M.R.O. 1—77,006—8-6-37.

(1) Number of pages _____

(2) Date of repair _____

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

financial DEPARTMENT.

G.O. No. 170	Press Mis.
41-42	
Dated 25-3- 18 61	

41-42 61

Not to be folded or roughly handled

No. 41. Read the following letter from F. LUSHINGTON, Esq., Accountant General, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George ; dated 21st February 1865, No. 201.

Bond Department.

I have the honor to acknowledge receipt of the Proceedings of Government in the Financial Department, dated 17th January 1865, No. 38, communicating copy of a Despatch from the Right Honorable the Secretary of State, under date the 9th December last, No. 98, relative to the stamp duties leviable on Powers of Attorney executed in England for the receipt of monies in India.

2. As this office has hitherto always acted, on all doubtful points regarding the construction to be placed on the Acts of Parliament, under instruction from the Government Solicitor, and in advertence to the opinion expressed in the concluding paragraph of the letter above mentioned, I referred the point at issue in the present case for the opinion of the Government Law Officers, and have now the honor to annex copy of a letter from Mr. Boyson, dated 13th instant, giving cover to the Opinion of the Advocate General at this Presidency, which it will be observed coincides with that expressed by the Right Honorable the Secretary of State, regarding the construction to be put on Act XXVII and XXVIII Vict., Cap. 56.

3. With regard to the case which has been the immediate cause of this reference, I may observe that when Major General C. Holl's Power of Attorney was first presented to this office for registry, objection was taken to the 5 Shillings stamp borne on it, under instructions dated 13th July 1863, from the Government Solicitor, who then stated that a stamp of 5 Shillings was sufficient for Powers authorizing receipt of dividends not exceeding 10£ annually, and a stamp of 1£ for receipt of dividends exceeding 10£ per annum. As General Holl's Power apparently came under the latter classification, a 1 £ stamp was demanded, unless it could be shewn that the Power was limited to the receipt of dividends not exceeding 10 £ per annum.

4. Subsequently, however, the said Power of Attorney and several others were accepted with a 5 Shillings stamp, in accordance with the Government Solicitor's opinion, of the 31st December last, based on Act XXVII and XXVIII Vict., Cap. 18. This opinion Mr. Boyson now states was given in ignorance of the passing of Act XXVII and XXVIII Vict., Cap. 56.

5. Several powers bearing a 5 Shillings stamp have been presented for registry since 31st December last, and are now in the office. These powers will be returned to the parties, in view to a 30 Shillings stamp being affixed upon them, under the provisions of Act XXVII and XXVIII Vict., Cap. 56.

From J. R. BOYSON, Esq., Government Solicitor, Madras, to F. LUSHINGTON, Esq., Accountant General, Madras ; dated 13th February 1865, No. 69.

I have the honor to acknowledge your letter of the 6th instant, No. 357, (with its enclosure) relative to stamp duty on Powers of Attorney executed in England, and to be acted upon in India, in connection with the sale and transfer of (Indian) Government securities, and the realization in India of interest thereon.

2. I submitted the papers, with the former correspondence on the subject, for the consideration of the Advocate General, with whom I have also conferred, and I now forward a copy of his Opinion.

3. I may add, that when writing my letter to your address of the 31st December last, No. 649, my attention had not been drawn to the 27th and 28th Victoria, Chapter 56, and I was not aware of the passing of that Act.

COPY—OPINION.

If the question arose upon the earlier Act XVIII of 27 and 28 Vic., there might be some doubt as to whether the term "Government" applied to stock or funds of the Government of India. It is not necessary to decide that, though I think it would not. But the question arises on the later Act XXVII and XXVIII Vic. Cap. 56, the terms of which appear to me to

exclude Powers of Attorney given for the purpose of enabling parties in India to deal with Government Securities in India; for the powers therein spoken of are for the receipt of interest *payable* by Bills of Exchange on the Governments of India, Madras, and Bombay. The duty will be £1-10.

9th February 1865.

(Signed) J. B. NORTON,
Advocate General.

(True Copy)

(Signed) J. R. BOYSON,
Government Solicitor.

(True Copies)

(Signed) J. MACKEY,
Actg. 1st Asst. Acct. Genl.

No. 42. ORDER THEREON, 25th March 1865, No. 170.

Ordered that copies of the foregoing letter and its enclosure be transmitted to the Right Honorable the Secretary of State for India, with reference to his Despatch of the 9th December, No. 98 of 1864.

(True Extract).

Chief Secretary.

To the Deputy Auditor and Accountant General.

Exd. J. H. Burns.

