M.R.O. 1—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 91-92	69	Press ~~Mis.~~
Dated	20. 1. 1883	

3/4

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 20th January 1863.

No. 91. Read the following Proceedings of Government in the Revenue Department, dated 13th January 1863, No. 73.

Forwarding copy opinion of the Advocate General in respect of the nature of the authority given to the Revenue Board to "determine the amount of Stamp which certain Deeds, &c., should bear." (Vide Proceedings Revenue Department, dated 13th January 1863, Nos. 140 & 141.)

No. 92. ORDER THEREON, 20th January 1863, No. 69.

To be recorded.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. O'Connor.

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras, to J. D. SIM, Esq., Secretary to Government, Revenue Department, dated Madras, 2nd January 1863, No. 1:—

SIR,

Dated 19th December 1862, No. 2,640, Revenue Department.

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

2. I submitted them with the further information subsequently obtained from you, for the consideration of the Advocate General, and I now forward for the information of Government a copy of his opinion.

COPY OPINION.

1. I entirely concur in opinion with the Government on both the points noticed in their Order dated 19th December 1862, No. 2,640.

2. It only requires to read Section XIX of Act X of 1862, with common attention, to see that the authority given to the Revenue Board to "determine the amount of Stamp which *such* Deed, Instrument, or Writing (*not all* Deeds, &c.) should bear," is governed and limited by the word "*thereupon*." Upon what, is then the question? Why clearly *upon application made* to the Board by any person who "shall entertain any doubt respecting the proper amount of Stamp Duty for any Deed, &c., &c.," and who shall apply to the Board "for an adjudication with a view to remove such doubt." To construe an authority so carefully and expressly limited, and given for one specific purpose, into a general power of adjudication with authority equal to that of the High Court, is opposed no less to the first principles of interpretation of Statutes, than to the plain and obvious meaning of the words of the Section in question.

3. I also entirely concur with Government in the opinion that the wording of Note (*b*) to Schedule B of Act X of 1862 was "*specially* designed to include all sums payable to the proprietor "by *every* description of tenant in the Estate under litigation." It is all very well for the Board to say that *they* view "the Ryots and the Ryots *only*" as the "actual proprietors" of all land in "occupation," which is no doubt the orthodox Munro doctrine; but the Board themselves will hardly deny that there are few points upon which a greater diversity of opinion exists, and that the Zemindars in general are not very likely to concur in the Board's opinion. Zemindars who did so differ in opinion would have a right, should the question of proprietorship arise, to have it decided by the High Court, and the question would then have to be decided by evidence, not by the view the Board might take, as to who were "the actual proprietors." Indeed the Board's opinion, or view, could not be received as *evidence* at all; and even if it could be introduced incidentally, the High Court would probably regard it as they would any general "adjudication" of the Board respecting "the value of Stamps legally requisite" which it might promulgate under the supposed authority of Section XIX.

(Signed.) T. SYDNEY SMYTH,
Advocate General.

29th December 1862.

(A true Copy.)

(Signed.) JOHN MILLER,
Acting Government Solicitor.

ORDER THEREON, 13th January 1863, No. 73.

Forwarded to the Board of Revenue who will communicate the purport of paragraph 3 of the Advocate General's opinion to the Collectors and Translators to Government.

(True Extract.)

Secretary to Government.

To the Board of Revenue.
" Judicial Department.

Exd. S. T. Augustin.

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73.

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No 102

Forwarding Copy opinion of the Advocate Genl. in respect of the manner of the annuity given to the Revd: Board to determine the amount of Stamp which certain Deeds re Land bear".

No: 69 – 20th January 63.

To be recorded.

91 & 92.