn, at do. per do. from do. to do	2,662	8	0
Mar.	19th	To Amount paid to the Oriental Bank Corporation, being do. do. due to Mr. W. A. Forsyth, at do. per do. from do. to do	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Mr. R. T. Porter, at do per do. from do. to do	2,662	8	0
	,,	,, Amount paid to Messrs. Arbuthnot and Co., being do. do. due to Mr. T. L. Blane, at do. per do. from do. to do	2,662	8	0
May	1st	,, Amount paid into the Government Treasury being in discharge of the 17 Annuities of £1,000 each for the year 1858-59 of the fourth quarter's payments of 35 Annuities at £1,000 each per annum, of one Annuity at £920 per annum, and of one Annuity at £790 per annum, from 1st February to 30th April 1859 which were on this date payable from the Home Treasury in London	2,71,640	6	0
	13th	,, Amount paid to Messrs. Arbuthnot and Co., being the fourth quarter's Annuity due to Mr. D. Eliott at £,1000 per annum, from 1st February to 30th April 1859	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Mr. M. D. Cockburn, at do. per do. from do. to do	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Sir H. C. Montgomery, Bart., at do. per do from do. to do	2,662	8	0
June	23rd	,, Amount paid to the Oriental Bank Corporation, being do. do. due to Mr. R. T. Porter, at do. per do. from do. to do	2,662	8	0
	,,	,, Amount paid to do. being do. do. due to Mr. W. A. Forsyth, at do. per do. from do. to do	2,662	8	0
	,,	,, Amount paid to Messrs. Arbuthnot and Co., being do. do. due to Mr. T. L. Blane, at do. per do. from do. to do	2,662	8	0
			6,36,974	0	0
		Balance on 1st May 1859...	55,52,531	14	4
		Company's Rs...	61,89,505	14	4

		Co.'s Rs.	A.	P.	Co.'s Rs.	A.	P.
1859							
May	1st	By Brought forward			61,89,505	14	4
Company's Rs...					61,89,505	14	4

W. HUDLESTON,
Secretary.

APPENDIX C.

DR. THE SECRETARY OF STATE FOR INDIA IN ACCOUNT CURRENT WITH THE FUND OF 1825 FOR THE YEAR 1858-59. CR.

	Co.'s Rs.	A.	P.	Co.'s Rs.	A.	P.		Co.'s Rs	A.	P.	Co.'s Rs.	A.	P.
To Petty Charges for 1858-59				6,137	7	1	By Balance				9,01,072	2	2
„ Amount of value of Seven Annuities granted in the year, viz.:							„ Subscription for 1858-59	1,16,231	11	11			
							„ Donation from Her Majesty's Government	1,50,000	0	0	2,66,231	11	11
Mr. T. A. Anstruther	1,12,655	0	0										
Mr. C. R. Baynes	98,009	13	7				„ Fine paid by Mr. T. A. Anstruther.	15,665	10	7			
Mr. R. D. Parker	1,02,844	12	9				„ Do. by Mr. S. Scott	20,894	8	6			
Mr. S. Scott	1,14,272	0	0				„ Do. by Mr. C. R. Baynes	851	9	3			
Mr. T. B. Roupell	84,491	4	0				„ Do. by Mr. R. D. Parker	181	7	11			
Mr. C. J. Bird	86,593	15	5				„ Do. by Mr. T. B. Roupell.	444	3	11			
Mr. A. S. Mathison	85,137	4	1								38,037	8	2
				6,84,004	1	10							
„ Amount of Law Charges incurred for obtaining the opinion of the Advocate General in the question referred to him in a letter dated 4th May 1858	70	0	0				„ Interest for 1858-59				13,634	8	9
„ Amount of do. for conducting the case in behalf of the Trustees in the Appeal by the Indian Government before the Privy Council in the Suit, Robertson, *versus* the East India Company and others	3,979	4	4										
				4,049	4	4							
				6,94,190	13	3							
„ Balance in 34th year				5,24,785	1	9							
Company's Rupees				12,18,975	15	0	Company's Rupees				12,18,975	15	0

W. HUDLESTON,
Secretary.

APPENDIX D.

List of Annuitants on the Annuity Funds of 1800, 1814, 1818 *and* 1825.