No 69

Madras 13th February 1865

From
John Robert Boyson
Government Solicitor
Madras

To F. Lushington Esqre
Accountant General
Madras

Sir,

I have the honor to acknowledge your letter of the 6th Instant No 357 (with its enclosure) relative to stamp Duty on Powers of Attorney executed in England and to be acted upon in India in connection with the Sale and Transfer of (Indian) Government Securities and the realization in India of Interest thereon.

2 I submitted the papers with the former correspondence on the subject for the consideration of the Advocate General with whom I have also conferred, and I now forward a Copy of his opinion.

3 I may add that when writing my letter to your address of the 31st December last No 649, my attention had not been drawn to the 27 and 28 Victoria Chapter 56 and I was not aware of the passing of that act.

I have the honor to be
Sir
Your most obedt Servant
(Signed) J. R. Boyson
Govt Solicitor

Copy Opinion

If the question arose upon the earlier Act XVIII of 27 and 28 Vic: there might be some doubt as to whether the term "Government" applied to stock or funds of the Government of India. It is not necessary to decide that, though I think it would not. But the question arises on the later Act 27 and 28 Vic: C 56 the terms of which appear to me to exclude Powers of Attorney given for the purpose of enabling parties in India to deal with Government Securities in India. for the powers therein spoken of are for the receipt of interest payable by Bills of Exchange on the Governments of India Madras and Bombay. The duty will be £1-10-0.

(Signed) John Bruce Norton
Adv: Genl:

9th Feby/65

(True Copy)
(Signed) J R Boyson
Govt Solicitor

(True Copies)

Agt & Asst Actt Genl

Bond Department

Fort Saint George
Accountt Genls Office
21 February 1865

No 201

From
F. Lushington Esquire
Accountant General

To
The Honorable A. J. Arbuthnot
Chief Secretary to Govermt

Sir,

I have the honor to acknowledge receipt of the Proceedings of Government in the Financial Department dated 17th January 1865 No 38, communicating Copy of a Despatch from the Right Honble the Secretary of State under date the 9th Decr last No 98 relative to the Stamp duties leviable on Powers of Attorney executed in England for the receipt of Monies in India.

2. As this Office has hitherto always acted, in all doubtful points regarding the construction to be placed on the acts of Parliament, under instruction from the Government Solicitor, and in adherence to the opinion expressed in the concluding para: of the letter above mentioned I referred the point at issue in the present case for the opinion of the Government Law Officers, and have now the honor to annex Copy of a letter from Mr Boyson dated

dated 13th Instant, giving cover to the opinion of the Advocate General at this Presidency which it will be observed coincides with that expressed by the Right Honorable the Secretary of State regarding the Construction to be put on Act 27 and 28 Vict Cap. 56

3. With regard to the case which has been the immediate cause of this reference I may observe that when Major General C. Hollis Power of Attorney was first presented to this Office for registry, objection was taken to the 5 Shillings Stamp borne in it under instructions dated 13th July 1863 from the Government Solicitor who then stated that a Stamp of 5 Shillings was sufficient for Powers authorizing receipt of dividends not exceeding 10 £ annually and a Stamp of 1 £ for receipt of dividends exceeding 10 £ per annum. As General Hollis Power apparently came under the latter classification a 1 £ Stamp was demanded, unless it could be shewn that the Power was limited to the receipt of dividends not exceeding 10 £ per annum.

4. Subsequently, however, the said Power of Attorney and several others were accepted with a 5 Shillings Stamp in accordance with the Government Solicitors opinion of the 31st December last based on Act 27 and 28 Vict

Cap

Cap 18. This opinion Mr Boyson now states was given in ignorance of the passing of Act 27 and 28 Vict: Cap: 56.

5. Several Powers bearing a 5 Shillings Stamp have been presented for registry since 31st December last and are now in this Office. These Powers will be returned to the parties in view to a 30 Shillings Stamp being affixed upon them under the provisions of Act 27 and 28 Vict: Cap 56.

I have the honor to be
Sir
Your most obedient Servant
F. Lushington
Accountant General

RW
11

Copy
Authority

Rec.d 14th Jany. 65 - 56 - 54

Fin.l Letter to Govt. 27th March 2nd 6 of 1865.

Financial 1865 Department

From
The Accountant General
To
The Chief Secretary
to Government

Dated 21st
Rec.d 22nd February 1865

No. 207.
Revd
No 109

An excess Copy of the Advocate General's Opinion regarding the Construction to be put on Act 27 and 28 Vic. Cap 56 and states the circumstances under which General C. Hollo's Power of attorney was accepted with an 55 Stamp -

with an Order.

4

for the Steamer
To day

Order thereon. No 170 - 25th March 1865

Ordered that copies of the foregoing letter and its enclosure be transmitted to the R. H. the Secy. of State for India, with reference to his despatch of the 9 Dec.r, No. 98 of 1864 -

To the Dy. Accr. & Audr. Genl. Edes'd 28/3

41 + 42