Judicial ((~~1900~~)) Department.

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G.O., No. 827

DATED 22 - 4 - 95

[Despatch Abstract.]

Passing orders on the revised draft of the Administrator-General's rules.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Judicial (1895) Department.

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DATED 22nd April 1895.

INDEXED.

[Despatch Abstract.]

ADMINISTRATOR-GENERAL'S RULES.

Passing orders on the revised draft of the--.

F. A

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	331		14-2-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.
	3326		9-5			

... was originally; but it survives as a ... per mensem, to be made to the ... sary in order to bring up

NOTES CONNECTED WITH G.O., No. 827, JUDICIAL, DATED 22ND APRIL 1895.

C. No. 1155, dated 8th March 1895, from the Administrator-General.
D.O. No. 184 „ 8th „ „ „ „
C. No. 1371 „ 19th „ „ „ „

There is some error in the copy of Act VIII of 1855 put up. In the abstract on page 292 of the volume, section 50 is said to relate to Bombay and section 51 to Bengal and Madras; but on referring to the sections themselves I find that both sections 50 and 51 refer to Bombay and that Bengal is not mentioned at all.

(Intld.) H.W.B.

FOR ORDERS.

These papers relate to the Administrator-General's rules and to certain other matters. They are marked urgent as the Government of India is pressing for a reply.

2. The present rules were framed in 1856 and will be found at page 757 of the Gazette of that year. They were made under section 32 of Act VIII of 1855 which corresponds with section 57 of the present Act II of 1874. The rules have been revised since they were issued as will be seen from G.O., No. 2489, dated 5th December 1881. The principal provisions of the revised rules are as follows:—

(1) Whenever the cash balance of an estate amounts to Rs. 100 it is to be invested in Government securities.

(2) Whenever a estate has been administered, the balance, if it is less than Rs. 100, is to be deposited with the Accountant-General and to bear interest at $3\frac{3}{4}$ per cent.

(3) The amount in the hands of the Administrator-General may never exceed Rs. 5,000 *, any excess being lodged in the Bank of Madras.

(4) The Administrator-General may draw out of the bank and deposit with the Accountant-General, at any time, sums not less in amount than Rs. 5,000, and sums so deposited carry interest at 4 per cent., which interest is to be carried to a fund called the Audit fund.

(5) Expenses of audit are met in the first instance from the Audit fund; any amount not so met is chargeable to estates having balances of Rs. 500 and upwards.

I did not know there were Government promissory notes for so small a sum as Rs. 100, but presumably there must be or the Accountant-General would have taken objection.

(Intld.) H.W.B.

* Apparently G O., No. 619, dated 17th April 1862, was interpreted as meaning that this sum should be reduced to Rs. 1,000 but the rules were never amended to this effect.

How he was to get such sums so as to deposit them is not clear, seeing that balances exceeding Rs. 500 (subsequently Rs. 100) were to be invested. I suppose they must have been the aggregate of the balances under Rs. 500 (or Rs. 100) paid under Rule IV, 3, as deposits to the sub-treasurer.

(Intld.) H.W.B.

3. By the year 1868 the unclaimed balances deposited with the Accountant-General under Clause IV of Rule 3 had reached Rs. 38,000 and the Government of India raised objections to the retention of this sum in the treasury. Accordingly, in G.O., No. 1011, dated 24th June 1868, the Administrator-General was ordered to invest the sums in Government securities.

4. In G.O., No. 1296, dated 26th June 1878, will be found an important report by the auditors of the Administrator-General's accounts. The auditors remarked that there was only one account for all transactions affecting the Audit fund and they suggested that two distinct accounts should be opened. One of these accounts was to be called the Audit Fund Investment Account and was to show the capital invested in securities; the other account was to be called the Audit Fund Account and was to show the *interest* from the invested securities and the expenditure debited thereto. The auditors also recommended that a further sum out of the Administrator-General's general cash balance should be added to the amount already invested in securities. These proposals were approved in G.O., No. 1792, dated 5th September 1878, and a sum of about Rs. 30,000 * was invested. The investments made in 1868 and 1878 amounted to Rs. 70,600 † and this constitutes the present Audit Investment fund.

5. In G.O., No. 2497, dated 27th September 1879, will be found another important report by the auditors. It may be summarized as follows :—

(1) Section 62 of the Act provides that assets which have been in custody for fifteen years without any claim thereto having been made and allowed shall be transferred to Government. But there is no provision for crediting to Government balances more than fifteen years' old which have been claimed by the creditors but never actually paid. It is desirable that arrangements should be made for crediting such balances also to Government.

(2) The auditors should be allowed a fee of Rs. 700 for the half-year.

(3) The following charges should be met from the Audit fund, viz.: —

(*a*) the Audit fee,
(*b*) the charges for preparing schedules,
(*c*) the cost of publishing the schedules, and

* This sum of Rs. 30,000 does not represent the balances under Rs. 500 (the then figure), but was simply taken from the Administrator-General's current account in the bank, the amount of which the Accountant-General represented to have averaged over Rs. 1,05,000 during 1877 and to have therefore been needlessly large. In this view the Administrator-General concurred and Rs. 30,000 were therefore simply taken and invested. To this extent therefore the "Audit Investment fund" may any day be drawn upon, if the Administrator-General's cash balance (by last account —Statement B in G.O., No. 3152, dated 20th December 1894, Rs. 87,000 odd) should run too low. But if this investment was justifiable and advisable, which I think it was, further investments of the same kind might be made, which would raise the Audit Investment fund to such an amount that its interest would amount to a sum sufficient to cover all expenses and to yield a profit to Government as well.

By paragraph 10 of the audit account in G.O., No. 2497, dated 27th September 1879, the Audit Investment fund was then Rs. 70,600, which is the present amount. Am I to understand that since 1879 there have been no balances set aside for creditors, but not claimed, which could have been added to this sum? It seems unlikely.

(Intld.) H.W.B.

† Really, something less than this; for Rs. 600 or Rs. 700, now included in the Audit Investment fund, has not been accounted for.

Please explain this.

(Intld.) H.W.B.

(Intld.) H.W.B.

* This is what it was originally; but it survives as a grant, not exceeding Rs. 300 per mensem, to be made to the Administrator-General, when necessary in order to bring up his emoluments to Rs. 1,200 per mensem.

(*d*) the monthly contribution by Government towards * the cost of Administrator-General's establishment.

With regard to these suggestions the Administrator-General made the following remarks :—

(1) It is impossible to carry sums which have been claimed by creditors but not paid to the credit of Government without amending the Act.

(2) The primary charge on the Audit fund must be the charges and expenses of the audit; it is not right to debit it with items such as suggested by the auditors and, in fact, it would not be possible to defray such charges from the fund unless the Audit Investment fund were largely increased. After consideration of this correspondence, the Government decided to fix the fee for audit at Rs. 700 but it did not approve the proposal to throw certain additional charges on the Audit fund and it was considered unnecessary to move for the amendment of the Act in order to permit of old creditors' balances being credited to Government.

6. G.O., No. 1413, dated 19th July 1881, also demands notice. The Administrator-General reported that there was a large number of sums of money reserved for payment of creditors which had been invested in Government securities in the names of the individual estates, the consequence being that, at the time, there lay scattered among several estates which had long been closed an accumulation of interest aggregating about Rs. 21,671. The Administrator-General thought that these balances ought to have been invested as a portion of the Audit Investment fund, in which case the interest would have been credited to the Audit fund instead of to the individual estates. He therefore proposed to transfer the said sum of Rs. 21,671 to the Audit fund and he also suggested that he should be allowed to debit certain charges on account of postage and stationery to the Audit fund. These proposals were sanctioned by Government.

7. In 1894 a suit was brought against Administrator-General and he suggested that he should be allowed to defend the suit at the cost, in the first instance, of the Audit fund and this proposal was finally sanctioned in G.O., No. 1161, dated 8th May 1894.

Apparently this is the point to which I referred in the second paragraph of my note on page 3. But then what has become of these balances themselves and of other such balances created, and of the interest accruing on both, since 1891? It seems to me that all such balances should now be transferred to the Audit Investment fund.

(Intld.) H.W.B.

The Administrator-General ought to have been made to pay these himself, I think.

(Intld.) H.W.B.

8. At the close of 1893 the Government of India notified that, with effect from the 1st April 1894, the rate of interest on deposits in the Post Office and Savings Banks would be reduced from 3¾ to 3½ per cent. and the Accountant-General thereupon raised the question whether the reduced rate of interest was to apply to the Administrator-General's deposits at the Bank of Madras. The Government of India was addressed and replied in a letter which will be found in G.O., No. 1631, dated 30th June 1894. The Government of India said that the reduced rate of interest was to be applied and went on to remark that no sufficient reasons seem to exist for paying any interest on the Administrator-General's deposits. In Bengal such of the Administrator-General's funds as are not invested in Government securities are lodged in a banking account in the Bank of Bengal and the Government of India ordered that the Madras Administrator-General's rules should be modified so as to provide that his funds shall be merely placed in deposit in the bank (or with Government if the Administrator-General preferred it). This letter was referred to the Administrator-General for information and he was told to consider with especial care what the effect of the Government of India's orders would have on the Audit fund.

9. In a letter read in G.O., No. 504, dated 27th February 1894, the Administrator-General suggested that the Act should be amended so as to provide for the transfer to Government of balances set apart for creditors which remained unpaid at the end of three years. He set out his proposals in greater length in a letter read in G.O., No. 908, dated 14th April 1894, and the Government thereon directed him to report whether the proposed amendment of the Act would not have the effect of destroying the Audit Investment fund and went on to observe that the rules of 1856 were in need of amendment and that the Administrator-General should submit a revised draft. The Government added that it seemed advisable that some provision should be made, either in the Act or Rules, to enable the Administrator-General to meet charges on account of law suits from the funds in his hands.

10. In the report on the audit of Administrator-General's accounts for the half-year ending 31st December 1893 the auditors proposed to modify certain of

But these deposits seem to be of the same nature as those which originally formed the Audit Investment fund. If so, why are they not invested as part of that fund?

(Intld.) H.W.B.

On getting so far, I went back, and now believe that I was mistaken in supposing that the original investment in the Audit Investment fund consisted of unclaimed balances, as stated in paragraph 3 of the note. So far as I can make out, the Rs. 38,000 there mentioned did not so much consist of the balances of particular estates which could be specified, as of the surplus cash balance of the Administrator-General's account from time to time accumulated in excess of requirements, without reference to particular estates. In fact, this must have been so, for if the balances of individual estates had been considered in making deposits in the General Treasury under Rule III, 4, there could have been no rule that such deposits (and subsequent withdrawals under Rule III, 5) should be in sums of not less than Rs. 5,000. This definition seems therefore to be right and the statement in paragraph 3 as to "unclaimed balances" to be wrong. I should change the name of this fund to prevent ambiguity and call it the "Current Balance Investment fund" or something of that kind.

(Intld.) H.W.B.

the forms in use in the Administrator-General's office. The Government thereon ordered in G.O., No. 1592, dated 27th June 1894, that the Administrator-General should take the opportunity, when redrafting the rules, to revise all his forms of accounts in communication with the Accountant-General.

11. In August last the Administrator-General submitted a draft of the revised rules and forms. These were referred for remarks in G.O., No. 2009, dated 21st August 1894, to the High Court, the Advocate-General and the Accountant-General. The replies of these authorities will be found under cover of G.O., No. 331, dated 14th February 1895. It was found necessary to refer these replies to the Administrator-General and to call on him to explain more clearly the system of accounts in force in his office.

12. The currents read at the head of this note form the Administrator-General's answer to the last-quoted Government order and orders have now to be passed on his draft rules and on the proposal to cease paying interest on the Administrator-General's deposits.

13. Such of the revised draft rules as appear to call for remarks are dealt with in order below:—

(1) Rule 1.—This contains the accounts which should be kept. It would be clearer if this rule were prefaced by two definitions, viz.:

(*a*) *Audit Investment fund.*—This fund consists of portions of the balance standing to the Administrator-General's credit in the Bank of Madras which are, from time to time, invested in Government securities in accordance with these rules.

(*b*) *Audit Fund.*—This fund consists of the interest paid on the sums forming the Audit Investment fund.

Or whatever it may be called.

(Intld.) H.W.B.

The Advocate-General has pointed out two clerical errors in this rule.

Yes.

(Intld.) H.W.B.

The Accountant-General raises certain objections to form No. 14 on the ground that it ought to contain columns showing the date on which the interest due for each successive half-year is realised. With regard to this the Administrator-General observes that the insertion of these columns would give unnecessary labour, inasmuch as the particulars are posted in the ledger from time to time. The main reason for the Administrator-General's objection seems to be that he might have to employ an additional clerk at his own expense. But perhaps the Administrator-General's opinion may be accepted.

It will be safest to go by the Accountant-General in a matter of accounts.

(Intld.) H.W.B.

The Accountant-General also points out a clerical error in the heading of Form No. 17.

(Intld.) H.W.B.

(2) RULE 2.—The Advocate-General observes that Rule 2 appears to be inconsistent with Rule 4. But this remark, as the Administrator-General points out, is the result of a misapprehension. It would, however, make Rule 2 a little clearer if the word "individual" were inserted therein between the word "any" and the word "estate."

(Intld.) H.W.B.

The Advocate-General also points out a clerical error in the rule.

See above.

(Intld.) H.W.B.

(3) RULE 3.—It would perhaps be as well to continue to use the term Audit Investment *Fund* instead of Audit Investment *Account*.

The Advocate-General objects that the Act does not give power to create either an Audit Fund or an Audit Investment Fund. He refers to section 57, but, if the provisions of the rules are *ultrà vires* as the Advocate-General contends, it is rather because they are not entirely consistent with section 48 than because section 57 does not explicitly refer to an Audit Fund. Section 48 clearly contemplates the allocation of the cost of the audit among *all* the estates; whereas such allocation will not necessarily take place, if the cost is met from a fund constituted in the manner provided in the rules.

I think the Administrator-General meets this point. What he does is to invest, for the benefit of estates generally, a portion of the balance in his general current account in the Bank of Madras, of the use of the whole of which the Bank would otherwise get the benefit. But at the same time I confess that I still do not see whence he gets such a large balance in his current account. Under new Rule II (old Rule) he has to invest all sums over Rs. 100 to the credit, after providing for ascertained demands, of individual estates, and investments so made are entered in Account No. 11 and the interest thereon goes to the credit of the individual estates. It seems difficult to suppose that the aggregate of the balances under Rs. 100 each can come to such a sum as Rs. 80,000, even when aided by the inevitable delay in investing sums ready for investment.

(Intld.) H.W.B.

I think this is the right view.

(Intld.) H.W.B.

But, as the Administrator-General points out, Audit Funds are recognised in the Bengal and Bombay Rules also and no objection has been taken hitherto to the similar provisions in the Madras Rules although the Acts of 1855 and 1874 are practically identical as to the matters regarding which rules may be framed. It would be most inconvenient, if not impossible, to now abolish the Audit Fund and the Audit Investment Fund and it is submitted that the Advocate-General's opinion on this subject should not be accepted.

The Administrator-General has omitted clause 3 of the old Rule 3. That clause gives him power to deposit in the Government treasury balances less than Rs. 100 belonging to estates in which all registered claims have been satisfied or remain unclaimed, and provides that the sums so deposited shall bear interest. It is to this clause that the Government of India appears to object and the Administrator-General sees no objection to its omission. The total amount at present in deposit under clause 3 of Rule 3 is only Rs. 787, so that the sum concerned is very trifling. There appears, then, no objection to the adoption of India's proposal. The effect of the omission of the said clause 3 will merely be that these petty balances will in future be left in the Administrator-General's account current with the Bank. It may be noted that the Accountant-General's description (*vide* letter in G.O., No. 135, Financial, dated 15th February 1894) of these deposits as "deposits in the Bank" was incorrect; the deposits are with the Accountant-General himself.

The new Rule 3 represents clause 4 of the present Rule 3. It is true that that clause empowers the Administrator-General to deposit with the Accountant-General lump sums of Rs. 5,000 and upwards. But, as already stated, in 1868 the Government of India objected to this procedure and the rule has been in abeyance since or, rather, it has been read as if the words "invest in Government securities" had been substituted for the words "deposit in the Government treasury". It was in consequence of overlooking this fact that doubts were

expressed in G.O., No. 1631, dated 30th June 1894, as to the possibility of giving effect to India's order without destroying the Audit Fund.

The rule might be made a bit clearer by inserting the words "by means of investment in Government securities" after the word "add".

Meanwhile, as requested by the Accountant-General, the Administrator-General may be told to carry out India's orders at once and India may be informed accordingly.

(4) RULE 6.—The Advocate-General suggests that this rule is unnecessary. It corresponds with the old rule bearing the same number, but that old rule was abrogated by G.O., No. 2039, dated 9th October 1878. The rule prescribed in this Government Order declares that remittances to Europe are to be made by means of bills of exchange drawn by such Banks or Firms as Government may approve, and it is further provided that such approval shall continue in force for one year only. According to the revised Rule 6, on the other hand, the approval by Government of a Bank will continue in force *until revoked*. The Accountant-General proposes to add at the end of this rule the words "Should however no change occur within twelve months the fact should be reported to Government for note and record."

This Rule 6 is framed with special reference to clause (*b*) of section 57 and, as the Administrator-General observes, it ought not to be omitted. With reference to the Accountant-General's remark, the Administrator-General says that he has no objection to amending the rule so as to make it necessary to apply *every year* for approval of the banks by which bills of exchange may be drawn. This represents the present practice, but it is doubtful if an annual application to Government, or annual report as suggested by the Accountant-General, is necessary. If any such annual reference is considered expedient it should, it is submitted, take the form suggested by the Administrator-General rather than that suggested by the Accountant-General.

(5) RULE 7.—This rule corresponds generally with the present rule bearing the same number. It is verbally defective as pointed out by the High Court. It also provides for deposit of securities, &c., in the bank instead of in the general treasury and the provision requiring the

Yes.

(Intld.) H.W.B.

Yes, and I suppose with retrospective effect from the date of India's letter.

