

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. <i>358</i>	Press ~~Misc~~
Dated <i>18. 7.</i>	18 <i>60</i>

B. no 42-43

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Financial Department,
18th July 1860.*

No. 42. Read the following letter from JOHN MILLER, Esq., for J. R. BOYSON, Esq., Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George, dated 10th July 1860, No. 703.

Dated 30th June 1860, No. 321, Financial Department.

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

2. I have submitted same for the consideration of the Advocate General, and I now send for the information of Government a copy of his opinion thereon.

COPY—OPINION.

The brief Extracts from the Deeds of 1800 and 1814, and from the Rules of 1825 and 1853, respectively, now submitted to me, are hardly sufficient to enable me to offer a decided opinion upon the present case. Assuming, however, that these Extracts really contain every thing that bears upon the present case, it seems certain that, on the one hand, the Rules of 1853 do not in terms give Mr. Prendergast any title to demand the refund he prays for, and that, on the other hand, they do not in terms prevent granting him such a refund, the matter being left sub silentio, whether intentionally or unintentionally, there is nothing before me to show.

Neither am I aware whether the Rules of 1853 were adopted in substitution for, and to the exclusion and supercession of, the former Rules of 1825. If, however, this were the case, and if I am right in my recollection that the new Rules of 1853 were, if not absolutely dictated, prescribed to the Civil Service by the Honorable Court of Directors, under pain of forfeiting some considerable advantage, I think the omission, under such circumstances, to prescribe the re-enactment of the old Rule 18 of 1825 (as given in the Extract laid before me) affords fair grounds for coming to the conclusion that this Rule was intentionally omitted from the new Rules, with the express view of making the Trustees and the Honorable Court (whose place has since been taken by the Crown) to deal with applications like the present upon their merits.

(Signed) THOS. SYDNEY SMYTH,
Advocate General.

9th July 1860.

(True Copy.)

(Signed) JOHN MILLER,
for J. R. BOYSON,
Government Solicitor.

No. 43. ORDER THEREON, 18th July 1860, No. 358.

Ordered to be communicated to the Managers of the Civil Service Annuity Fund, in reference to their letter, dated the 23rd ultimo, No. 176.

(Signed) T. PYCROFT,
Chief Secretary.

Order thereon - 10th July 1860. No 350

Ordered to be com-
municated to the Managers of
the Civil Service Annuity Fund
in reference to their letter dated
the 23rd ultimo. No 140.

Wm

gp

12th Dec 60

To the Secretary }
Civil Annuity } Dispt. 20th