	£	s.	d.	£	s.	d.
ANNUITIES PAYABLE IN ENGLAND.						
ANNUITANTS ON THE FUND OF 1800.						
S. R. Lushington	400	0	0			
S. Harris	400	0	0			
R. Machonochie	400	0	0			
Transferred Annuitants: R. Alexander	400	0	0			
Transferred Annuitants: J. H. Piele	400	0	0			
Transferred Annuitants: E. P. Blake	400	0	0			
Transferred Annuitants: W. Cooke	400	0	0			
A. Sinclair.—As this Gentleman has not obtained an Annuity under the provisions of the Deed, but by express command of the late Honorable Court of Directors in their letter dated 1st February 1842, his family is not entitled to the benefits of the Civil Fund Charity Branch.	400	0	0			
B. G. Babington, do. do.	400	0	0			
J. Hutt, do. do.	400	0	0	4,000	0	0
ANNUITANTS ON THE FUND OF 1814.						
Terrick Hamilton	400	0	0			
H. G. Keene	400	0	0			
E. W. Cunliffe	400	0	0			
Harvey Combe	400	0	0	1,600	0	0
ANNUITANTS ON THE FUND OF 1818.						
R. Alexander	200	0	0			
J. H. Piele	200	0	0			
E. P. Blake	200	0	0			
Wm. Cooke	200	0	0	800	0	0
ANNUITANTS ON THE CIVIL SERVICE ANNUITY FUND AT £1,000 PER ANNUM.						
+ A. Wilson	1,000	0	0			
+ John Cotton	1,000	0	0			
+ G. J. Hadow	1,000	0	0			
§ Charles Hyde	1,000	0	0			
+ D. Hill	1,000	0	0			
+ T. Newnham	1,000	0	0			
Robert Bayard	1,000	0	0			
+ E. H. Woodcock	1,000	0	0			
+ John Stokes	1,000	0	0			
+ Edward Smalley	1,000	0	0			
* J. A. Casamajor	1,000	0	0			
* G. E. Russell	1,000	0	0			
* H. Baskerville (late Vivesh)	1,000	0	0			
* Æ. R. McDonell	1,000	0	0			
+ J. G. Turnbull	1,000	0	0			
+ J. M. Macleod	1,000	0	0			
+ H. Montgomery	1,000	0	0			
+ G. M. Ogilvie	1,000	0	0			
* W. B. Anderson	1,000	0	0			
* C. R. Cotton	1,000	0	0			
Carried forward	16,000	0	0	6,400	0	0

APPENDIX D—*Continued.*

	£	s.	d.	£	s.	d.
Brought forward	16,000	0	0	6,400	0	0
* Robert Clerk	1,000	0	0			
† Robert Grant	1,000	0	0			
* W. R. Taylor	1,000	0	0			
* John Paternoster	1,000	0	0			
† F. F. Clementson	1,000	0	0			
* H. M. Blair	1,000	0	0			
* F. M. Lewin	1,000	0	0			
* G. J. Waters	1,000	0	0			
* H. Chamier	1,000	0	0			
* M. Lewin	1,000	0	0			
* W. Lavie	1,000	0	0			
* W. H. Babington	1,000	0	0			
* G. D. Drury	1,000	0	0			
* A. Maclean	1,000	0	0			
* G. Bird	1,000	0	0			
* A. Freese	1,000	0	0			
§ A. Mellor	1,000	0	0			
* A. F. Bruce	1,000	0	0			
† H. Morris	1,000	0	0			
* W. D. Davis	1,000	0	0			
* John Walker	1,000	0	0			
* S. Crawford	1,000	0	0			
* W. Douglas	920	0	0			
* C. P. Brown	1,000	0	0			
* A. Robertson	1,000	0	0			
* J. A. Hudleston	1,000	0	0			
* H. Stokes	790	0	0			
* W. A. D. Inglis	1,000	0	0			
* Sir T. V. Stonhouse, Bart.	1,000	0	0			
* F. Anderson	1,000	0	0			
* J. F. Bishop	1,000	0	0			
* T. Prendergast	1,000	0	0			
* T. A. Anstruther	738	0	0			
* C. J. Bird	735	0	0			
* A. S. Mathison						
* G. S. Hooper from 1st May to 31st December 1860, being 8 months at £1,000 per annum	666	13	4			
* F. B. Elton do. do. at £711 per do	474	0	0			
				55,323	13	4
ANNUITANTS ON THE CIVIL SERVICE ANNUITY FUND AT £600 PER ANNUM.						
Wm. Wayte	600	0	0			
R. Clarke	600	0	0			
W. T. Blair	600	0	0			
H. Lacon	600	0	0			
J. A. Dalzell	600	0	0			
J. T. Anstey	600	0	0			
A. F. Hudleston	600	0	0			
R. H. Clive	600	0	0			
T. R. Wheatley	600	0	0			
Wm. Ashton	600	0	0			
R. Eden	600	0	0			
J. C. Scott	600	0	0			
W. C. Ogilvie	600	0	0			
E. P. Thompson	600	0	0			
J. G. S. Bruere	600	0	0			
A. P. Onslow	600	0	0			
J. F. Thomas	600	0	0			
E. Smith						
Carried forward	10,800	0	0	61,723	13	4