(Intld.) H.W.B.

I think not.

(Intld.) H.W.B.

This may stand.

(Intld.) H.W.B.

Administrator-General to specify the purpose for which he requires a security before withdrawing it has been omitted.

(6) Clauses 2 and 3 of the old Rule 9 have been struck out. Therein it is provided that the cost of auditing estates with balances of less than Rs. 500 shall be defrayed from the Audit Fund and that any balance left in the Audit Fund shall be applied towards reducing the charges for audit falling on the estates having balances of more than Rs. 500.

The reason for omitting this provision is, no doubt, that the Audit Fund is now so large that it is capable of meeting the *total* cost of audit and it is therefore unnecessary to make any provision for charging the cost rateably on the individual estates.

(7) RULE 9.—The following charges are now declared to be debitable to the Audit Fund:—

(*a*) Without the sanction of Government—

(1) Expenses of audit.
(2) Cost of schedules.
(3) Cost of record books, account books, stationery and printing.
(4) Postal charges.
(5) Office furniture.
(6) Temporary advances, when money due to an estate cannot be immediately realised to meet an urgent demand.

(*b*) With the sanction of Government—

(1) Advances for law suits.
(2) Peons' badges and clothing.
(3) Pensions and gratuities to clerks.
(4) Bonus to retiring Administrators-General.

(Intld.) H.W.B.

The Advocate-General objects to the proposal for giving bonuses to retiring Administrators-General out of the Audit Fund and, on reconsideration, the Administrator-General proposes to omit the reference to bonuses. It is submitted that it certainly should be struck out.

Yes.

(Intld.) H.W.B.

Section 42 of the Act declares that the Administrator-General shall defray all the expenses necessary for his office and all other charges to which the said office is subject except those for which express provision is made in the Act.

Now, the only expenses for which express provision is made in the Act appear

to be those relating (*a*) to the preparation and publication of the Administrator-General's schedules and (*b*) to the examination by the Auditors of his schedules and accounts (see section 48), and (*c*) to references to the Advocate-General under section 50. Section 54, however, provides that the Administrator-General may reimburse himself for any payments which a private administrator might have lawfully made.

I doubt if all the charges which it is proposed to debit to the Audit Fund are legally debitable thereto. The expenses of audit and preparing the schedule are undoubtedly so debitable. The cost of record books, account books, stationery, printing and postage are debitable to the Audit Fund in Bombay and perhaps they may be passed.

(Intld.) H.W.B.

The cost of office furniture is not provided for either in the Bombay or Bengal Rules. The same remark applies to the proposed temporary advances to estates which cannot immediately realize their assets.

I don't think we had better go beyond the Bengal and Bombay Rules.

(Intld.) H.W.B.

It was suggested in G.O., No. 908, dated 14th April 1894, that some provision should be made to enable the Administrator-General to meet law charges. But it is not certain whether, as the Act stands, such a charge can be lawfully imposed on the Audit Fund, that is to say, on the estates under administration, and it seems somewhat absurd to talk of "advancing" money for the cost of suits in connection with estates which have *no* funds. In such cases the Audit Fund does not "advance" money; it "contributes" it to the estate concerned. Charges on account of peons' badges and clothing and pensions and gratuities are clearly, I submit, charges which are to be met (under section 42) by the Administrator-General himself. Neither the Bengal nor the Bombay Rules provide for the debit of charges of this sort to the Audit Fund.

I don't see any objection to this arrangement. The truth is the Audit Fund is outside the Act altogether and we can do what we will with it.

(Intld.) H.W.B.

The reference in clause 4 of Rule 9 to a Government Order of 1881 may be omitted as unnecessary.

Yes.

(Intld.) H.W.B.

14. With reference to above remarks the rules may, it is submitted, be returned to the Administrator-General for revision and the Advocate-General may be asked to advise as to which of the items in Rule 9 may legally be charged to the estates.

Yes.

(Intld.) H.W.B.

15. Section 43 of the Act provides that the Administrator-General's books shall be

(Intld.) H.W.B.

The whole thing being, not illegal, but beyond the law, I don't see the use of this reference.

(Intld.) H.W.B.

open for inspection on payment of such fees as Government may have prescribed. In G.O., No. 331, dated 14th February 1895, the Administrator-General was asked whether any fees had ever been prescribed under this section. He replies that they have not been, but refers to an old order of 1857 which fixed the charges for copying documents. The Administrator-General may be asked to report what fees, if any, should be prescribed under section 4?.

(Intld.) H.W.B.

16. The Administrator-General, as previously observed, suggested the amendment of the Act with a view to crediting to Government sums set apart for creditors but remaining unclaimed for more than three years, but Government suggested in G.O., No. 908, dated 14th April 1894, that such a step would end in the destruction of the Audit Investment Fund and the Administrator-General admits that this would be the case and withdraws his proposals. He says that his main reason for suggesting the amendment was to obviate the necessity for publishing half-yearly the long list of unclaimed balances set apart for creditors. The half-yearly publication of this list is necessary under the present Rule 10, but it is doubtful whether the Act itself necessitates such publication and it appears that in Bombay such publication does not take place. The Administrator-General therefore proposes to omit the old Rule 10 and to discontinue the publication of the list of the creditors' balances. This would doubtless be a great convenience, but it is uncertain whether it would be legal to adopt the course proposed. Mr. Michell (*vide* page 8 of G.O., No. 1236, dated 17th June 1893) evidently thought that section 44 requires the publication of this list. Perhaps it would be as well to take the Advocate-General's opinion on the point.

(Intld.) H.W.B.

I will speak to the Under Secretary about this.

(Intld.) H.W.B.
6-5-95.

17. Attention is invited to the Administrator-General's remark that the Audit Fund increases every year. At present the increase amounts to about Rs. 1,500 *per annum*. The proposed addition to the number of items chargeable to the Audit Fund will, of course, reduce this amount, but its tendency is to increase and the Audit Fund will probably, in the course of some years, reach so high a figure that the interest on it will suffice to meet all charges debitable thereto. When this occurs the time will have come to take power by legislation to credit to Government all old unclaimed balances set apart for creditors. The Government will then

be able, without injustice to anybody, to lay hands on the Rs. 70,600 or thereabouts which forms the Audit Investment Fund. But for the present that Fund must remain untouched.

(Intld.) A.B.
28-3-95.

Not so, if I am right in thinking (see page 2) that Rs. 30,000 out of this Rupees 70,600 belongs to the Administrator-General's general cash balance and may any day be withdrawn if that should run low.

(Intld.) H.W.B.

(Intld.) J.F.P.
3-4-95.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following papers :—

G.O., dated 30th June 1894, No. 1631, Judicial.

ABSTRACT.—Communicating, with remarks, to the Administrator-General, Madras, letter from the Government of India regarding the rate of interest to be applied to the Administrator-General's deposits at the Bank of Madras and the alteration in the rules for the office and duties of the Administrator-General.

G.O., dated 21st August 894, No. 2009, Judicial.

ABSTRACT.—Referring to the Hon'ble the Judges of the High Court and certain officers for favour of remarks the draft rules for the office and duties of the Administrator-General.

G.O., dated 14th February 1895, No. 331, Judicial.

ABSTRACT.—Referring to the Administrator-General for very early remarks the communications from the authorities consulted in G.O., dated 21st August 1894, No. 2009, in regard to the Administrator-General's rules.

READ—also the following papers :—

Telegram from the Administrator-General, Rajahmundry, to the Chief Secretary to Government, dated 8th March 1895.

Regret delay. Cannot report now or soon. Suggest order now adopt Bengal system. Stop payment of interest on deposits. Direct me transfer deposits to current account. See my letter 8th August 1894.

From H. G. WEDDERBURN, Esq., Administrator-General, to the Chief Secretary to Government, dated Madras, 19th March 1895.

With reference to paragraph 1 of G.O., 14th February 1895, No. 331, I have the honour to submit the following remarks :—

(*a*) On the Advocate-General's opinion—

1. Rule IX refers to the Audit Fund not the Audit Investment account. Rule III to the Audit Investment account. Rule I (17) to both.

The Audit Fund was apparently created under, or prior to, rule III, clause IV of the rules published in the *Fort St. George Gazette* of 16th May 1856 under section 32 of Act VIII of 1855.

These rules were published by the Governor-General in Council under section 33 of Act VIII of 1855. These rules are now in force under section 55, Act 24 of 1867 and section 57 of Act II of 1874. The presumption is that the rules are legal and not *ultra vires*. The Administrator-General having a large balance to credit in his current account not required for the working of the office, it appears to me that there is nothing illegal in investing the surplus balance in Government paper and using the interest derived therefrom for the benefit of the estates generally. The utility of the fund is apparent. If this balance were not so used, the Bank of Madras would benefit, not the estates. Audit funds similarly created have existed in all three presidencies for over forty years.

Rule IX (4) relating to bonus to retiring Administrator-General of my draft rules may, I think, on further consideration be omitted; it was drafted under a mistaken idea that a similar rule existed in Bengal or Bombay.

2. I do not consider that rule VI is unnecessary. The object thereof is to save the Administrator-General from liability, *e.g.*, as when the Oriental Corporation Bank failed. Moreover, the Government are in a better position than the Administrator-General to select a safe bank, and if it were left to the Administrator-General to select, it might create jealousy among the banks excluded.

3. Rules II and IV are not inconsistent. Rule II applies to balances to credit of individual estates in the books of the Administrator-General. Rule IV applies to the general cash balance in the office safe belonging to estates generally.

4. Rule I (6) (18).—The amendments should be made.
Rule II.—Insert "it".
Rule VII.—The amendment proposed by the High Court should be made.

5. With reference to the Accountant-General's remarks—

The objection to the adoption of the Accountant-General's forms of Government security register is that it would create unnecessary labour in entering each item of interest on Government paper twice over, inasmuch as the particulars and dates of realisation of interest are posted in the ledger from time to time. Both in the interest of Government from whom the Administrator-General occasionally receives Rs. 300 a month towards establishment, and of the Administrator-General who has to pay establishment charges, all unnecessary labour should be avoided.

6. The printers' error over the heading of form 17 should, of course, be deleted.

7. Rule VI (1).—The practice is to apply to Government for sanction every year. I have no objection to the rule being amended so as to make this compulsory.

8. I have already, on 8th August 1894, as stated by the Accountant-General, suggested that the transfer to current account of deposits of sums under Rs. 100 in the Government treasury should be made in accordance with the suggestion of the Government of India.

Should the Government of India be prepared to pay any interest hereafter, the practice of depositing these sums can be re-introduced. No trustee is bound to invest sums under Rs. 100, as there is no form of security in which such sums can be invested. Possibly interest at a low rate on these sums might be paid out of the Audit Fund if the total (Rs. 787–5–5) of these small balances is large enough at any time to increase the Audit Investment account to any considerable extent. I may here point out that these deposits of sums under Rs. 100 are not made by me in the Bank of Madras but with the Accountant-General.

9. With reference to paragraph 2 of the G.O., No. 331—

(*a*) The effect of the orders contained in paragraphs 2 and 3 of the letters of the Government of India will be so far as I can see simply to enhance the current account of the Administrator-General by the amount of these deposits and to deprive the beneficiaries of the interest which the Government of India has hitherto chosen to give in return for the use of the money apparently no longer required by the Government of India.

(*b*) With reference to the information called for in paragraph 2 of G.O., of 14th April 1894, No. 908, Judicial—

The "Audit Investment Fund" has at credit Government paper for Rs. 70,600. The interest on this paper is carried to the credit of the Audit Fund half yearly. In 1881, the Government directed by order No. 1413 of 19th July 1881, the transfer to credit of Audit Fund of all interest accumulated on the sums set apart for creditors. Thus a sum of Rs. 22,000 more or less was added to the Audit Fund, and that fund now stands at Rs. 34,900 in Government securities. The half-yearly interest of Rs. 70,600 and Rs 34,900 in Government securities yields about Rs. 2,000 and this is applied in defraying the cost of half-yearly audit, postage and stationery expenses, leaving a balance of about Rs. 1,500 a year which is in due course invested. The Audit Fund thus increases each year. On further

consideration I do not think it would be advisable at present to amend the Act as proposed. The Administrator-General of Bengal did not desire to suggest any amendments, and the Administrator-General of Bombay is not in the habit of publishing half yearly the long list of creditors' balances, the inconvenience of which practice led to my proposal to amend the Act by crediting these balances to Government after a certain period. I find that creditors' balances amount to Rs. 69,980–0–2 and that practically it was the total of these balances which made up the Rs. 70,600 Government paper which represents the Audit Investment Fund account.

(*c*) With reference to paragraph 3 of G.O., dated 14th April 1894, No. 908, I have consulted the officers mentioned and endeavoured to carry out the order of Government in the draft rules already submitted.

I have the honour to explain as to (*a*) the system of account prescribed in the rules published in 1856—

Rule I (1).—An inventory of effects has to be made and entered in book I. As effects are realised entry is made in asset book II and cash is also entered in cash-book III and credits vouched for by receipt book IV and the cash-book is posted in ledger V. If claims are preferred they are registered in book VI. A pass-book is kept with Bank of Madras VII in which all monies received have to be lodged. The commission due to Administrator-General is entered in book VIII and charged monthly. When account sales are rendered by agents they are entered in book IX; when payments are made through India Office by bills of exchange they are entered in book X. All accounts issued from the office were entered in book XI, but the practice is obsolete. The Administrator-General has to file inventory and account in the High Court of each closed estate and a memorandum is kept in book XII. All Government securities and bank shares deposited in bank are entered in book XIII. Rule XIV is obsolete as this work is now done by the bank. Half-yearly schedules are published of assets realised under rule XV and all balances paid over are published under rule XVI. Under rule XVII provision was made for estates with balances under Rs. 100 for which interest was allowed by Government. This practice is to be abolished. Under rule XVIII the Audit Fund account is dealt with. The credit consists of interests realised and the debit of charges of audit, &c.

Rule II needs no explanation.

Rule III, clauses 1, 2 and 3, need no explanation.

Clause 4 provides for increases of Audit Fund by investing sums of 5,000 from current account not required for working of office.

Clause 5 provides for withdrawal from Audit Fund Investment account as occasion may require.

Clause 6 provides for assets not capable of immediate realisation.

Rule IV.—This refers to cash balance in office from day to day.

Rule V is plain.

Rule VI.—This rule was apparently made to protect the Administrator-General in case of a bank failing, *e.g.*, the Oriental Bank Corporation.

Rule VII is plain.

Rule VIII is plain.

Rule IX is plain.

Rule X is plain.

9. With reference to paragraph 3 of G.O. of 14th February 1895, No. 331, I regret I do not possess anything but a mutilated copy of the rules of 1856, but they can be found in the *Fort St. George Gazette* of 16th May 1856, page 757. I find the following Government Orders have been passed: —

Order No. 2039, dated 9th October 1878, about remittances to England in supersession of rule VI published in the Gazette of 29th October 1878, page 626.

Order of 19th July 1881, No. 1413 *re* Audit Fund.

Notification of Government, dated 5th December 1881, published in Gazette of the 14th December 1881, page 727, modifying rule I, No. 17, and rule III, clauses 2 and 3 of the rules of the 16th May 1856.

The Bombay rules are to be found in the *Gazette of Bombay* of 20th January 1887, part I, page 45.

10. Under section 43, no fee has been fixed in practice. Copies are generally asked for and charged for under G.O., No. 235, dated 26th February 1857.

ORDER—dated 22nd April 1895, No. 827, Judicial.

In his letter dated the 31st January 1894, No. 11-J.B.G., the Accountant-General asked whether, with reference to the Government of India Notification No. 5662, dated 30th December 1893, interest at the reduced rate of $3\frac{1}{8}$ per cent. was in future to be paid on the Administrator-General's deposits at the Bank of Madras. The Government of India replied in the affirmative but raised the question whether any interest at all ought to be paid on these sums in future and desired that steps might be taken to modify the Administrator-General's rules so as to provide that such sums shall in future be merely placed in deposit in the Bank (or with Government, if deemed preferable).

The sums in question are the balances below Rs. 100 which are dealt with under rule III (3), and, as the Administrator-General points out, they are at present placed, not in the Bank, but with the Accountant-General. It appears that, in March last, the total amount of these petty balances was only Rs. 787–5–5 and the Administrator-General sees no objection to the adoption of the course proposed by the Government of India and asks Government to sanction the transfer of the balances in question to his current account with the Bank of Madras. His Excellency in Council sanctions this arrangement and directs that the payment of interest on the sums in question by the Accountant-General shall cease with effect from the 20th April 1895. The following telegram will accordingly be despatched to the Government of India:—" . . . Finance and Commerce letter dated 31st May 1894, No. 2763-A. Accountant-General has been ordered to stop payment of interest on Administrator-General's deposits in his hands with effect from 20th instant and to arrange for transfer of these deposits to Administrator-General's account current with Bank of Madras."

2. The Government now proceeds to consider the revised draft of the Administrator-General's rules which were prepared under the instructions contained in G.O. dated 14th April 1894, No. 908, Judicial, and were referred for remarks to the High Court, the Advocate-General and the Accountant-General by G.O. dated 21st August 1894, No. 2009, Judicial.

The present rules were framed in 1856 and are not only obsolete to a considerable extent but are remarkably obscure in parts. The revised draft prepared by Mr. Wedderburn is a great improvement upon the old rules, but it too is defective in some respects as will be indicated later on.

3. The Government has experienced particular difficulty in arriving at a clear understanding of the nature of the two funds known as the Audit Investment Fund and the Audit Fund and the revised draft rules themselves are not so clear on this subject as they might be.

The history of the Audit Investment Fund seems to be as follows.

Rule III (4) provides that the Administrator-General may deposit in the General Treasury any portion (not less in amount at any one time than Rs. 5,000) of the balance standing to his credit in the Bank of Madras and that interest on sums so deposited shall be paid at 4 per cent., the said interest being carried to the Audit fund.

Apparently, in 1868, the sums deposited with the Accountant-General under the aforesaid rule had reached Rs. 38,000 and the Government of India raised objections to the retention of this amount in the treasury. The Administrator-General was accordingly ordered in G.O. dated 24th June 1868, No. 1011, Judicial, to invest the money in Government securities and this was done.

