

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 62 163	Press
52-53-54	~~Mis.~~
Dated 18-1-1909	

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 18th January 1859.

No. 52. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, Madras; to the Chief Secretary to Government, dated 8th January 1859, No. 15.

SIR,

1. I have the honor to solicit the attention of Government to Sections XXXIX and XL of the late Act for the better Government of India.

2. Section XXXIX vests all real and personal property of the (late) East India Company in Her Majesty, for the purposes of the Government of India: and Section XL provides as follows: "The Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and personal Estate whatsoever for the time being vested in Her Majesty under this Act as may be thought fit, or to raise money on any such real Estate by way of mortgage and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments or any interest therein, stores, goods, chattels and other property, and to enter into any contracts whatsoever as may be thought fit for the purposes of this Act; and all property so acquired shall vest in Her Majesty for the service of the Government of India and any conveyance or assurance of or concerning any real Estate to be made by the authority of the Secretary of State in Council, may be made under the hands and seals of *three* Members of the Council."

3. It would seem therefore that no real or personal Estate vested in Her Majesty for the purposes of the Government of India, can be sold or disposed of by the Local Government or by any authority other than the Secretary of State in Council with the concurrence of a majority of votes at a meeting: also that no land or hereditaments or any interest therein or any stores, goods, chattels or other property can be purchased or acquired by the Local Government of India or by any authority other than the Secretary of State in Council with the concurrence of a majority of votes at a meeting, and that any conveyance or assurance of any such real Estate must be under the hands and seals of *three* Members of the Council, thus involving the necessity of obtaining from London the authority of the Secretary of State in Council and a majority of votes at a meeting for either selling or leasing a small plot of public ground in India and then sending the conveyance or lease to London for execution by three Members of the Council.

4. Whilst India was under the Government of the East India Company, the Local Government dealt with property both real and personal belonging to the Company at their own discretion and on their own responsibility and all conveyances and assurances relating to real and landed property (as well as all other documents requiring execution on behalf of the East India Company) were executed by the affixing of the East India Company's *Corporate Seal*, with the sanction of the Governor in Council.

5. The 75th Section of the late Act provides that the Secretary of State in Council shall and may sue and be sued as well in India as in England by the name of the Secretary of State in Council *as a body corporate*, but the Act does not make any provision for the Secretary of State in Council having or using any Corporate Seal.

6. I would beg to suggest that the circumstances above adverted to be brought to the notice of the Secretary of State in Council and the Government of India as early as practicable, with a view to their being duly considered and the difficulties I have pointed out met and removed.

No. 53. ORDER THEREON, No. 62; dated 18th January 1859.

Resolved that the above letter be communicated to the Secretary of State for India, and to the Government of India, for the purposes indicated in the 6th para. of it.

(Signed) T. PYCROFT,
Chief Secretary.

real + personal property for the

Fort St. George, Judicial Consultation, 18th January 1859.

Ordered that the following letter be despatched.

No. 54. To the Secretary to the Government of India, dated Fort St. George, 18th January 1859, No. 63.

SIR,

I am directed by the Right Honorable the Governor in Council to submit copy of a letter* from the Government Solicitor, representing the difficulties which as he anticipates may arise from Sections XXXIX and XL of the recent Act for the better Government of India.

The Governor in Council has directed the transmission of the Government Solicitor's communication to the Secretary of State for India also.

(Signed) T. PYCROFT,
Chief Secretary.

No. 12.

*Resolved that the above letter
be communicated to the Secre-
tary of State for India, & to
the Government of India for the
purposes indicated in the
6th Para. of it.*

*Fort St. George, &
18 January 1859.*

The Government Solicitor. Supp. 21st

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Judicial Department. ³

No. 13.

The Secretary to the Govt. of India.

Sir-

I am directed by the Rt. Honble the Governor in Council to submit copy of a letter from the Government Solicitor, & to call the attention of His Honor the President in Council to the difficulty, as therein pointed out, arising from Sections ~~XXXIX~~, ~~XL~~, & ~~LXXV~~ of the recent Act for the better Government of India.

2. The tenor of Sections ~~XXXIX~~ & ~~XL~~ seem to deprive the local Governments of the powers, heretofore exercised by them, to deal with all real & personal property for the

At
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Dated 8 Janry. 1859. No. 15.

Representing the diffi-
culties which as he
anticipated may
arise

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(4)

the purposes of Govt., & to execute all conveyances & assurances for real & personal property & also all other documents requiring execution on behalf of the Home Authorities by affixing a Corporate Seal, which the Act now where provides for.

3. There would seem, therefore, to be an immediate necessity, for a legislative enactment, with retrospective effect from the date of the promulgation of the present Act, providing for the defects connected with the Sections cited in the preceding para.

4. The Governor in Council has directed the transmission of the Govt. Solicitor's communication to the Secretary of State for India also.

I have &c.

Fort St George,
18 January 1859.

(Here enter the following letter.)

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Reply to Mr. 1839 1839

In Com: 18 January.

Public 1839 1839

No. 1839

To the Secy. to the
Govt. of India.

18 January 1839.

I wish that the Govt.
should be better informed
the difficulties arising out
of the 39 1839 of the late
of the 39 1839 Govt. of India
be communicated to the Secy
of State for India and to the
Govt. of India with a view
to the circumstances stated
being duly considered and
the difficulties met and
removed.