APPENDIX D—*Continued.*

	£	s.	d.	£	s.	d.
Brought forward	10,800	0	0	61,723	13	4
F. Lascelles	600	0	0			
P. B. Smollett	600	0	0			
Walter Elliot	600	0	0	12,600	0	0
Total amount payable in England				74,323	13	4
ANNUITIES PAYABLE IN INDIA. ANNUITANTS ON THE CIVIL SERVICE ANNUITY FUND AT £1,000 PER ANNUM.						
* M. D. Cockburn	1,000	0	0			
* T. L. Blane	1,000	0	0			
* W. A. Forsyth	1,000	0	0			
* R. T. Porter	1,000	0	0			
* D. Eliott	1,000	0	0			
* Sir H. C. Montgomery, Bart	870	0	0			
* C. R. Baynes	900	0	0			
* R. D. Parker	1,000	0	0			
* S. Scott	750	0	0			
* T. B. Roupell						
* J. Goldingham from 1st May to 31st December 1860 being 8 months, at £1000 per annum	666	13	4			
* W. E. Underwood do do do do	666	13	4			
				10,853	6	8
Total amount payable in India				85,177	0	0
Grand Total £ Sterling				8,77,685	0	9
Company's Rupees						

* Annuities payable by quarterly Instalments and to the date of decease.
† Annuities payable at the close of the year and to the date of decease.
§ Annuities payable at the close of the year.

ABSTRACT.

	£	s.	d.		Co.'s Rs.	A.	P.		Co.'s Rs.	A.	P.
Payments for 10 Annuities on the Fund of 1800	4,000	0	0	or	35,000	0	0				
Do. for 4 do. on the Fund of 1814	1,600	0	0	or	14,000	0	0				
Do. for 4 do. on the Fund of 1818	800	0	0	or	7,000	0	0				
Do. for 61 do. on the Civil Service Annuity Fund at £1,000 per annum	60,000	0	0	or	6,29,900	0	0				
Do. for 1 do. at £920 per annum	920	0	0	or	9,798	0	0				
Do. for 1 do. at £790 per do.	790	0	0	or	8,413	8	0				
Do. for 1 do. at £738 per do.	738	0	0	or	7,859	11	2				
Do. for 1 do. at £735 per do.	735	0	0	or	7,827	12	0				
Do. for 1 do. at £711 per do.	474	0	0	or	5,048	1	7				
Do. for 1 do. at £870 per do.	870	0	0	or	9,265	8	0				
Do. for 1 do. at £900 per do.	900	0	0	or	9,585	0	0				
Do. for 1 do. at £750 per do.	750	0	0	or	7,987	8	0				
Do. for 21 do. on the Civil Service Annuity Fund at £600 per annum	12,600	0	0	or	1,26,000	0	0				
Total £ Sterling	85,177	0	0	or	8,77,685	0	9				
Payable from the Civil Service Annuity Fund					£ 66,177	0	0	or	6,95,685	0	9
Payable by the Secretary of State in Council for India.					£ 19,000	0	0	or	1,82,000	0	0
£ Sterling					85,177	0	0	or	8,77,685	0	9

FORT ST. GEORGE, CIVIL FUND OFFICE:
1st *January*, 1860.

W. HUDLESTON,
Secretary.

No 2

To

The Chief Secretary

to

Government

Dispatch No 1 of 1862 Commissariat
Office Fort William Calcutta forwarding
Copies of Correspondence with the Secretary
of State for India on the Subject of
Supplies of Grain

Pol. Dept. 20 Aug. 1862
L. A. 15/35
No 103.

Disp. 14th

Financial Dept

No. 135

To

Messrs Parry & Co.
Agents at Madras.

Gentlemen,

I am directed by the Honble the Governor in Council to acknowledge the receipt of your letter of the 12th. Ultimo, and to state that the Govt having received from the Assistant General a report upon the application therein mentioned, regret that they are unable to comply with it.

I am

Fort St. George
12 April 1860.

Pro of Govt 20 April

Finl 1860. Departt

No 135

Proceedings of Govt

Dated 12 April 1860.

H. No 252