Up to 1878 there was only one account for all transactions affecting the Audit Fund, but in that year the auditors suggested that two distinct accounts should be opened, one to be called the Audit Fund Investment Account (showing the capital invested in securities) and the other to be called the Audit Fund Account (showing

the interest from the invested securities and the expenditure debited thereto). The auditors also recommended that a further sum out of the Administrator-General's general balance should be added to the amount already invested in securities.

These proposals of the auditors were approved in G.O., dated 26th June 1878, No. 1296, and G.O., dated 5th September 1878, No. 1792, Judicial, and the Administrator-General invested from his general balance a further sum of about Rs. 30,000.

The amount actually invested in 1868 and 1878 seems to have been Rs. 68,482 and the present value of the paper so purchased is stated at Rs. 70,600. This constitutes the Audit Investment Fund.

It was suggested by the auditors in 1879 and again in 1882 (G.O, dated 27th September 1879, No. 2497, and G.O., dated 11th July 1882, No. 659, Judicial) that the Audit Investment Fund should be further increased but objection was taken on the ground that the cash balance was insufficient and nothing was done.

4. The Audit Fund next demands attention. It is derived from two sources, viz.—

(1) the interest on the Audit Investment Fund, and

(2) a sum of Rs. 21,671 which was added to it in 1881.

The circumstances under which this sum of Rs. 21,671 was added to the Audit Fund are explained in the correspondence in G.O., dated 19th July 1881, No. 1413, Judicial. The Administrator-General found that a large number of sums of money reserved for payment to creditors had been invested in Government securities in the names of the individual estates and that, as a consequence, there lay scattered among several estates which had long been closed an accumulation of interest aggregating Rs. 21,671, to which interest the estates had no title. The Administrator-General therefore proposed to transfer these various items of interest to the Audit Fund and Government approved the arrangement. The Audit Fund has been invested and in March last it amounted to Rs. 34,900 the interest derived from which and from the Audit Investment Fund is utilized on the objects of expenditure debitable to the Audit Fund. Inasmuch, however, as the interest on these two funds is in excess of the charges payable therefrom, a balance accrues yearly and is in due course invested to credit of the Audit Fund which, therefore, is continually growing in amount.

5. The present seems a suitable occasion to consider a question relating to the disposal of unclaimed balances set apart for creditors which has been raised in the correspondence now before Government. On more than one occasion it has been suggested that steps should be taken to carry such unclaimed balances to the credit of Government, after the lapse of a certain period, but objection has been taken that Act II of 1874 does not explicitly authorize such a course. On the last occasion when this question was raised, the Administrator-General, in his letter dated the 11th January 1894, suggested that the law should be amended so as to authorize the transfer to the general revenues of all balances set apart for creditors and remaining unclaimed by them for three years; but, on further consideration, he has withdrawn the proposal. His Excellency in Council has given the matter the fullest consideration in connection with the question of making a further investment out of the Administrator-General's current balance and has come to the following conclusion. It is true that Act II of 1874 does not explicitly authorize the transfer to general revenues of the unclaimed balances set apart for creditors but there is no reason why such transfer should not be made if Government accepts the liability to make good any sum to which a creditor may establish a claim and it may be mentioned that the Government of India has recently recommended the adoption of a similar course in respect of unclaimed dividends in the hands of the Official Assignee. Care must, of course, be taken not to transfer any sum which has not remained unclaimed for a considerable period which, the Government thinks, might be put at fifteen years. The most recent schedules were published in the Gazette of the 9th April 1895 and show that, on the 31st December last, the sums set apart for creditors aggregated Rs. 69,980–11–8 of which only Rs. 1,809–2–5 seem to have accrued since the 1st January 1881. At the end of 1895, then, the Government might transfer to itself a sum of Rs. 68,171–9–3 without running maetrial risk of having to make any large refunds. Certain of the items are, it is observed, over sixty years old and in nearly every instance the chance of any claimant appearing and making good his claim is

exceedingly remote. His Excellency in Council therefore proposes that the Administrator-General should transfer to the credit of Government the aggregate of the unclaimed balances which were set apart for creditors fifteen or more years ago and that, in future, all such balances should be regularly credited to Government when they have been unclaimed for fifteen years, it being understood that Government undertakes to make good to any creditor any sum so transferred to which he may establish his title.

6. In view of this decision it becomes necessary to consider whether a further investment should not be made out of the Administrator-General's current balance. On the 30th June 1894 the balance in the bank amounted to Rs. 87,000 which is probably far in excess of the necessary minimum. The Administrator-General will report the amount by which the balance could be reduced without danger. The Government considers that a reduction by at least Rs. 30,000 should be possible; but, if feasible, a larger reduction should be made, for the interest on Rs. 30,000 *plus* that on the Audit Fund, will not suffice to meet all the charges debitable to the Audit Fund. If it is found to be impossible to produce equilibrium between the receipts and charges, the Government will be prepared to meet out of general revenues the annual excess of charges over receipts, much in the same way as it supplies deficiencies in the emoluments of the Administrator-General. But, of course, it is not expedient that general revenues should contribute anything on account of audit charges if funds can be otherwise provided.

It does not appear to Government to be necessary that securities equivalent in value to the aggregate of the balances unclaimed for fifteen years should be actually sold out and that their place should be partly taken by the investment of a portion of the current balance. It will be simpler and cheaper if the amount by which the current balance is reduced is merely transferred to Government and if securities equivalent in value to the difference between this amount and the aggregate of the said balances are sold. The sum remaining invested will represent the reduction effected in the current balance.

7. To turn now to the draft rules submitted by Mr. Wedderburn:

(1) In the first place the Government would change the name of the Audit Investment Fund to "Current Balance Investment Fund" or some similar designation and would preface the rules with a definition of this fund and of the Audit Fund.

The following definitions seem suitable:—

(*a*) "Current Balance Investment Fund."—This fund consists of portions of the balance standing to the Administrator-General's credit in the Bank of Madras which are, from time to time, invested in Government securities in accordance with these rules.

(*b*) "Audit Fund."—This fund consists of the interest paid on the sums forming the Current Balance Investment Fund and of a sum of Rupees 27,671 added to the Audit Fund under G.O., dated 19th July 1881, No. 1413, Judicial.

The Administrator-General will consider whether these definitions are sufficiently comprehensive and clear.

(2) *Rule I.*—The Advocate-General has pointed out two clerical errors which should be rectified.

(3) *Rule I—Form* (14).—The Government agrees with the Accountant-General's remarks regarding this form and the alterations he suggests should be carried out.

(4) *Rule I—Form* (17).—The clerical error pointed out by the Accountant-General should be corrected.

(5) *Rule II.*—As the Administrator-General points out, the Advocate-General's remark that this Rule is inconsistent with Rule IV is not correct; but Rule II would be clearer if the word "individual" were inserted between "any" and "estate".

The clerical error in this rule which the Advocate-General points out should be corrected.

(6) *Rule III.*—In connection with this rule, the Advocate-General objects that Act II of 1874 does not give power to create either an Audit Fund or an Audit Investment Fund. It is true that such power is not explicitly conferred, but the

Government entirely concurs with the Administrator-General's view that the creation, or, rather, continuance, of the funds is not opposed to law and their abolition would give rise to the greatest inconvenience, besides involving additional expense to the estates under administration. The Government is not, therefore, prepared to accept and act on the Advocate-General's opinion in regard to this matter.

Rule III might, however, be considerably improved in form and the Government would substitute for it something to the following effect:—

"*Rule III*—(1) All moneys coming into the hands of the Administrator-General, except those invested under Rule II and those retained for current petty expenditure by the Administrator-General, shall be deposited by the Administrator-General in the Bank of Madras, and shall form his current balance.

(2) From the said current balance the Administrator-General may, at any time, withdraw any sum, not being less in amount than Rs. 5,000, and add it, by investment in Government securities, to the Current Balance Investment Fund; provided that the Administrator-General shall not, at any time, by such investment, reduce the said current balance below [figure to be suggested by the Administrator-General.]"

If the rule were drafted in this way, the second sentence of Rule IV might be omitted.

(7) *Rule VI.*—The Government agrees with the Administrator-General that this rule should be retained but it appears unnecessary to make any provision therein for annual report to Government, as proposed by the Accountant-General, or for annual application for approval, as suggested by the Administrator-General. The rule appears suitable and sufficient as it stands.

(8) *Rule VII.*—This is verbally defective, as pointed out by the High Court.

(9) *Rule IX.*—The reference to bonuses to retiring Administrators-General should be omitted. The cost of office furniture and temporary advances to estates which cannot immediately realize their assets are not chargeable to the Audit Fund in Bengal or Bombay and the Government would, therefore, omit these items from Rule IX. Charges on account of peons' badges and clothing and of pensions and gratuities are clearly such as (under section 42 of the Act) the Administrator-General should himself meet; neither in Bengal nor in Bombay do such charges seem to be debitable to the Audit Fund. For the words "Advance for costs of suits," should be substituted "Law charges" and the words "and sanctioned by G.O., No. 1413, dated 19th July 1881" should be omitted.

8. With reference to the above remarks, Mr. Wedderburn should now revise the draft rules and re-submit them to Government for formal sanction under the Act in supersession of the present rules. He will also be requested to report what fees (if any) for the inspection of the Administrator-General's books should be fixed by Government under section 43.

9. Finally, it is observed that the Administrator-General proposes to omit the present Rule X and to discontinue the half-yearly publication of the list of unclaimed balances set apart for creditors. It is, however, not quite certain whether the course proposed is consistent with the law and, as Government now proposes to credit to itself all the balances unclaimed for fifteen years, the reason for discontinuing publication of the list—namely, its great length—has disappeared. The matter should, therefore, be reconsidered and such addition as may be necessary should be made to the rules.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Administrator-General.
" Accountant-General.
" Hon'ble the Chief Justice, with C.L.
" Government Solicitor.
" Financial Department.

Exd. S. J. Pereira.

Govt. of {1895} Madras.

JUDICIAL.

ssued

ecd. Encl.

G.O., 22nd April 1895, No. 827.

APRIL.

Administrator-General's Rules.

Passing orders on the revised draft of the —.

[G/9 2,000—

Current No. 1155

Jud Department.

Telegram

From

The Administrator General

Dated 8. 3. 95

Received 8. 3. 95

Enclosures

SUBJECT.

Stating that the Bengal system may now be adopted and that payment of interest on deposits may be stopped

Subd.

9/3/95

G.O. 331 14.2.95 Mis & papers.

G.O. 2009/94 SE.

G.O. 1631/94 Mis

G.O. 908/94 & papers

Note

In order to avoid further delay I submit this case. All the available papers have been put up.

9/3/95

2 1155

Code Class: DP

INDIAN TELEGRAPHS.

Monthly Number: 4342

To (Office): Madras fort St George | From (Office): Rajahmundry

43/6

Words.	Day.	Hour.	Minute.	Official Instructions
6	8	11	5	Dfd.

To (Person): L. Davidson Government Secretariat | From (Person): Administr General

UNDER PUBLIC ... 8 MAR 95

Regret delay cannot report now or soon suggest order now adopt bengal system stop payment of interest on deposits direct me transfer deposits to current account see my letter 8.8.94

64 Word Form.

F. C 2

MADRAS 8-3-95

Recd. from LN. At Hrs. Mts. by

Sent to LN. At Hrs. Mts. by

Telegraph Master

C. G. P.—No. 30 T—17-5 94—12,00,000.

C.N. 1155/95

Current No. 184

DEPARTMENT.

From
H. G. Wedderburn Esq

For orders

Eq
14.3.95

No.

Dated 8.3.95

Received 11/3

Enclosures

SUBJECT.

Re: a report on Administrator-Genl's deposits:

D O No. 184 4

Rajahmundry.

8. 3. 95.

CHIEF SECRETARY
GOVERNMENT OF MADRAS
11. MAR. 1895

My dear Price

My manager wired that he had an urgent summons about a report called for in G.O. 14. 2. 95 ~~No~~ 1695. No 331. –

India wants to [illegible] payments [illegible] on [illegible] deposits. Early reply required. I took the papers with me to think over when at leisure. So much is asked for in the G.O. that I cannot send the report early or at all perhaps. as required.

As to Indian demand

I said in my letter of 8. 8. 94

That I had omitted the

rule as to deposits below

100. claimed for minor

beneficiaries & others.

& that these deposits may

will be left in current

account. (& no int: paid

on them.)

This is all India wants, it seems.

i.e. that the practice in

Madras should cease

& that Govt should adopt Bengal

Admin Genl's rule: in which

case of course no int: will

be paid as no deposit will

be made.

Under the circs. I wired

to L. Davidson - who defined

the G.O. of 14. Feb.

That the G.O. might be

worded - directing cease

deposits - & that interest

adopt Bengal system.

If necessary I can refund

all int: allowed by Govt

of Madras since India's

to have the a/c

adm. The concession made
of the Madras Govt in 56
can be withdrawn at any time –
the Beneficiaries are not
entitled to any interest
unless Govt ~~borrow~~ use their money. but
Sec of India says this practice is
is to cease, they can stop all
interest. ^Inshore^ but probably it would
be required to do this? The sum
in question is not large..
The only alteration required ^of India^ in
my rules is to cancel the rule
under wh. here made debentr
were made & interest allowed
This I ~~stud~~ ^~~proposed~~ ^done^^ in my draft rules.
I saw Butterworth about my first
proposal to have the act

amended so as to legalize
the system of audit fund
wh. has been sanctioned
by Bengal & Bombay & Madras
Of course it is all 'ultra vires'
as the act does not provide
for it but it is very doubtful
whether it is a good thing
to raise any question about
this, Butterworth thought it,
as the fund saves Govt the
annual audit charges.
& the estates much expense.
The fund grew out of the
carelessness of my predecessors

in part the 20th holding out
the creditors to having been
hence the large creditors
were invested up to 1881.
balances. ~~wh. are used as~~
& the interest derived 21.000 Rs became
part of audit fund.
by a G.O. 1413. of 1551.
~~an audit investment fund~~
~~I forget what~~.
(Audit investment fund)
The then fund is created
by the investment of
a large sum of cash
balance not required
for working the office
that produces interest
wh. goes to "Audit fund"

I dont want to make any
blunder till I have a
talk with the person I believe
is with my manager who
knows more of this acct or
than I do. It was ill
when I got the G.O. & I could
not consult him when I tell Madras
& I had the subject here on 28th ult.
wh. I could not well know
at the last moment.
I expect to be in Madras
by Thursday next week

Yrs truly

A. Wedderburn

G.O. 13/10/86 No 2773 &c
— 5/12/81 No 2489 —
— 9/10/78 No 2039 —
Gazette of May/86 page 757

CURRENT No 1371

From

The Administrator-General
of Madras

To

The Chief Secretary
to Government
Fort St. George.

Dated 19th March 1894.
Recd 27/3
Regd 28/3

CHIEF SECRETARY'S GOVERNMENT OF MADRAS 19 MAR. 1895

Subject

Submits remarks on the opinion of the Advocate General on the draft Rules on the suggestions of the High Court and of the Accountant General and explains the system of the accounts in the Administrator-General's Office - E

R.O.
Papers please
Gazettes &c.
AS 27/3
Put up 23/3

12 CURRENT No. 137

Administrator-General's Office,

Madras, 19 March 1895

From

H. G. Wedderburn

Administrator-General

To.

The Chief Secretary

to Government

Fort St George

Sir,

With reference to para 1 of Government Order of 14 February 1895, No. 331, I have the honor to submit the following remarks.-

(a). On the Advocate Generals opinion

Rule IX refers to the Audit fund not the Audit investment account. Rule III to the Audit investment account. Rule 1 (17) to both.

The Audit fund was apparently created under, or prior to Rule III Clause IX of the rules published in the Fort Saint George Gazette of 16th May 1856 under Section 32 of Act VIII of 1855.

Not available in rules on the file with this

These

These rules were published by the Governor General in Council under Section 33 of Act VIII of 1855. These rules are now in force under Section 55 Act 24 of 1867 and Section 57 of Act 11 of 1874. The presumption is that the rules are legal and not ultra vires. The Administrator General having a large balance to credit in his Current account not required for the working of the office, it appears to me that there is nothing illegal in investing the surplus balance in Government paper and using the interest derived therefrom for the benefit of the Estates generally. The utility of the fund is apparent. If this balance were not so used the Bank of Madras would benefit, not the Estates. And such funds similarly created have existed in all three Presidencies for over 40 years.

already put up

Rule IX (4) relating to bonus to retiring Administrator General of

Rule VI

of my draft rules may, I think, on further consideration be omitted it was drafted under a mistaken idea that a similar rule existed in Bengal or Bombay.

2. I do not consider that Rule VI is unnecessary. The object thereof is to save the Administrator-General from liability e.g. as when the Oriental Bank Corporation Bank failed. Moreover the Government are in a better position than the Administrator-General to select a safe Bank, and if it were left to the Administrator-General to select, it might create jealousy among the Banks excluded.

3. Rule II and IV are not inconsistent. Rule II applies to balances to credit of individual Estates in the Books of the Administrator-General. Rule IV applies to the general cash balance in the Office safe belonging to Estates generally.

4. Rule 1. (6)(18) The amendments should be made

Rule II insert "it"

Rule

Rule VII The amendment proposed by the High Court should be made.

5. With reference to the Accountant General's remarks -

The objection to the adoption of the Accountant General's forms of Government Security register is that it would create unnecessary labour in entering each item of interest on Government paper twice over inasmuch as the particulars and dates of realisation of interest are posted in the Ledger from time to time. Both in the interest of Government from whom the Administrator General occasionally receives Rupees 300 a month towards Establishment, and of the Administrator General who has to pay Establishment charges all unnecessary labour should be avoided.

6. The printers error over the heading of Form 17 should of course be deleted.

7. Rule VI. 1. The practice is to apply to Government for sanction every year I have no objection to

to the rule being amended so as to make this compulsory.

8. I have already on 8 August 1894 as stated by the Accountant General suggested that the transfer to Current account of deposits of Sums under Rupees 100 in the Government Treasury should be made in accordance with the suggestion of the Government of India.

Should the Government of India be prepared to pay any interest hereafter the practice of depositing these sums can be reintroduced. No trustee is bound to invest Sums under 100 Rupees as there is no form of Security in which such sums can be invested - Possibly interest at a low rate on these sums might be paid out of the Audit fund if the total (Rs 787. 5. 5) of these small balances is large enough at any time to increase the Audit investment account to any considerable extent. I may here point out that these deposits of sums under Rupees 100 are not made by

by me in the Bank of Madras but with the Accountant. General.

9. With reference to Para 2 of the Government Order ct. 331 (a). The effect of the Orders contained in paras 2 and 3 of the letters of the Government of India will be so far as I can see simply to enhance the Current Account of the Adminis-
-tration General by the amount of these deposits and to deprive the beneficiaries of the interest which the Government of India has hitherto chosen to give in return for the use of the money apparently no longer required by the Government of India.

~~(7)~~ (6) With reference to the informa-
-tion called for in para 2 of Govern-
-ment Order of 14th April 1894 ct. 908 Judicial.

The "Audit investment fund" has at credit Government Paper for 70,600 Rupees. The interest on this paper is carried to the credit of the Audit fund half-yearly. In 1881 the Government directed by

by Order ct. 1413 of 19th July 1881 the transfer to credit of Audit fund of all interest accumulated on the sums set apart for creditors. Thus a sum of 22,000 Rupees more or less was added to the Audit fund and that fund now stands at 34,900 Rupees in Government Securities The half yearly interest of Rs 70,600/- and Rupees 34,900 in Government Securities yields about 2,000 Rupees and this is applied in defraying the cost of half yearly Audit, postage and Stationery expenses leaving a balance of about 1500 Rupees a year which is in due course invested The Audit fund thus increases each year. On further considera-
-tion I do not think it would be advisable at present to amend the Act as proposed. The Administrator General of Bengal did not desire to suggest any amendments and the Administrator General of Bombay is not in the habit of publishing half yearly the long list of creditors' balances the inconvenience of which

which practice led to my proposal to amend the act by crediting these balances to Government after a certain period - I find that creditors balances amount to Rupees 69,980. 0. 2 and that practically it was the total of these balances which made up the 70,600 Rupees Government Paper which represents the Additional investment fund Account

(c) With reference to para 3 of Government Order of 14 April 1894 No 908 I have consulted the Officers mentioned and endeavoured to carry out the Order of Government in the draft rules already submitted.

I have the honor to explain as to

(a) The system of account prescribed in the rules published in 1856.

Rule I. (1.) An inventory of Effects has to be made and entered in book I. As effects are realised) entry is made in asset book II and Cash is also entered in Cash book III and credits vouched for by receipt book IV and the Cash book is posted in Ledger V - If

claims

claims are preferred they are registered in book VI A pass book is kept with Bank of Madras VII in which all monies received have to be lodged The Commission due to Administrator-General is entered in book VIII and charged monthly. When account Sales are rendered by Agents they are entered in Book IX When payments are made through India Office by Bills of Exchange they are entered in Book X - All accounts issued from the office were entered in Book XI but the practice is obsolete - The Administrator-General has to file inventory and account in the High Court of each closed Estate and a Memo is kept in Book XII - All Government Securities and Bank shares deposited in Bank are entered in Book XIII - Rule XIV is obsolete as this work is now done by the Bank - Half yearly Schedules are published of assets realised under Rule XV and all balances paid over are published under rule XVI

Under

Under rule XVII provision was made for Estates with balances under 100 Rupees for which interest was allowed by Government. This practise is to be abolished.
Under rule XVIII. The Audit fund account is dealt with. The credit consists of interests realised and the debit of charges of Audit &c.
Rule II needs no explanation
Rule III Clauses 1.2.3 need no explanation
Clause 4 provides for increses of Audit fund by investing sums of 5,000 from Current account not required for working of Office.
Clause 5 provides for withdrawal from Audit fund investment account as occasion may require.
Clause 6 provides for assets not capable of immediate realisation
Rule IV. This refers to cash balance in Office from day to day
Rule V is plain
Rule VI. This rule was apparently made to protect the Administrator General in case of a Bank failing E.G. the Oriental Bank Corporation.

Rule

Rule VII is plain
Rule VIII is plain
Rule IX is plain
Rule X is plain.
Q. With reference to para 3 of Government Order of 14th February 1895 Nº331 I regret I do not possess anything but a mutilated copy of the rules of 1856 but they can be found in the Fort Saint George Gazette of 16th May 1856 page 757
I find the following Government Orders have been passed.

Order Nº2039 dated 9 October 1878 about remittances to England in supersession of Rule VI published in the Gazette of 29th October 1878 page 626.

Order of 19th July 1881 Nº 1413 re Audit fund.

Notification of Government dated 5 December 1881 published in Gazette of the 14th December 1881 page 727 modifying Rule I Nº17 and Rule III Clauses 2 and 3 of the Rules of the 16th May 1856.

The

23

The Bombay rules are to be found in the Gazette of Bombay of 20th January 1887 part I page 45.

10. Under Section 43. etc fee has been fixed in practice. Copies are generally asked for and charged for under Government Order 235. 26th February 1857.

I have the honour to be
Sir
Your Obedient Servant.

H. J. Weddeburn.
Administration-General
of Madras.

24

There is some error in the copy of Act VIII of 1855 put up. In the abstract on p 292 of the vol: S. 50 is said to relate to Bombay & S. 57 to Bengal & Madras; but on opening to the sections themselves I find that both S. 50 & S. 51 refer to Bombay & that Bengal is not mentioned at all. WD

I did not know there were Govt. Pro. Notes for so small a sum as Rs. 100, but presumably there must be or the Auditt Genl. wd. have taken objection
WD

18

Judicial Dept.
C. No. 1155 dy 8/3/95 from the Administrator Genl.
D.O. No. 184 dy 8/3/95 from Do.
C. No. 1371 dy 19/3/95 from Do.

For Orders.

These papers relate to the Administrator General's rules and to certain other matters. They are marked urgent as the Government of India is pressing for a reply.

2. The present rules were framed in 1856 and will be found at page 757 of the Gazette of that year. They were made under Section 32 of Act VIII of 1855 which corresponds with Section 57 of the present Act II of 1874. The rules have been revised since they were issued as will be seen from G.O. dated 5th December 1891, No 2489, The principal provisions of the revised rules are as follows.-

(1) Whenever the cash balance of an estate amounts to Rs. 100 it is to be invested in Government securities;

(2) Whenever a estate has been administered, the balance, if it is less than Rs. 100, is to be deposited with the Accountant General and to bear

25

bear interest at 3½ per cent;

(3) the amount in the hands of the A.G. may never exceed Rs. 5000*, any excess being lodged in the Bank of Madras;

(4) The A.G. may draw out of the Bank and deposit with the Accountant General, at any time, sums not less than in the amount Rs. 5000, and sums so deposited carry interest at 4 per cent, of which interest is to be carried to a fund called the Audit Fund;

(5) Expenses of Audit are met in the first instance from the Audit Fund; any amount not so met is chargeable to estates having balances of Rs. 500 and upwards.

3. By the year 1868 the unclaimed balances deposited with the Accountant General under Clause iv of rule 3 had reached Rs. 38,000 and the Govt. of India raised objections to the retention of this sum in the Treasury. Accordingly, in G.O. dated 24th June 1868, No. 1011, the A.G. was ordered to invest the sums in the Government securities.

4. In G.O. dated 26th June 1878, No. 1296, will be found an important report by the Auditors of the A.G's accounts. The Auditors remarked that

* apparently G.O. 3, 17 Ap. 1862, No. 619, was interpreted as meaning that this sum should be reduced to R.1000 but the rules were never amended to this effect.

How he was to get such sums as Rs 500 deposited is not clear, seeing that balances exceeding Rs 500 (subsequently Rs 100) were to be invested — I suppose the amount must have been the aggregate of the balances under Rs 500 (or Rs 100) held under Rule IV, 3 as deposits in the Sub-Treasuries

WS

that there was only one account for all transactions affecting the Audit Fund and they suggested that two distinct accounts should be opened. One of these accounts was to be called the Audit Fund Investment Account and was to show the capital invested in securities; the other account was to be called the Audit Fund Account and was to show the interest from the Invested secutities and the expenditure debited thereto.

The Auditors also recommended that a further sum out of the A. G:s general cash balance should be added to the amount already invested in securities. These proposals were approved in G.O. dated 5th September 1878, No. 1793, and a sum of about Rs. 30,000 was invested. The investments made in 1868 & 1878 amounted to Rs. 70,600 and this constitutes the present Audit Investment Fund.

5. In G.O. dated 27th September 1879, No. 2497, will be found another important report by the Auditors . It may be summarised as follows.-

(1) Section 62 of the Act provides that assets which have been in custody for fifteen years without any claim thereto having been made and allowed shall be

× This sum of Rs 30000 does not represent the balances under Rs 500 (the third figure), it was simply taken from the A.G's current account in the Bank, the amt of which has accumulated over Rs 10000 since 1877 & 6 have therefore been needlessly kept. In this view the A.G. concurred & Rs 30000 was therefore simply "taken and invested." To this extent therefore the "Audit Investment Fund" may any day be drawn upon, if the A.G's cash balance (Govt account I State B in G.O. 3152 20.12.94 } Rs 87000 odd) should run too low. But if this investment was justifiable & advisable, which I think it was, further investments of the same kind might be made, which would raise the Audit Investment Fund to such amount that its interest would suffice to cover all expenses and to yield a profit as well. G.O. 2497 27.9.79

By para 10 of the audit account in G.O. 2497 27.9.79 the Audit Investment Fund was then Rs 70,600, which is the present amount — am I understand that since 1879 there have been no balances set aside for unclaimed, but not claimed, which cd have been added to this sum? It seems unlikely.

WS

Please Explain this WS

* really, something less than this; for R600 or R700, now included in the Audit Investment Fund, has not been accounted for.

be transferred to Government. But there is no provision for crediting to Government balances more than 15 years old which have been claimed by the creditors but never actually paid. It is desirable that arrangements should be made for crediting such balances also to Govt.

(2) The Auditors. should be allowed a ~~the~~ fee of Rs. 700 for the half-year.

(3). The following charges should be met from the Audit Fund viz.

(a) The Audit fee

(b) The charges for preparing schedules.

(c) The cost of publishing the schedules.

and (d) The monthly contribution by Government towards the cost of A.G's establishment.

**) With regard to these suggestions the A.G. made the following remarks

(1) It is impossible to carry sums which have been claimed by creditors but not paid, to the credit of Govt. without amending the Act.

(2) The primary charge on the Audit Fund must be the charges ~~of the~~ and expenses of the Audit it is not right to ~~me~~ debit it with items such as suggested by the Auditors and, in fact, it would not be possible to defray such charges from the Fund unless the Audit Investment

27

ttt

* This is what it was originally but it ~~suppose~~ surprises as a grant, not exceeding R500 p.m. to be made to the A.G., when necessary in order to bring up his emoluments to R1200 p.m.

28

3P

Apparently this is the point which I referred in the 2nd para of my note on p. 3 – But then what has become of these balances themselves and of other such balances created, and of the interest accruing on both, since 1891? Seems to me that all such balances should now be transferred to the Audit Investment Fund –

KS

Investment Fund ~~was~~ were largely increased, After consideration of this correspondence, the Govt. decided to fix the fee for Audit at Rs. 700 but it did not approve the proposal to throw certain additional charges on the Audit Fund and it was considered unnecessary to move for the amendment of the Act in order to permit of old ~~claimed~~ creditors' balances being credited to Govt.

6. G.O. dated 19th July 1881, No. 1413, also demands notice. The A.G. reported that there ~~were~~ was a large number of sums of money reserved for payment of creditors which had been invested in Govt. securities in the names of the invidual estates, the consequence being that, at the time, there lay scattered among several estates which had long been closed and accumulation of interest aggregating about Rs. ,21,671. The A.G. ~~reports~~ thought that these balances ought to have been invested as a portion of the Audit Investment Fund, in which case the Interest would have been credited to the Audit Fund instead of to the individual estates. He therefore proposed to transfer the said sum of Rs. 21,671 to the Audit Fund and he also suggested that he should be allowed to debit

certain

charges
certain on account of Postage and 29 The A.G. ought to have been made to pay these himself, I think MS
Stationery to the Audit Fund.
These proposals were sanctioned by Govt.

7. In 1894 a suit was brought against A.G. and he suggested that he should be allowed to defend the suit at the cost, in the first instance, of the Audit Fund and this proposal was finally sanctioned in G.O. dated 8th May 1894, No. 1101.

8. At the close of 1893 the Govt. of India notified that, with effect from the 1st April 1894, the rate of interest on deposits in the Post Office and Savings Banks would be reduced from 3¼ ~~and 3~~ to 3 per cent and the Accountant General thereupon raised the question whether the reduced rate of interest was to apply to the A.G's deposits at the Bank of Madras. The Govt. of India was addressed and replied in a letter which will be found in G.O. dated 30th June 1894, No. 1681, The Govt. of India said that the reduced rate of interest was to be applied and went on to remark that no sufficient reasons seem to exist for paying any interest on the A.G's deposits. In Bengal such of the A.G's funds as are not invested in Government securities are lodged in a Banking account

But those deposits seem to be together same nature as those which originally formed the Audit Investment Fund. If so, why are they not invested as part of that Fund? MS

48
30

account in the Bank of Bengal and the Government of India ordered that the Madras A.G's rules should be modified so as to provide that his funds shall be merely placed in deposit in the Bank (~~or~~ or with ~~the~~ Govt. if the A.G. preferred it). This letter was referred to the A.G. for information and he was told to consider with special care what the effect of the Govt. of India's orders would have on the Audit Fund.

9. In a letter read in G.O. dated 27th February 1894, No. 504, the A.G. suggested that the Act should be amended so as to provide for the transfer to Govt. of balances set apart for creditors which remained unpaid at the end of ~~the~~ three years. He set out his proposals in greater length in a letter read in G.O. 14th April 1894, No. 908, & the Govt. thereon directed him to report whether the proposed amendment of the Act would not have the effect of destroying the Audit Investment Fund and went on to observe that the rules of 1856 were in need of amendment and that the A.G. should submit a revised draft. The Government added that it seemed advisable that some provisions should be made, either in the Act or Rules, to enable the A.G. to meet charges on account of law suits

suits from the funds in his hands.

10. In the report ~~on~~ the Audit of A.G's. accounts for the half-year ending 31st December 1893 the Auditors proposed to modify certain of the forms in use in the A.G's office . The Govt. thereon ordered in G.O. dated 27th June 1894, No. 1592, that the A.G. should take the opportunity, when redrafting the rules, to revise all his forms of accounts in communication with the Accountant General.

11. In August last the A.G. submitted a draft of the revised rules and forms . These were referred for remarks in G.O. dated 21st August 1894, No. 2009, to the High Court, the Advocate General and the Accountant General. The replies of these authorities will be found under cover ofG.O. dated 14th February 1895, No. 331. It was found necessary to refer these replies to the A.G. and to call on him to explain more clearly the system of accounts in force in his office.

12. The Currents read at the head of this note form the A.G's answer to the last quoted G.O. and orders have now to be passed on his draft Rules ~~xxxxxx~~ and on the proposal to cease ~~xxxx~~

paying

paying interest on the A.G's deposits

13. Such of the revised draft rules as appear to call for remarks are dealt with in order below.

(1) Rule 1. This contains the accounts which should be kept . It would be clearer if this rule were prefaced by two definitions viz. (a) "Audit Investment Fund." This Fund consists of portions of the ~~A.G's~~ balance standing to the A.G's credit in the Bank of Madras which are, from time to time, invested in Government securities in accordance with these rules; (

(b) "Audit Fund." This Fund consists of the interest paid on the sums forming the Audit Investment Fund .

The Advocate General has pointed out two clerical errors in this Rule .

The ~~xxxxxxxxx~~ Accountant General raises certain objections to form No. 14 on the ground that it ought to contain columns showing the date on which the interest due for each successive half year is realised. With regard to this the A.G. observes that the insertion of these columns would give unnecessary labour, inasmuch as the particulars are posted in the ledger from time to time. The main reason for the A.G's objection seems to be that he might have to

employ

employ an additional clerk at his own expense . But perhaps the A. G's opinion may be accepted .

The Accountant General also points out a clerical error in the heading of Form 17 .

(2) Rule 2 , The Advocate General observes that Rule 2 appears to be inconsistent with Rule 4. But this remark, as the A.G.points out, is the result of a misapprehension. It would, however, make Rule 2 little clearer if the word "individual" were inserted therein between the word "any" and the word "estate."

The Advocate General also points out a clerical error in the Rule .

(3) Rule 3. It would perhaps be as well to continue to use the term Audit Investment Fund instead of Audit Investment Account .

The Advocate General objects that the Act does not give power to create either an Audit Fund or an Audit Investment Fund . He refers to Section 57, but, if the provisions of the Rules are ultra vires as the Advocate General contends, it is rather because they are not entirely consistent with Sec. 48 than because Sec. 57 does not explicitly

States — It seems difficult to suppose that the aggregate of the balances under Rs 100 each can amount to such a sum as Rs 20000, even when aided by the inevitable delay in investing sums ready for investment BS

explicitily refer to an Audit Fund. Sec. 48 clearly contemplates the allocation of the cost of the Audit among all the estates, whereas such allocation will not necessarily take place, if the cost ~~were ordered~~ is met from a Fund constituted (in the) manner provided in the Rules.

But, as the A.G.points out, Audit Funds are recognised in the Bengal and Bombay Rules also and no objection has been taken hitherto to the similar provisions in the Madras Rules although the Act of 1855 and 1874 are practically identical as to the matters regarding which Rules may be framed .It would be most inconvenient, if not impossible, to now abolish the Audit Fund and the Audit Investment Fund and it is submitted that the Advocate-General's opinion on this subject should not be accepted .

The A.G. has omitted Clause 3 of the old Rule 3 . That clause gives him power to deposit balances less than Rs. 100 belonging to estates in which all registered claims have been satisfied or remain unclaimed, and that the sums so deposited shall bear interest. It is to this clause that the Govt. of India appears to object and the A.G. sees no objection to its omission.

The

35.

The total amount at present in deposit under Clause 3 of Rule 3 is only Rs.787 so that that the sum concerened is very trifling. There appears, then, no objection to the adoption of ~~the~~ India's proposal. The effect of the omission of the said Clause 3 will merely be that these petty balances will in future be left in the A.G's. account current with the Bank . It may be noted that the Accountant General description (vide letter in G.O. d/ 15th February 1894, No. 185, Finl.) of these deposits as "deposits in the Bank" was incorrect; The deposits ~~were~~ are with the Accountant General himself

The new Rule 3 ~~This Rule~~ represents Clause 4 of the present Rule 3. It is true that that ~~Rule~~ clause empowers the A.G. to deposit with the Accountant General lump sums of Rs. 5000 and upwards. But, as already stated, in 1868 the Govt. of India objected to this procedure and the Rule has been an abeyance since or, rather, it has been read as if the words "~~investing first~~ in Govt. securities" had been substituted for the words "deposit in the Govt. Treasury." It was in consequence of over-looking this fact that doubts were ~~x~~ expressed in G.O. dated 30th June 1894, No.1631,

I think this is the right view
DS

36. 78

as to the possibility of giving effect to the India's order without destroying the Audit Fund.

Yes
DS

The Rule might be made a bit clearer by inserting the words "by means of investment in Govt. securities" after the word ~~and~~ "add".

Yes & I suppose with retrospective effect from the date of India's letter
DS

Meanwhile, as requested by the Accountant General, the A.G. may be told to carry out India's orders at once and India may be informed accordingly.

(4) Rule 6. The Advocate General suggests that this Rule is unnecessary. It corresponds with the old Rule bearing the same number but that old rule was abrogated by G.O. dated 9th October 1878, No. 2089. The rule prescribed in this G.O. declares that remittances to Europe are to be made by means of bills of Exchange drawn by such Banks or Firms as Govt. may approve and it is further provided that such approval shall continue in force for one year only. ~~I think I am right in saying that this restriction as to the duration of an approval was withdrawn some time ago. Any how~~ On the other hand, according to the revised Rule 6, the approval by Govt. of a Bank will continue in force until revoked. The Accountant General proposes to add at the end of this Rule the words "Should however no change

14.

occur within twelve months the fact should be reported to Govt. for note and record." This Rule 6 is framed with special reference to Clause (b) of Section 57 and, as the A.G. observes, it ought not to be omitted. With reference to the Accountant General's remark the A.G. says that he has no objection to amending the Rule so as to make it necessary to apply every year for approval of the Banks by which bills of Exchange may be drawn. This represents the present practice but it is doubtful if an annual application to Government, or annual report as suggested by the Accountant General, is necessary. If any such annual reference is considered expedient it should, it is submitted, take the form suggested by the A.G. rather than that suggested by the Accountant General.

(5) Rule 7. This Rule corresponds generally with the present Rule bearing the same number. It is verbally defective as pointed out by the High Court. It also provides for deposit of securities &c. in the Bank instead of in the general Treasury and the provision requiring the A.G. to specify the purpose for which he requires a security before withdrawing it has

37

Struck out
BS

This may stand
BS

8P

38

has been omitted.

~~The old Rule 9 has been~~

(6) Clauses 2 & 3 of the old Rule 9 have been struck out. Therein it is provided that the cost of auditing estates with balances of less than Rs. 500 shall be defrayed from the Audit Fund and that any balance left in the Audit Fund shall be applied towards reducing the charges for audit falling on the estates having balances of more than Rs. 500.

The reason for omitting this provision is, no doubt, that the Audit Fund is now so large that it is capable of meeting the total cost of Audit and it is therefore unnecessary to make any provision for charging the cost rateably on the individual estates.

(7) Rule 9. The following charges are now declared to be debitable to the Audit Fund

(a) Without the sanction of Govt.

(1) Expenses of Audit.

(2) Cost of Schedules.

(3) Cost of Record books, Account books, Stationery and Printing.

(4) Postal charges

(5) Office furniture.

(6) Temporary advances, when money due to an estate cannot be immediately realised to meet an urgent demand.

16.

(b) With the sanction of Govt.

(1) Advances for Law suits.

(2) Peons badges and Clothing.

(3) Pensions and gratuities to clerks.

(4) Bonus to retiring Administrtor Generals.

The Advocate General objects to the proposal for giving bonuses to retiring A.Gs. out of the Audit Fund and, on reconsideration, the A.G. proposes to omit the reference to bonuses. It is submitted that it certainly should be struck out.

Section 42 of the Act declares that the A.G. shall defray all the expenses necessary for his office and allother charges to which the said office is subject except those for which express provision is made in the Act.

Now, the only expenses for which express provision is made in the Act appear to be those relating to the preparation and publication of the A.G's Schedules and to the examination by the Auditors of his Schedules and accounts (see section 48) and to references to the Advocate General under Sec. 50.

Section 54, however, provides that the A.G. may reimburse himself for any payments which a private Administrator

39

GS BS

98

40.

Administrator might have lawfully made,

I doubt if all the charges which it is proposed to debit to the Audit Fund are legally debitable thereto. The expenses of Audit and preparing the Schedule are undoubtedly so debitable. The cost of Record books, account books, stationery printing and postage are debitable to the Audit Fund in Bombay and perhaps they may be passed. The cost of office furniture is not provided for either in the Bomaby or Bengal Rules. The same remark applies to the proposed temporary advances to estates which cannot immediately realize their assets. It was suggested in G O. dated 14-4-84, No. 908. that some provision should be made to enable the A.G. to meet Law charges. But it is not certain whether, as the Act stands, such a charge can be lawfully imposed on the Audit Fund, that is to say, on the estates under administration and it seems somewhat absurd to talk of "advancing" money for the cost of suits in connection with estates which have no funds. In such cases the Audit Fund does not "advance" money; it "contributes" it to the estate concerned. Charges on account of Peons' badges and clothing and pensions and gratuities are clearly, I submit, charges which are to be met (under Section 42) by the A.G. himself neither

BS

I don't think we had better go beyond the Bengal & Bbay Rules BS

I don't see any objection to this arrangement. The truth is the Audit Fund is outside the Act altogether so we can do what we will with it BS

GS BS

8.

Neither the Bengal nor the Bombay Rules provided for the debit of charges of this sort to the Audit Fund.

The reference in Clause 4 of Rule 9 (to G.O. of 1881) may be omitted as unnecessary.

14. With reference to above remarks the Rules may, it is submitted, be returned to the A.G. for revision and the Advocate General may be asked to advise as to which of the items in Rule 9 may legally be charged to the estates.

15. Sec. 43 of the Act provides that the A.G's books shall be open for inspection on payment of such fees as Govt. may have prescribed. In G.O. dated 14th February 1895, No. 331, the A.G. was asked whether any fees had ever been prescribed under this Sec. He replies that they have not been, but refers to an old Order of '57 which fixed the charges for copying documents. The A.G. may be asked to report what fees, if any, should be prescribed under Sec. 43?

16. The A.G., as previously observed, suggested the amendment of the Act with a view to crediting to Govt. sums set apart for creditors but remaining unclaimed for more than three years

years, but Govt. suggested in G.O. dated 14th April 1894, No. 908, that such a step would end in the destruction of the Audit Investment Fund and the A.G. admits that this would be the case and withdraws his proposals. He says that his main reason for suggesting the amendment was to obviate the necessity for publishing half yearly the long list of unclaimed balances set apart for creditors. The half yearly publication of this list is necessary under the present Rule 10 but it is doubtful whether the Act itself necessitates such publication and it appears that in Bombay such publication does not take place. The A.G. therefore proposes to omit the old Rule 10 and to discontinue the publication of the list of the creditors' balances. This would doubtless be a great convenience but it is uncertain whether it would be legal to adopt the course proposed. Mr. Michell (vide page 8 of G.O. dated 17th June 1895, No. 1336) evidently thought that Section 44 requires the publication of this list. Perhaps it would be as well to take the Advocate General's opinion on the point

17. Attention is invited to the A.G's remark that the Audit Fund increases every year. The increase at present amounts to about Rs.

43 E

Administrator General's Rules

Rs. 1,500 per annum. The proposed addition to the number of items chargeable to the Audit Fund will, of course, reduce this amount but its tendency is to increase and the Audit Fund will probably, in the course of some years, reach so high a figure that the interest on it will suffice to meet all charges ~~creditable~~ debitable thereto. When this occurs the time will have come to take power by legislation to credit to Govt. all old unclaimed balances set apart for creditors. The Govt. will then be able, without injustice to anybody, to lay hands on the Rs. 70,600 or thereabouts which forms the Audit Investment Fund. But for the present that Fund must remain untouched.

H.M.
28 March '95

J.D.
3/4/95

Not so, if I am right in thinking (see p. 3) that Rs 30000 out of this Rs 70600 belongs to the A.G.'s general cash balance & may any day be withdrawn if that should run low. H.S.

H.M.

(For Orders)

G.O. dt 22-4-95
No. 827 Judl.

4/4
R 9/4

[G. / 24]
100—20-12-94.

44

Judl. DEPARTMENT.

Papers to be read in Proceedings :—

P.A. { Again G.O., dated 30 June 1884, No. 1631, Judl.
31 Aug 1894 No. 2009 Judl.
Again G.O., dated 14 Feb 1895, No. 331, Judl.

A. { Current No. 1155 of 1895, dated 8 Mar from the Admr. General

Current No. 1371 of 1895, dated 19 Mar. from do.

9B

Note for C.S.

This draft has been prepared in accordance with instructions given to me personally by H.M.

H.M.

The Gazette volumes have been taken out, as H.M. said he did not want them.

Order dt 22nd April 1895 No. 827

P.S.

In his letter dated the 31st Jan. 1894, No. I.B.G./11, the Acct.-General asked whether with reference to the G. of I. Notifn. No. 5662, dt 30 Dec. 1893, interest at the reduced rate of 3 1/2 per cent was in future to be paid on the Admr. General's deposits at the Bank of Madras. The G. of I. replied in the affirmative but raised the question whether any interest at all ought to be paid on these sums in future & desired that steps might be taken to modify the Admr. General's Rules so as to provide that such sums shall in future be merely placed in deposit in the Bank (or with Govt., if deemed preferable).

The sums in question

the balances below R.100 which are dealt with under Rule III (3), N, as the Advt. General points out, they are at present placed, not in the Bank, but with the Acct. Gen. It appears that, in march last, the total amount of these petty balances was only R.757. 5. 5 & the Advt.-General sees no objection to the adoption of the course proposed by the G. of I. & asks Govt. to sanction the transfer of the balances in question to his current account with the Bank of Madras. H.E. in C. sanctions this arrangement & directs that the payment of interest on the sums in question by the Acct. Gen. shall cease with effect from ~~the date of the G. of I's letter~~ 20th April 1896. i.e., the 31st May 1894. The following telegram will accordingly be despatched to the G. of I.:—

"... Finance & Commerce letter dy 31 May 1894 No. 2763-A. Acct. Gen. has been ordered to stop payment of interest on Advt. General's deposit in his hands with

Note. This follows H.E.'s orders; but the G. of I. said in its letter "as long as the "Existing rules under sec. 5 "of Act II of 1874 remain in "force, the reduced rate of "interest should be applied". Plainly, then, the G. of I. did not contemplate the cessation of payment of interest till the rules were amended & it occurs somewhat doubtful if it is quite legal to discontinue the payment with retrospective effect.

Very well — Stop interest from (say today) date of issue of this order & amend the letter to India accordingly BH

effect from 31st May 1894 & to arrange for transfer of these deposits to Advt.-General's account current with Bank of Madras".

2. The Govt. now proceeds to consider the revised draft of the Advt.-General's Rules which were prepared under the instructions contained in G.O. dy 14 Ap. 1894. No. 905, Jud., & were referred for remarks to the High Court, the Advocate-General & the Acct.-General by G.O. dy 21 Aug. 1894. No. 2009, Jud.

The present rules were framed in 1856 & are not only obsolete to a considerable extent but are remarkably obscure in parts. The revised draft prepared by Mr. Sadasivam is a great improvement upon the old rules, but even this revised draft is defective in some respects as will be indicated later on.

3. The Govt. has experienced particular difficulty in arriving at a clear understanding of the nature of the two funds known as the Audit Investment Fund & the Audit Fund & the revised draft rules hereon

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are not so clear on this subject as they might be.

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The history of the Audit Investment Fund seems to be as follows.

Rule III. (4) provides that the Admr.-General may deposit in the General Treasury any portion (not less in amount at any one time than R. 5,000) of the balance standing to his credit in the Bank of Madras & that interest on sums so deposited shall be paid at 4 per cent, the said interest being carried to the Audit Fund.

Apparently, in 1868, the sums deposited with the Acct. General under the aforesaid rule had reached R. 38,000 & the G. of I. raised objections to the retention of this amount in the Treasury, the result being that the Admr. General was ordered in G.O. of 24 June 1868, No. 1011, Ind., to invest the money in Govt. securities.

Up to 1878 there was only one account for all transactions affecting the Audit Fund, but in that year the Auditor suggested that two distinct accounts should be opened one to be called the Audit Fund Investment Account

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(showing the capital invested in securities) & the other to be called the Audit Fund Account (showing the interest from the invested securities & the Expenditure debited thereto). The Auditors also recommended that a further sum out of the Admr.-General's general balance should be added to the amount already invested in securities.

These proposals of the Auditors were approved in G.O. of 26 June 1878, No. 1296, & G.O. of 5 Sept. 1878, No. 1792, Ind., & the Admr.-General invested from his general balance a further sum of about R. 30,000.

The amount actually invested in 1868 & 1878 seems to have been R 68,482 & the present value of the paper purchased is stated at R 70,800.

So This constitutes the Audit Investment Fund.

It was suggested by the Auditors in 1879 & again in 1882 (G.O. of 27 Sept. 1879, No. 2497, & G.O. of 11 July 1882, No. 659, Ind.) that the Audit Investment Fund should be further increased but objection was taken on the ground that the cash balance was insufficient & nothing was done.

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~~[illegible] [illegible] [illegible]~~
~~[illegible]~~
~~the Audit Fund [illegible]~~
~~of the interest on the~~
~~Audit Investment Fund~~

4 The Audit Fund next demands attention. It is derived from two sources, viz;—

(1) the interest on the Audit Investment Fund &

(2) a sum of R21,671 which was added to it in 1881.

The circumstances under which this sum of R21,671 was added to the Audit Fund are explained in the correspondence in G.O. of 19 July 1881, No. 1413, Judl. The Admr.-General found that a large number of sums of money reserved for payment to creditors had been invested in Govt. securities in the names of the individual estates & that, as a consequence, there lay scattered among several estates which had long been closed an accumulation of interest aggregating R21,671, to which interest the estates had no title. The Admr.-General therefore proposed to transfer these various items of interest to the Audit Fund, & Govt. approved the arrangement. The Audit Fund has been invested & in March last it amounted to ~~[illegible]~~ R[illegible] the interest derived from ~~[illegible]~~

which & ~~from~~ the Audit Investment Fund is utilized on the objects of expenditure debitable to the Audit Fund. Inasmuch, however, as the interest on ~~the~~ ~~said~~ these two Funds is in excess of the charges payable therefrom, a balance accrues yearly & is in due course invested to credit of the Audit Fund which, therefore, is continually growing in amount.

5. The present seems a suitable occasion to consider a question relating to the disposal of unclaimed balances set apart for creditors which has been raised in the correspondence now before Govt. On more than one occasion it has been suggested that steps should be taken to carry to the credit of Govt., after the lapse of a certain period, such unclaimed balances, but objection has been taken that Act II of 1874 does not explicitly authorize such a course. On the last occasion when this question was raised, the Admr.-Genl., in his letter dated the 11th Jan. 1874, suggested that the law should be amended so as to authorize the transfer to ~~[illegible]~~ the general revenues of all balances set apart

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for creditors & remaining unclaimed by them for three years; but, on further consideration, he has withdrawn the proposal. H.E. in C. has given the matter the fullest consideration in connection with the question of making a further investment out of the Admr.-General's current balance & has come to the following conclusion. It is true that Act II of 1874 does not explicitly authorize the transfer to General revenues of the unclaimed balances set apart for creditors but there is no reason why such transfer should not be made if Govt. accepts the liability to make good ~~any such claim~~ any sum to which a creditor may establish a claim. Claims of this sort are not likely to be made, if care is taken not to transfer any sum which has not remained unclaimed for a considerable period which might be put at fifteen years. The most recent Schedules were published in the Gazette of the 9th Ap. 1895 & show that, on the 31st Dec. last, the sums set apart for creditors aggregated

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+ the L of I. has recently expressed a similar opinion in respect of unclaimed dividends in the hands of the Official Assignee.

I think with reference to this part of the question we might make a reference to the order which came down from the L. of India only a few days ago, in which a course was suggested with reference to the unclaimed balances held by the Official Assignee exactly of the same nature as that now proposed to be adopted with reference to the balances of the Admr.-Genl. —

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138 9

Rs 69,980. 11. 8 of which only Rs 1,809. 2. 5 have accrued since the 1st Jan. 1881. At the end of 1895, then, the Govt. might transfer to itself a sum of Rs 68,171. 9. 3 without running material risk of having to refund any large ~~amount~~ sum. Certain of the items are, it is observed, over sixty years old & in nearly every instance the chance of any claimant appearing & making good his claim is exceedingly remote. H.E. in C. therefore proposes that the Admr.-Genl. should sell out of the Audit Investment Fund securities equivalent in value to the aggregate of the unclaimed balances which were set apart for creditors fifteen or more years ago, & that, in future, all such balances should be regularly credited to Govt. when they have been unclaimed for fifteen years, it being understood that Govt. undertakes to make good to any creditor any sum so transferred to which he may establish his title.

6. The effect of this arrangement will be to almost annihilate the Audit Investment Fund & as the interest on the

Why should he sell out some Rs 68000 & thus invest Rs 30000? Surely he should only sell Rs 38000 & simply transfer Rs 30000 to us. The apportionment of the same & the charges of sale & purchase will be left] HS

And should transfer the proceeds to Govt.;

Audit Fund is insufficient at present to meet all the demands thereon, it becomes necessary to make a further investment out of the current balance which is now lying idle to the benefit of the Bank, above. On the 30th June 1894 the balance in the Bank amounted to more than R. 87,000 which is probably far in excess of the necessary minimum & might safely be reduced by R. 30,000 or the interest on (Even more, R. 30,000 maybe) in Govt. securities, together with the interest on the Audit Fund, would supply something over R. 2,000 per annum whence to meet the charges debitable to the Audit Fund. This sum would not, however, be sufficient, but the Admr. Gen. will advise whether more than R. 30,000 might not safely be invested. (It will not, of course, be necessary to actually sell out about R 68,000 from the Audit Investment Fund + then invest R 30,000 from the current balance; it will suffice to sell out about R 38,000 & simply transfer Rs 30,000)

In any case, rather than see all this capital lying idle, the Govt. would be prepared to engage to meet from general revenues the excess of charges debitable to the Audit Fund over receipts therefrom. The excess is not likely to be large if even R30,000 only be invested &

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the plan suggested is analogous to that followed when the average emoluments of the Admr.-General fall below R. 1,200 per mensem.

7. To turn now to the draft rules submitted by Mr. Wedderburn.

(1) In the first place, the Govt. would change the name of the Audit Investment Fund to "Current Balance Investment Fund" or something similar designation & would prefix the Rules with a definition of this fund & of the Audit Fund. The following definitions seem suitable:—

(a) "Current Balance Investment Fund". This fund consists of portions of the balance standing to the Admr.-General's credit in the Bank of Madras which are, from time to time, invested in Govt. securities in accordance with these rules.

(b) "Audit Fund". This fund consists of the interest paid on the sums forming the Current Balance Investment Fund & of the sum of R 27,671 added to the Audit Fund by order of 19 July 1881, No 1413, Fin. Dept.

The Admr.-Gen. will consider whether these definitions are sufficiently comprehensive & clear.

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(2) Rule I. The Adv.-Gen. has pointed out two clerical errors which should be rectified.

(3) Rule I: Form (14). The Govt. agrees with the Acct.-General's remarks regarding this Form & the alterations he suggests should be carried out.

(4) Rule I: Form (17). The clerical error pointed out by the Acct.-Gen. should be corrected.

(5) Rule II. As the Admr.-Genl. points out, the Advocate-General's remark that this Rule is inconsistent with Rule IV is not correct; but Rule II would be clearer if the word "individual" were inserted between "any" & "estate".
The clerical error in this rule which the Adv.-Gen. points out should be corrected.

(6) Rule III. In connection with this rule, the Adv.-Gen. objects that Act II of 1874 does not give power to create either an Audit Fund or an Audit Investment Fund. It is true that such power is not explicitly conferred, but the Govt. entirely concurs with the

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Admr.-General's view that the creation, or, rather, continuance, of the Funds is not opposed to law & their abolition would give rise to the greatest inconvenience, besides involving additional expense & the Estates under administration. The Govt. is not, therefore, prepared to accept & act on the Adv.-General's opinion in regard to this matter.
Rule III might, however, be improved in the following ways:—

(a) by inserting the words "by means of investment in Govt. securities" after the word "add";

(b) by adding a proviso forbidding the Admr.-General to reduce his balance in the Bank below R.5,000; &

(c) by substituting the words "at any one time" for the words "at any time".

Note
This is submd. for approval.
4

Rule III might, however, be considerably improved in form & the Govt. would substitute for it something to the following effect:—
"Rule III (1). All moneys coming into the hands of the

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Admr. Genl., except those invested under Rule II & those retained [as a working balance] for current petty expenditure by the Admr.-Genl., shall be deposited by the Admr. Genl. in the Bank of Madras & shall form his current balance.

(2) From the said current balance the Admr.-Genl. may, at any time, withdraw any sum, not being less in amount than R.5,000, & add it, by investment in Govt. securities, to the Current Balance Investment Fund; provided that the Admr.-Gen. shall not, at any time, by such investment, reduce the said current balance below R.5,000".

If the rule were drafted in this way, the second sentence of Rule IV might be omitted.

(7) Rule VI. The Govt. agrees with the Admr.-Gen. that this rule should be retained but it appears unnecessary to make any provision therein for annual report to Govt.; as proposed by the Acct-Gen., or for annual application for approval, as suggested by the Admr.-Genl. The rule ~~will do very well~~ appears suitable & sufficient as it stands.

(8) Rule VII. This is verbally defective, as pointed out by the High Court.

(9) Rule IX. The reference to

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Note. Omit [ ] & substitute "for current petty expenditure" or something of that kind (?)

KS

"[figure to be suggested by the Admr. General]"

Note This proviso is in accordance with orders given to me personally by H.M. But is R5,000 a large enough minimum balance?

No - ask him the sum he wd. fill in - leave a blank

DS

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in supersession of the present rules.

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bonuses to retiring Admrs.-General should be omitted. The cost of office furniture & temporary advances to estates which cannot immediately realize their assets are not ~~debitable~~ chargeable to the Audit Fund in Bengal or Bombay & the Govt. would, therefore, omit these items from Rule IX. Charges on account of Peons' badges & clothing & of pensions & gratuities are clearly such as (under sec. 42 of the Act) the Admr.-Gen. should himself meet; neither in Bengal nor in Bombay do such charges seem to be debitable to the Audit Fund. For the words "Advance for costs of suits", should be substituted "Law charges" & the words "and sanctioned "by G.O. ?, No. 1413, dated 19th "July 1881" should be omitted.

8. With reference to the above remarks, Mr. Wedderburn should now revise the draft rules & re-submit them to Govt. for formal sanction under the Act, in supersession of the present rules. He will also be requested to report what fees (if any) for the inspection of the Admr.-General's books should be fixed by Govt. under sec. 43.

9. Finally, it is observed that the Admr.-General proposes to omit the present Rule X & to discontinue the half

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yearly publication of the list of unclaimed balances set apart for creditors. It is, however, not quite certain whether the course proposed is consistent with the law & , as Govt. has now ~~resolved~~ proposes to credit to itself all the balances unclaimed for fifteen years, the reason for discontinuing publication of the list — namely, its great length — has disappeared. The matter should, therefore, be reconsidered & such addition as may be necessary should be made to the rules.

(From orders)

19/4/95

11 Ap. 1895.

To the Adm^r.-Gen^l. | desp^d 6/5/95 sc. sent 7/5
— Acct.-Gen^l. | desp^d 11/5/95
— Hon. the C.J. with C.L. | desp^d 6/5/95 sc. sent 7/5
— Gov^t. Sol^r.
— Fin^l. Dep^t. } desp^d 11/5/95

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The Administrator General's Accounts.

× Note
It was proposed originally to refer to the Adv: Gen: the question of the legality of discontinuing publication of this list & H.M. agreed that this should be done. But the decision to annex all the old balances renders it unnecessary to make this reference.

20/4/95

P.S.

(From orders)

Please send form
(from H. Exy's order)
22/4/95

C 19/4

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CHIEF SECRETARY
20 APR. 1895
GOVERNMENT OF MADRAS

~~Please~~
Send the note from order & this draft to Mr. Butterworth for reconsideration immediately — I will send the other papers back in the cart tomorrow

20/4/95

GOVERNMENT OF MADRAS

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April 6. 1895

My dear Butterworth

I have spent some time over these papers & must say, after all, that I thoroughly understand the whole case! Will you look through my notes & then come over on Tuesday morning & discuss them? A few minutes should settle all doubtful points.

I don't send all the books as you probably won't require them & they are heavy for them to carry — but if you want

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then send for them

Yours [illegible]

H.A.

Original not received 19/4/95

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E

22ND APRIL 1895, No. 827, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following papers :—

G.O., dated 30th June 1894, No. 1631, Judicial.

ABSTRACT.—Communicating, with remarks, to the Administrator-General, Madras, letter from the Government of India regarding the rate of interest to be applied to the Administrator-General's deposits at the Bank of Madras and the alteration in the rules for the office and duties of the Administrator-General.

G.O., dated 21st August 1894, No. 2009, Judicial.

ABSTRACT.—Referring to the Hon'ble the Judges of the High Court and certain officers for favour of remarks the draft rules for the office and duties of the Administrator-General.

G.O., dated 14th February 1895, No. 331, Judicial.

ABSTRACT.—Referring to the Administrator-General for very early remarks the communications from the authorities consulted in G.O., dated 21st August 1894, No. 2009, in regard to the Administrator-General's rules.

READ—also the following papers :—

Telegram from the Administrator-General, Rajahmundry, to the Chief Secretary to Government, dated 8th March 1895.

Regret delay. Cannot report now or soon. Suggest order now adopt Bengal system. Stop payment of interest on deposits. Direct me transfer deposits to current account. See my letter 8th August 1894.

From H. G. WEDDERBURN, Esq., Administrator-General, to the Chief Secretary to Government, dated Madras, 19th March 1895.

With reference to paragraph 1 of G.O., 14th February 1895, No. 331, I have the honour to submit the following remarks :—

(*a*) On the Advocate-General's opinion—

1. Rule IX refers to the Audit fund not the audit investment account. Rule III to the audit investment account. Rule I (17) to both.

The Audit fund was apparently created under, or prior to, rule III, clause IV of the rules published in the *Fort St. George Gazette* of 16th May 1856 under section 32 of Act VIII of 1855.

These rules were published by the Governor-General in Council under section 33 of Act VIII of 1855. These rules are now in force under section 55, Act 24 of 1867 and section 57 of Act II of 1874. The presumption is that the rules are legal and not *ultra vires*. The Administrator-General having a large balance to credit in his current account not required for the working of the office, it appears to me that there is nothing illegal in investing the surplus balance in Government paper and using the interest derived therefrom for the benefit of the estates generally. The utility of the fund is apparent. If this balance were not so used, the Bank of Madras would benefit, not the estates. Audit funds similarly created have existed in all three presidencies for over forty years.

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Rule IX (4) relating to bonus to retiring Administrator-General of my draft rules may, I think, on further consideration be omitted; it was drafted under a mistaken idea that a similar rule existed in Bengal or Bombay.

2. I do not consider that rule VI is unnecessary. The object thereof is to save the Administrator-General from liability, *e.g.*, as when the Oriental Corporation Bank failed. Moreover, the Government are in a better position than the Administrator-General to select a safe bank, and if it were left to the Administrator-General to select, it might create jealousy among the banks excluded.

3. Rules II and IV are not inconsistent. Rule II applies to balances to credit of individual estates in the books of the Administrator-General. Rule IV applies to the general cash balance in the office safe belonging to estates generally.

4. Rule I (6) (18).—The amendments should be made.
Rule II.—Insert "it"
Rule VII.—The amendment proposed by the High Court should be made.

5. With reference to the Accountant-General's remarks—

The objection to the adoption of the Accountant-General's forms of Government security register is that it would create unnecessary labour in entering each item of interest on Government paper twice over, inasmuch as the particulars and dates of realisation of interest are posted in the ledger from time to time. Both in the interest of Government from whom the Administrator-General occasionally receives Rs. 300 a month towards establishment, and of the Administrator-General who has to pay establishment charges, all unnecessary labour should be avoided.

6. The printers' error over the heading of form 17 should, of course, be deleted.

7. Rule VI. (1).—The practice is to apply to Government for sanction every year. I have no objection to the rule being amended so as to make this compulsory.

8. I have already, on 8th August 1894, as stated by the Accountant-General, suggested that the transfer to current account of deposits of sums under Rs. 100 in the Government treasury should be made in accordance with the suggestion of the Government of India.

Should the Government of India be prepared to pay any interest hereafter, the practice of depositing these sums can be re-introduced. No trustee is bound to invest sums under Rs. 100, as there is no form of security in which such sums can be invested. Possibly interest at a low rate on these sums might be paid out of the Audit fund if the total (Rs. 787–5–5) of these small balances is large enough at any time to increase the audit investment account to any considerable extent. I may here point out that these deposits of sums under Rs. 100 are not made by me in the Bank of Madras but with the Accountant-General.

9. With reference to paragraph 2 of the G.O., No. 331—

(*a*) The effect of the orders contained in paragraphs 2 and 3 of the letters of the Government of India will be so far as I can see simply to enhance the current account of the Administrator-General by the amount of these deposits and to deprive the beneficiaries of the interest which the Government of India has hitherto chosen to give in return for the use of the money apparently no longer required by the Government of India.

(*b*) With reference to the information called for in paragraph 2 of G.O., of 14th April 1894, No. 908, Judicial—

The "Audit Investment Fund" has at credit Government paper for Rs. 70,600. The interest on this paper is carried to the credit of the Audit fund half yearly. In 1881, the Government directed by order No. 1413 of 19th July 1881, the transfer to credit of Audit fund of all interest accumulated on the sums set apart for creditors. Thus a sum of Rs. 22,000 more or less was added to the Audit fund, and that fund now stands at Rs. 34,900 in Government securities. The half-yearly interest of Rs. 70,600 and Rs. 34,900 in Government securities yields about Rs. 2,000 and this is applied in defraying the cost of half-yearly audit, postage

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and stationery expenses, leaving a balance of about Rs. 1,500 a year which is in due course invested. The Audit fund thus increases each year. On further consideration I do not think it would be advisable at present to amend the Act as proposed. The Administrator-General of Bengal did not desire to suggest any amendments, and the Administrator-General of Bombay is not in the habit of publishing half yearly the long list of creditors' balances, the inconvenience of which practice led to my proposal to amend the Act by crediting these balances to Government after a certain period. I find that creditors' balances amount to Rs. 69,980–0–2 and that practically it was the total of these balances which made up the Rs. 70,600 Government paper which represents the Audit Investment fund account.

(*c*) With reference to paragraph 3 of G.O., dated 14th April 1894, No. 908, I have consulted the officers mentioned and endeavoured to carry out the order of Government in the draft rules already submitted.

I have the honour to explain as to (*a*) the system of account prescribed in the rules published in 1856—

Rule I (1).—An inventory of effects has to be made and entered in book I. As effects are realised entry is made in asset book II and cash is also entered in cash-book III and credits vouched for by receipt book IV and the cash-book is posted in ledger V. If claims are preferred they are registered in book VI. A pass-book is kept with Bank of Madras VII in which all monies received have to be lodged. The commission due to Administrator-General is entered in book VIII and charged monthly. When account sales are rendered by agents they are entered in book IX; when payments are made through India Office by bills of exchange they are entered in book X. All accounts issued from the office were entered in book XI, but the practice is obsolete. The Administrator-General has to file inventory and account in the High Court of each closed estate and a memorandum is kept in book XII. All Government securities and bank shares deposited in bank are entered in book XIII. Rule XIV is obsolete as this work is now done by the bank. Half-yearly schedules are published of assets realised under rule XV and all balances paid over are published under rule XVI. Under rule XVII provision was made for estates with balances under Rs. 100 for which interest was allowed by Government. This practice is to be abolished. Under rule XVIII the Audit fund account is dealt with. The credit consists of interests realised and the debit of charges of audit, &c.

Rule II needs no explanation.

Rule III, clauses 1, 2 and 3, need no explanation.

Clause 4 provides for increases of Audit fund by investing sums of 5,000 from current account not required for working of office.

Clause 5 provides for withdrawal from audit fund investment account as occasion may require.

Clause 6 provides for assets not capable of immediate realisation.

Rule IV.—This refers to cash balance in office from day to day.

Rule V is plain.

Rule VI.—This rule was apparently made to protect the Administrator-General in case of a bank failing, *e.g.*, the Oriental Bank Corporation.

Rule VII is plain.

Rule VIII is plain.

Rule IX is plain.

Rule X is plain.

9. With reference to paragraph 3 of G.O. of 14th February 1895, No. 331, I regret I do not possess anything but a mutilated copy of the rules of 1856, but they can be found in the *Fort St. George Gazette* of 16th May 1856, page 757. I find the following Government Orders have been passed:—

Order No. 2039, dated 9th October 1878, about remittances to England in supersession of rule VI published in the Gazette of 29th October 1878, page 626.

Order of 19th July 1881, No. 1413 *re* audit fund.

Notification of Government, dated 5th December 1881, published in Gazette of the 14th December 1881, page 727, modifying rule I, No. 17, and rule III, clauses 2 and 3 of the rules of the 16th May 1856.

The Bombay rules are to be found in the *Gazette of Bombay* of 20th January 1887, part I, page 45.

10. Under section 43, no fee has been fixed in practice. Copies are generally asked for and charged for under G.O., No. 235, dated 26th February 1857.

ORDER—dated 22nd April 1895, No. 827, Judicial.

In his letter dated the 31st January 1894, No. 11-J.B.G., the Accountant-General asked whether, with reference to the Government of India Notification No. 5662, dated 30th December 1893, interest at the reduced rate of $3\frac{1}{2}$ per cent. was in future to be paid on the Administrator-General's deposits at the Bank of Madras. The Government of India replied in the affirmative but raised the question whether any interest at all ought to be paid on these sums in future and desired that steps might be taken to modify the Administrator-General's rules so as to provide that such sums shall in future be merely placed in deposit in the Bank (or with Government, if deemed preferable).

The sums in question are the balances below Rs. 100 which are dealt with under rule III (3), and, as the Administrator-General points out, they are at present placed, not in the Bank, but with the Accountant-General. It appears that, in March last, the total amount of these petty balances was only Rs. 787–5–5 and the Administrator-General sees no objection to the adoption of the course proposed by the Government of India and asks Government to sanction the transfer of the balances in question to his current account with the Bank of Madras. His Excellency in Council sanctions this arrangement and directs that the payment of interest on the sums in question by the Accountant-General shall cease with effect from the 20th April 1895. The following telegram will accordingly be despatched to the Government of India:—"Finance and Commerce letter dated 31st May 1894, No. 2763-A. Accountant-General has been ordered to stop payment of interest on Administrator-General's deposits in his hands with effect from 20th instant and to arrange for transfer of these deposits to Administrator-General's account current with Bank of Madras."

2. The Government now proceeds to consider the revised draft of the Administrator-General's rules which were prepared under the instructions contained in G.O. dated 14th April 1894, No. 908, Judicial, and were referred for remarks to the High Court, the Advocate-General and the Accountant-General by G.O. dated 21st August 1894, No. 2009, Judicial.

The present rules were framed in 1856 and are not only obsolete to a considerable extent but are remarkably obscure in parts. The revised draft prepared by Mr. Wedderburn is a great improvement upon the old rules, but ~~even this~~ is defective in some respects as will be indicated later on.

3. The Government has experienced particular difficulty in arriving at a clear understanding of the nature of the two funds known as the Audit Investment fund and the Audit fund and the revised draft rules themselves are not so clear on this subject as they might be.

The history of the Audit Investment fund seems to be as follows.

Rule III (4) provides that the Administrator-General may deposit in the General Treasury any portion (not less in amount at any one time than Rs. 5,000) of the balance standing to his credit in the Bank of Madras and that interest on sums so deposited shall be paid at 4 per cent., the said interest being carried to the Audit fund.

Apparently, in 1868, the sums deposited with the Accountant-General under the aforesaid rule had reached Rs. 38,000 and the Government of India raised objections to the retention of this amount in the treasury, ~~the result being that~~ Administrator-General was ordered in G.O. dated 24th June 1868, No. 1011, Judicial, to invest the money in Government securities ~~as this was done~~.

5 67

Up to 1878 there was only one account for all transactions affecting the Audit Fund, but in that year the auditors suggested that two distinct accounts should be opened, one to be called the Audit Fund Investment Account (showing the capital invested in securities) and the other to be called the Audit Fund Account (showing the interest from the invested securities and the expenditure debited thereto). The auditors also recommended that a further sum out of the Administrator-General's general balance should be added to the amount already invested in securities.

These proposals of the auditors were approved in G.O., dated 26th June 1878, No. 1296, and G.O., dated 5th September 1878, No. 1792, Judicial, and the Administrator-General invested from his general balance a further sum of about Rs. 30,000. The amount actually invested in 1868 and 1878 seems to have been Rs. 68,482 and the present value of the paper so purchased is stated at Rs. 70,600. This constitutes the Audit Investment Fund.

It was suggested by the auditors in 1879 and again in 1882 (G.O., dated 27th September 1879, No. 2497, and G.O., dated 11th July 1882, No. 659, Judicial) that the Audit Investment Fund should be further increased but objection was taken on the ground that the cash balance was insufficient and nothing was done.

4. The Audit Fund next demands attention. It is derived from two sources, viz.—

(1) the interest on the Audit Investment Fund, and
(2) a sum of Rs. 21,671 which was added to it in 1881.

The circumstances under which this sum of Rs. 21,671 was added to the Audit Fund are explained in the correspondence in G.O., dated 19th July 1881, No. 1413, Judicial. The Administrator-General found that a large number of sums of money reserved for payment to creditors had been invested in Government securities in the names of the individual estates and that, as a consequence, there lay scattered among several estates which had long been closed an accumulation of interest aggregating Rs. 21,671, to which interest the estates had no title. The Administrator-General therefore proposed to transfer these various items of interest to the Audit Fund and Government approved the arrangement. The Audit Fund has been invested and in March last it amounted to Rs. 34,900 the interest derived from which and from the Audit Investment Fund is utilized on the objects of expenditure debitable to the Audit Fund. Inasmuch, however, as the interest on these two funds is in excess of the charges payable therefrom, a balance accrues yearly and is in due course invested to credit of the Audit Fund which, therefore, is continually growing in amount.

5. The present seems a suitable occasion to consider a question relating to the disposal of unclaimed balances set apart for creditors which has been raised in the correspondence now before Government. On more than one occasion it has been suggested that steps should be taken to carry to the credit of Government, after the lapse of a certain period, ~~such unclaimed balances,~~ but objection has been taken that Act II of 1874 does not explicitly authorize such a course. On the last occasion when this question was raised, the Administrator-General, in his letter dated the 11th January 1894, suggested that the law should be amended so as to authorize the transfer to the general revenues of all balances set apart for creditors and remaining unclaimed by them for three years; but, on further consideration, he has withdrawn the proposal. His Excellency in Council has given the matter the fullest consideration in connection with the question of making a further investment out of the Administrator-General's current balance and has come to the following conclusion. It is true that Act II of 1874 does not explicitly authorize the transfer to general revenues of the unclaimed balances set apart for creditors but there is no reason why such transfer should not be made if Government accepts the liability to make good any sum to which a creditor may establish a claim, and the Government of India has recently ~~expressed a similar opinion~~ in respect of unclaimed dividends in the hands of the Official Assignee. ~~Claims of this sort are not likely to be made, if care is~~ taken not to transfer any sum which has not remained unclaimed for a considerable period

[To be substituted for para 6]

6. In view of this decision it becomes necessary to consider whether a further investment should not be made out of the Admty-General's current balance. On the 30th June 1874 the balance in the Bank amounted to R 87,000 which is probably far in excess of the necessary minimum. The Admty. Gen. will report the amount by which the balance could be reduced without danger. The Govt considers that a reduction by at least R. 30,000 should be possible; but, if feasible, a larger reduction should be made, for the interest on R. 30,000 plus that on the Audit Fund, will not suffice to meet all the charges debitable to the Audit Fund. If it is found to be impossible to produce equilibrium between the receipts & charges, the Govt will be prepared to meet out of general revenues the annual excess of charges over receipts, much in the same way as it supplies

deficiencies in the emoluments of the Admr.-General. But of course it is not expedient that general revenues should contribute anything on account of Audit charges, if funds can be otherwise provided.

It does not appear to Govt. to be necessary that securities ~~to the value of R68,171~~ equivalent in value to the aggregate of the balances unclaimed for fifteen years should be actually sold out & that their place should be partly taken by the investment of a portion of the current balance. It will be simpler & cheaper if the amount by which the current balance is reduced is merely transferred to Govt. & if securities equivalent in value to the difference between this amount & the aggregate of the said balances are sold. The sum remaining invested will represent the reduction effected in the current balance.

6

, the Govt. thinks,

hich might be put at fifteen years. The most recent schedules were published in e Gazette of the 9th April 1895 and show that, on the 31st December last, the ms set apart for creditors aggregated Rs. 69,980-11-8 of which only Rs. 1,809-2-5 em to have accrued since the 1st January 1881. At the end of 1895, then, the overnment might transfer to itself a sum of Rs. 68,171-9-3 without running matel risk of having to make any large refunds. Certain of the items are, it is obser-ed, over sixty years old and in nearly every instance the chance of any claimant ppearing and making good his claim is exceedingly remote. His Excellency in ouncil therefore proposes that the Administrator-General should transfer to the redit of Government the aggregate of the unclaimed balances which were set apart r creditors fifteen or more years ago and that, in future, all such balances should e regularly credited to Government when they have been unclaimed for fifteen years, being understood that Government undertakes to make good to any creditor any um so transferred to which he may establish his title.

clear type

6. ~~The effect of this arrangement will be to almost annihilate the Audit Invest-ment Fund, and as the interest on the Audit Fund is insufficient at present to meet all he demands thereon, it becomes necessary to make a further investment out of the urrent balance which is now lying idle to the benefit of the bank alone.~~ On the 0th June 1894 the balance in the bank amounted to more than Rs. 87,000 which is robably far in excess of the necessary minimum and might safely be reduced by s. 30,000 or even more. ~~The interest on Rs. 30,000 invested in Government ecurities, together with the interest on the Audit Fund, would supply something over s. 2,000 *per annum* whence to meet the charges debitable to the Audit Fund. His sum vould not, however, be sufficient, and the Administrator-General will advise whether aore than Rs. 30,000 might not safely be invested. It will not, of course, be ecessary to actually sell out about Rs. 68,000 from the Audit Investment Fund and hen invest Rs. 30,000 from the current balance; it will suffice to sell out about Rs. 38,000 and simply transfer Rs. 30,000. In any case, rather than see all this apital lying idle, the Government would be prepared to engage to meet from general evenues the excess of charges debitable to the Audit Fund over receipts therefrom. The excess is not likely to be large if even Rs. 30,000 only be invested and he plan suggested is analogous to that followed when the average emoluments of the Administrator-General fall below Rs. 1,200 per mensem.~~

In view of the determination it becomes necessary to consider ~~whether a further reduction~~ ~~to be made~~ ~~in~~ the Administrator-General's current balance should not be reduced

This [illegible]

~~The current balance is reduced by not less than R.30,000~~

Substitute separate draft.

7. ~~8~~ ~~7~~. To turn now to the draft rules submitted by Mr. Wedderburn:

(1) In the first place the Government would change the name of the Audit Investment Fund to "Current Balance Investment Fund" or some similar designation and would preface the rules with a definition of this fund and of the Audit Fund.

The following definitions seem suitable:—

(*a*) "Current Balance Investment Fund." This fund consists of portions of the balance standing to the Administrator-General's credit in the Bank of Madras which are, from time to time, invested in Government securities in accordance with these rules.

(*b*) "Audit Fund." This fund consists of the interest paid on the sums forming the Current Balance Investment Fund and of a sum of Rupees 27,671 added to the Audit Fund under G.O., dated 19th July 1881, No. 1413, Judicial.

The Admr. Gen. will advise as to the exact amount, which can then be transferred to the credit of Govt. while the Audit Investment Fund can be reduced by selling securities to the amount of the difference between the sum so transferred & the aggregate of the balances which have been unclaimed for fifteen years. ~~R68,171-9-3.~~

~~7. Assuming that it is found possible to reduce the current balance by R30,000 only, the interest~~

7. It may be that the effect of these arrangements will be that the interest available to meet the charges debitable to the Audit Fund will prove to be insufficient for the purposes ~~to which it is applicable~~. If so, the Govt. will be prepared to defray the excess charges from general revenues. But the amount by which the current balance is reduced should be so fixed as to relieve Govt. as far as possible of all liability on this account.

The Administrator-General will consider whether these definitions are sufficiently comprehensive and clear.

(2) *Rule I.*—The Advocate-General has pointed out two clerical errors which should be rectified.

(3) *Rule I—Form* (14).—The Government agrees with the Accountant-General's remarks regarding this form and the alterations he suggests should be carried out.

(4) *Rule I—Form* (17).—The clerical error pointed out by the Accountant-General should be corrected.

(5) *Rule II.*—As the Administrator-General points out, the Advocate-General's remark that this Rule is inconsistent with Rule IV is not correct; but Rule II would be clearer if the word "individual" were inserted between "any" and "estate".

The clerical error in this rule which the Advocate-General points out should be corrected.

(6) *Rule III.*—In connection with this rule, the Advocate-General objects that Act II of 1874 does not give power to create either an Audit Fund or an Audit Investment Fund. It is true that such power is not explicitly conferred, but the Government entirely concurs with the Administrator-General's view that the creation, or, rather, continuance, of the funds is not opposed to law and their abolition would give rise to the greatest inconvenience, besides involving additional expense to the estates under administration. The Government is not, therefore, prepared to accept and act on the Advocate-General's opinion in regard to this matter.

Rule III might, however, be considerably improved in form and the Government would substitute for it something to the following effect:—

"*Rule III*—(1) All moneys coming into the hands of the Administrator-General, except those invested under Rule II and those retained for current petty expenditure by the Administrator-General, shall be deposited by the Administrator-General in the Bank of Madras, and shall form his current balance.

(2) From the said current balance the Administrator-General may, at any time, withdraw any sum, not being less in amount than Rs. 5,000, and add it, by investment in Government securities, to the Current Balance Investment Fund; provided that the Administrator-General shall not, at any time, by such investment, reduce the said current balance below [figure to be suggested by the Administrator-General]".

If the rule were drafted in this way, the second sentence of Rule IV might be omitted.

(7) *Rule VI.*—The Government agrees with the Administrator-General that this rule should be retained but it appears unnecessary to make any provision therein for annual report to Government, as proposed by the Accountant-General, or for annual application for approval, as suggested by the Administrator-General. The rule appears suitable and sufficient as it stands.

(8) *Rule VII.*—This is verbally defective, as pointed out by the High Court.

(9) *Rule IX.*—The reference to bonuses to retiring Administrators-General should be omitted. The cost of office furniture and temporary advances to estates which cannot immediately realize their assets are not chargeable to the Audit Fund in Bengal or Bombay and the Government would, therefore, omit these items from Rule IX. Charges on account of peons' badges and clothing and of pensions and gratuities are clearly such as (under section 42 of the Act) the Administrator-General should himself meet; neither in Bengal nor in Bombay do such charges seem to be debitable to the Audit Fund. For the words "Advance for costs of suits," should be substituted "Law charges" and the words "and sanctioned by G.O., No. 1413, dated 19th July 1881" should be omitted.

8. With reference to the above remarks, Mr. Wedderburn should now revise the draft rules and re-submit them to Government for formal sanction under the Act in supersession of the present rules. He will also be requested to report what fees (if any) for the inspection of the Administrator-General's books should be fixed by Government under section 43.

8. Finally, it is observed that the Administrator-General proposes to omit the present Rule X and to discontinue the half-yearly publication of the list of unclaimed balances set apart for creditors. It is, however, not quite certain whether the course proposed is consistent with the law and, as Government now proposes to credit to itself all the balances unclaimed for fifteen years, the reason for discontinuing publication of the list—namely, its great length—has disappeared. The matter should, therefore, be reconsidered and such addition as may be necessary should be made to the rules.

(True Extract.)

Chief Secretary.

To the Administrator-General.
" Accountant-General.
" Hon'ble the Chief Justice, with C.L.
" Government Solicitor.
" Financial Department.

G.O., 22nd April 1895, No. 827.
APRIL.
Administrator-General's Rules.

Passing orders on the revised draft of the —.

71

Office

I think this draft will now do ~~so that the G.O. may issue.~~ *

~~17/4/95.~~

* — in clean proof, of course.

*but it should be resubmd to H.M. for approval with a note explaining that it has been amended with reference to his orders on the original draft.

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22nd April 1895, No. 827, Judicial.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers :—

G.O., dated 30th June 1894, No. 1631, Judicial.

Abstract.—Communicating, with remarks, to the Administrator-General, Madras, letter from the Government of India regarding the rate of interest to be applied to the Administrator-General's deposits at the Bank of Madras and the alteration in the rules for the office and duties of the Administrator-General.

G.O., dated 21st August 1894, No. 2009, Judicial.

Abstract.—Referring to the Hon'ble the Judges of the High Court and certain officers for favour of remarks the draft rules for the office and duties of the Administrator-General.

G.O., dated 14th February 1895, No. 331, Judicial.

Abstract.—Referring to the Administrator-General for very early remarks the communications from the authorities consulted in G.O., dated 21st August 1894, No. 2009, in regard to the Administrator-General's rules.

Read—also the following papers :—

Telegram from the Administrator-General, Rajahmundry, to the Chief Secretary to Government, dated 8th March 1895.

Regret delay. Cannot report now or soon. Suggest order now adopt Bengal system. Stop payment of interest on deposits. Direct me transfer deposits to current account. See my letter 8th August 1894.

From H. G. WEDDERBURN, Esq., Administrator-General, to the Chief Secretary to Government, dated Madras, 19th March 1895.

With reference to paragraph 1 of G.O., 14th February 1895, No. 331, I have the honour to submit the following remarks :—

(a) On the Advocate-General's opinion—

1. Rule IX refers to the Audit Fund not the Audit Investment account. Rule III to the Audit Investment account. Rule I (17) to both.

The Audit Fund was apparently created under, or prior to, rule III, clause IV of the rules published in the *Fort St. George Gazette* of 16th May 1856 under section 32 of Act VIII of 1855.

These rules were published by the Governor-General in Council under section 33 of Act VIII of 1855. These rules are now in force under section 55, Act 24 of 1867 and section 57 of Act II of 1874. The presumption is that the rules are legal and not *ultra vires*. The Administrator-General having a large balance to credit in his current account not required for the working of the office, it appears to me that there is nothing illegal in investing the surplus balance in Government paper and using the interest derived therefrom for the benefit of the estates generally. The utility of the fund is apparent. If this balance were not so used, the Bank of Madras would benefit, not the estates. Audit funds similarly created have existed in all three presidencies for over forty years.

Rule IX (4) relating to bonus to retiring Administrator-General of my draft rules may, I think, on further consideration be omitted; it was drafted under a mistaken idea that a similar rule existed in Bengal or Bombay.

2. I do not consider that rule VI is unnecessary. The object thereof is to save the Administrator-General from liability, *e.g.*, as when the Oriental Corporation Bank failed. Moreover, the Government are in a better position than the Administrator-General to select a safe bank, and if it were left to the Administrator-General to select, it might create jealousy among the banks excluded.

3. Rules II and IV are not inconsistent. Rule II applies to balances to credit of individual estates in the books of the Administrator-General. Rule IV applies to the general cash balance in the office safe belonging to estates generally.

4. Rule I (6) (18).—The amendments should be made.

Rule II.—Insert "it".

Rule VII.—The amendment proposed by the High Court should be made.

5. With reference to the Accountant-General's remarks—

The objection to the adoption of the Accountant-General's forms of Government security register is that it would create unnecessary labour in entering each item of interest on Government paper twice over, inasmuch as the particulars and dates of realisation of interest are posted in the ledger from time to time. Both in the interest of Government from whom the Administrator-General occasionally receives Rs. 300 a month towards establishment, and of the Administrator-General who has to pay establishment charges, all unnecessary labour should be avoided.

6. The printers' error over the heading of form 17 should, of course, be deleted.

7. Rule VI (1).—The practice is to apply to Government for sanction every year. I have no objection to the rule being amended so as to make this compulsory.

8. I have already, on 8th August 1894, as stated by the Accountant-General, suggested that the transfer to current account of deposits of sums under Rs. 100 in the Government treasury should be made in accordance with the suggestion of the Government of India.

Should the Government of India be prepared to pay any interest hereafter, the practice of depositing these sums can be re-introduced. No trustee is bound to invest sums under Rs. 100, as there is no form of security in which such sums can be invested. Possibly interest at a low rate on these sums might be paid out of the Audit Fund if the total (Rs. 787–5–5) of these small balances is large enough at any time to increase the Audit Investment account to any considerable extent. I may here point out that these deposits of sums under Rs. 100 are not made by me in the Bank of Madras but with the Accountant-General.

9. With reference to paragraph 2 of the G.O., No. 331—

(*a*) The effect of the orders contained in paragraphs 2 and 3 of the letters of the Government of India will be so far as I can see simply to enhance the current account of the Administrator-General by the amount of these deposits and to deprive the beneficiaries of the interest which the Government of India has hitherto chosen to give in return for the use of the money apparently no longer required by the Government of India.

(*b*) With reference to the information called for in paragraph 2 of G.O., of 14th April 1894, No. 908, Judicial—

The "Audit Investment Fund" has at credit Government paper for Rs. 70,600. The interest on this paper is carried to the credit of the Audit Fund half yearly. In 1881, the Government directed by order No. 1413 of 19th July 1881, the transfer to credit of Audit Fund of all interest accumulated on the sums set apart for creditors. Thus a sum of Rs. 22,000 more or less was added to the Audit Fund, and that fund now stands at Rs. 34,900 in Government securities. The half-yearly interest of Rs. 70,600 and Rs. 34,900 in Government securities yields about Rs. 2,000 and this is applied in defraying the cost of half-yearly audit, postage and stationery expenses, leaving a balance of about Rs. 1,500 a year which is in due course invested. The Audit Fund thus increases each year. On further

consideration I do not think it would be advisable at present to amend the Act as proposed. The Administrator-General of Bengal did not desire to suggest any amendments, and the Administrator-General of Bombay is not in the habit of publishing half yearly the long list of creditors' balances, the inconvenience of which practice led to my proposal to amend the Act by crediting these balances to Government after a certain period. I find that creditors' balances amount to Rs. 69,980–0–2 and that practically it was the total of these balances which made up the Rs. 70,600 Government paper which represents the Audit Investment Fund account.

(*c*) With reference to paragraph 3 of G.O., dated 14th April 1894, No. 908, I have consulted the officers mentioned and endeavoured to carry out the order of Government in the draft rules already submitted.

I have the honour to explain as to (*a*) the system of account prescribed in the rules published in 1856—

Rule I (1).—An inventory of effects has to be made and entered in book I. As effects are realised entry is made in asset book II and cash is also entered in cash-book III and credits vouched for by receipt book IV and the cash-book is posted in ledger V. If claims are preferred they are registered in book VI. A pass-book is kept with Bank of Madras VII in which all monies received have to be lodged. The commission due to Administrator-General is entered in book VIII and charged monthly. When account sales are rendered by agents they are entered in book IX; when payments are made through India Office by bills of exchange they are entered in book X. All accounts issued from the office were entered in book XI, but the practice is obsolete. The Administrator-General has to file inventory and account in the High Court of each closed estate and a memorandum is kept in book XII. All Government securities and bank shares deposited in bank are entered in book XIII. Rule XIV is obsolete as this work is now done by the bank. Half-yearly schedules are published of assets realised under rule XV and all balances paid over are published under rule XVI. Under rule XVII provision was made for estates with balances under Rs. 100 for which interest was allowed by Government. This practice is to be abolished. Under rule XVIII the Audit Fund account is dealt with. The credit consists of interests realised and the debit of charges of audit, &c.

Rule II needs no explanation.

Rule III, clauses 1, 2 and 3, need no explanation.

Clause 4 provides for increases of Audit Fund by investing sums of 5,000 from current account not required for working of office.

Clause 5 provides for withdrawal from Audit Fund Investment account as occasion may require.

Clause 6 provides for assets not capable of immediate realisation.

Rule IV.—This refers to cash balance in office from day to day.

Rule V is plain.

Rule VI.—This rule was apparently made to protect the Administrator-General in case of a bank failing, *e.g.*, the Oriental Bank Corporation.

Rule VII is plain.

Rule VIII is plain.

Rule IX is plain.

Rule X is plain.

9. With reference to paragraph 3 of G.O. of 14th February 1895, No. 331, I regret I do not possess anything but a mutilated copy of the rules of 1856, but they can be found in the *Fort St. George Gazette* of 16th May 1856, page 757. I find the following Government Orders have been passed: —

Order No. 2039, dated 9th October 1878, about remittances to England in supersession of rule VI published in the Gazette of 29th October 1878, page 626.

Order of 19th July 1881, No. 1413 *re* Audit Fund.

Notification of Government, dated 5th December 1881, published in Gazette of the 14th December 1881, page 727, modifying rule I, No. 17, and rule III, clauses 2 and 3 of the rules of the 16th May 1856.

The Bombay rules are to be found in the *Gazette of Bombay* of 20th January 1887, part I, page 45.

10. Under section 43, no fee has been fixed in practice. Copies are generally asked for and charged for under G.O., No. 235, dated 26th February 1857.

ORDER—dated 22nd April 1895, No. 827, Judicial.

In his letter dated the 31st January 1894, No. 11-J.B.G., the Accountant-General asked whether, with reference to the Government of India Notification No. 5662, dated 30th December 1893, interest at the reduced rate of $3\frac{1}{8}$ per cent. was in future to be paid on the Administrator-General's deposits at the Bank of Madras. The Government of India replied in the affirmative but raised the question whether any interest at all ought to be paid on these sums in future and desired that steps might be taken to modify the Administrator-General's rules so as to provide that such sums shall in future be merely placed in deposit in the Bank (or with Government, if deemed preferable).

The sums in question are the balances below Rs. 100 which are dealt with under rule III (3), and, as the Administrator-General points out, they are at present placed, not in the Bank, but with the Accountant-General. It appears that, in March last, the total amount of these petty balances was only Rs. 787–5–5 and the Administrator-General sees no objection to the adoption of the course proposed by the Government of India and asks Government to sanction the transfer of the balances in question to his current account with the Bank of Madras. His Excellency in Council sanctions this arrangement and directs that the payment of interest on the sums in question by the Accountant-General shall cease with effect from the 20th April 1895. The following telegram will accordingly be despatched to the Government of India:—" . . Finance and Commerce letter dated 31st May 1894, No. 2763-A. Accountant-General has been ordered to stop payment of interest on Administrator-General's deposits in his hands with effect from 20th instant and to arrange for transfer of these deposits to Administrator-General's account current with Bank of Madras."

2. The Government now proceeds to consider the revised draft of the Administrator-General's rules which were prepared under the instructions contained in G.O. dated 14th April 1894, No. 908, Judicial, and were referred for remarks to the High Court, the Advocate-General and the Accountant-General by G.O. dated 21st August 1894, No. 2009, Judicial.

The present rules were framed in 1856 and are not only obsolete to a considerable extent but are remarkably obscure in parts. The revised draft prepared by Mr. Wedderburn is a great improvement upon the old rules, but it too is defective in some respects as will be indicated later on.

3. The Government has experienced particular difficulty in arriving at a clear understanding of the nature of the two funds known as the Audit Investment Fund and the Audit Fund and the revised draft rules themselves are not so clear on this subject as they might be.

The history of the Audit Investment Fund seems to be as follows.

Rule III (4) provides that the Administrator-General may deposit in the General Treasury any portion (not less in amount at any one time than Rs. 5,000) of the balance standing to his credit in the Bank of Madras and that interest on sums so deposited shall be paid at 4 per cent., the said interest being carried to the Audit fund.

Apparently, in 1868, the sums deposited with the Accountant-General under the aforesaid rule had reached Rs. 38,000 and the Government of India raised objections to the retention of this amount in the treasury. The Administrator-General was accordingly ordered in G.O. dated 24th June 1868, No. 1011, Judicial, to invest the money in Government securities and this was done.

Up to 1878 there was only one account for all transactions affecting the Audit Fund, but in that year the auditors suggested that two distinct accounts should be opened, one to be called the Audit Fund Investment Account (showing the capital invested in securities) and the other to be called the Audit Fund Account (showing

the interest from the invested securities and the expenditure debited thereto). The auditors also recommended that a further sum out of the Administrator-General's general balance should be added to the amount already invested in securities.

These proposals of the auditors were approved in G.O., dated 26th June 1878, No. 1296, and G.O., dated 5th September 1878, No. 1792, Judicial, and the Administrator-General invested from his general balance a further sum of about Rs. 30,000.

The amount actually invested in 1868 and 1878 seems to have been Rs. 68,482 and the present value of the paper so purchased is stated at Rs. 70,600. This constitutes the Audit Investment Fund.

It was suggested by the auditors in 1879 and again in 1882 (G.O., dated 27th September 1879, No. 2497, and G.O., dated 11th July 1882, No. 659, Judicial) that the Audit Investment Fund should be further increased but objection was taken on the ground that the cash balance was insufficient and nothing was done.

4. The Audit Fund next demands attention. It is derived from two sources, viz.—

(1) the interest on the Audit Investment Fund, and

(2) a sum of Rs. 21,671 which was added to it in 1881.

The circumstances under which this sum of Rs. 21,671 was added to the Audit Fund are explained in the correspondence in G.O., dated 19th July 1881, No. 1413, Judicial. The Administrator-General found that a large number of sums of money reserved for payment to creditors had been invested in Government securities in the names of the individual estates and that, as a consequence, there lay scattered among several estates which had long been closed an accumulation of interest aggregating Rs. 21,671, to which interest the estates had no title. The Administrator-General therefore proposed to transfer these various items of interest to the Audit Fund and Government approved the arrangement. The Audit Fund has been invested and in March last it amounted to Rs. 34,900 the interest derived from which and from the Audit Investment Fund is utilized on the objects of expenditure debitable to the Audit Fund. Inasmuch, however, as the interest on these two funds is in excess of the charges payable therefrom, a balance accrues yearly and is in due course invested to credit of the Audit Fund which, therefore, is continually growing in amount.

5. The present seems a suitable occasion to consider a question relating to the disposal of unclaimed balances set apart for creditors which has been raised in the correspondence now before Government. On more than one occasion it has been suggested that steps should be taken to carry such unclaimed balances to the credit of Government, after the lapse of a certain period, but objection has been taken that Act II of 1874 does not explicitly authorize such a course. On the last occasion when this question was raised, the Administrator-General, in his letter dated the 11th January 1894, suggested that the law should be amended so as to authorize the transfer to the general revenues of all balances set apart for creditors and remaining unclaimed by them for three years; but, on further consideration, he has withdrawn the proposal. His Excellency in Council has given the matter the fullest consideration in connection with the question of making a further investment out of the Administrator-General's current balance and has come to the following conclusion. It is true that Act II of 1874 does not explicitly authorize the transfer to general revenues of the unclaimed balances set apart for creditors but there is no reason why such transfer should not be made if Government accepts the liability to make good any sum to which a creditor may establish a claim and it may be mentioned that the Government of India has recently recommended the adoption of a similar course in respect of unclaimed dividends in the hands of the Official Assignee. Care must, of course, be taken not to transfer any sum which has not remained unclaimed for a considerable period which, the Government thinks, might be put at fifteen years. The most recent schedules were published in the Gazette of the 9th April 1895 and show that, on the 31st December last, the sums set apart for creditors aggregated Rs. 69,980–11–8 of which only Rs. 1,809–2–5 seem to have accrued since the 1st January 1881. At the end of 1895, then, the Government might transfer to itself a sum of Rs. 68,171–9–3 without running maetrial risk of having to make any large refunds. Certain of the items are, it is observed, over sixty years old and in nearly every instance the chance of any claimant appearing and making good his claim is

exceedingly remote. His Excellency in Council therefore proposes that the Administrator-General should transfer to the credit of Government the aggregate of the unclaimed balances which were set apart for creditors fifteen or more years ago and that, in future, all such balances should be regularly credited to Government when they have been unclaimed for fifteen years, it being understood that Government undertakes to make good to any creditor any sum so transferred to which he may establish his title.

6. In view of this decision it becomes necessary to consider whether a further investment should not be made out of the Administrator-General's current balance. On the 30th June 1894 the balance in the bank amounted to Rs. 87,000 which is probably far in excess of the necessary minimum. The Administrator-General will report the amount by which the balance could be reduced without danger. The Government considers that a reduction by at least Rs. 30,000 should be possible; but, if feasible, a larger reduction should be made, for the interest on Rs. 30,000 *plus* that on the Audit Fund, will not suffice to meet all the charges debitable to the Audit Fund. If it is found to be impossible to produce equilibrium between the receipts and charges, the Government will be prepared to meet out of general revenues the annual excess of charges over receipts, much in the same way as it supplies deficiencies in the emoluments of the Administrator-General. But, of course, it is not expedient that general revenues should contribute anything on account of audit charges if funds can be otherwise provided.

It does not appear to Government to be necessary that securities equivalent in value to the aggregate of the balances unclaimed for fifteen years should be actually sold out and that their place should be partly taken by the investment of a portion of the current balance. It will be simpler and cheaper if the amount by which the current balance is reduced is merely transferred to Government and if securities equivalent in value to the difference between this amount and the aggregate of the said balances are sold. The sum remaining invested will represent the reduction effected in the current balance.

7. To turn now to the draft rules submitted by Mr. Wedderburn:

(1) In the first place the Government would change the name of the Audit Investment Fund to "Current Balance Investment Fund" or some similar designation and would preface the rules with a definition of this fund and of the Audit Fund.

The following definitions seem suitable:—

(*a*) "Current Balance Investment Fund."—This fund consists of portions of the balance standing to the Administrator-General's credit in the Bank of Madras which are, from time to time, invested in Government securities in accordance with these rules.

(*b*) "Audit Fund."—This fund consists of the interest paid on the sums forming the Current Balance Investment Fund and of a sum of Rupees 27,671 added to the Audit Fund under G.O., dated 19th July 1881, No. 1413, Judicial.

The Administrator-General will consider whether these definitions are sufficiently comprehensive and clear.

(2) *Rule I.*—The Advocate-General has pointed out two clerical errors which should be rectified.

(3) *Rule I—Form* (14).—The Government agrees with the Accountant-General's remarks regarding this form and the alterations he suggests should be carried out.

(4) *Rule I—Form* (17).—The clerical error pointed out by the Accountant-General should be corrected.

(5) *Rule II.*—As the Administrator-General points out, the Advocate-General's remark that this Rule is inconsistent with Rule IV is not correct; but Rule II would be clearer if the word "individual" were inserted between "any" and "estate".

The clerical error in this rule which the Advocate-General points out should be corrected.

(6) *Rule III.*—In connection with this rule, the Advocate-General objects that Act II of 1874 does not give power to create either an Audit Fund or an Audit Investment Fund. It is true that such power is not explicitly conferred, but the

Government entirely concurs with the Administrator-General's view that the creation, or, rather, continuance, of the funds is not opposed to law and their abolition would give rise to the greatest inconvenience, besides involving additional expense to the estates under administration. The Government is not, therefore, prepared to accept and act on the Advocate-General's opinion in regard to this matter.

Rule III might, however, be considerably improved in form and the Government would substitute for it something to the following effect:—

"*Rule III*—(1) All moneys coming into the hands of the Administrator-General, except those invested under Rule II and those retained for current petty expenditure by the Administrator-General, shall be deposited by the Administrator-General in the Bank of Madras, and shall form his current balance.

(2) From the said current balance the Administrator-General may, at any time, withdraw any sum, not being less in amount than Rs. 5,000, and add it, by investment in Government securities, to the Current Balance Investment Fund; provided that the Administrator-General shall not, at any time, by such investment, reduce the said current balance below [figure to be suggested by the Administrator-General.]"

If the rule were drafted in this way, the second sentence of Rule IV might be omitted.

(7) *Rule VI.*—The Government agrees with the Administrator-General that this rule should be retained but it appears unnecessary to make any provision therein for annual report to Government, as proposed by the Accountant-General, or for annual application for approval, as suggested by the Administrator-General. The rule appears suitable and sufficient as it stands.

(8) *Rule VII.*—This is verbally defective, as pointed out by the High Court.

(9) *Rule IX.*—The reference to bonuses to retiring Administrators-General should be omitted. The cost of office furniture and temporary advances to estates which cannot immediately realize their assets are not chargeable to the Audit Fund in Bengal or Bombay and the Government would, therefore, omit these items from Rule IX. Charges on account of peons' badges and clothing and of pensions and gratuities are clearly such as (under section 42 of the Act) the Administrator-General should himself meet; neither in Bengal nor in Bombay do such charges seem to be debitable to the Audit Fund. For the words "Advance for costs of suits," should be substituted "Law charges" and the words "and sanctioned by G.O., No. 1413, dated 19th July 1881" should be omitted.

8. With reference to the above remarks, Mr. Wedderburn should now revise the draft rules and re-submit them to Government for formal sanction under the Act in supersession of the present rules. He will also be requested to report what fees (if any) for the inspection of the Administrator-General's books should be fixed by Government under section 43.

9. Finally, it is observed that the Administrator-General proposes to omit the present Rule X and to discontinue the half-yearly publication of the list of unclaimed balances set apart for creditors. It is, however, not quite certain whether the course proposed is consistent with the law and, as Government now proposes to credit to itself all the balances unclaimed for fifteen years, the reason for discontinuing publication of the list—namely, its great length—has disappeared. The matter should, therefore, be reconsidered and such addition as may be necessary should be made to the rules.

(True Extract.)

Chief Secretary.

To the Administrator-General.
" Accountant-General.
" Hon'ble the Chief Justice, with C.L.
" Government Solicitor.
" Financial Department.

Exd. S. J. Pereira.

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JUDICIAL.

Issued

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G.O., 22nd April 1895, No. 827.

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Administrator-General's Rules.

Passing orders on the revised draft of the —.

Submitted to H. Ex. for approval prior to issue. This has been amended by Mr. Butterworth with reference to H. Ex's orders on the original draft.

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