

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 291	Press
<i>608-249</i>	Mis.
Dated	6-2-18.69.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
6th February 1861.*

No. 68. Read the following Opinion from the Advocate General dated 31st January 1861 :—

1. As regards Mr. Franklin's belief that the deduction made from Dr. Arthur's bill for head money was not *contemplated* by the Act, I can only say that it appears to me that the Act was intended to get as much as possible from every body; particularly from every one who receives any money from any of the Indian Governments.

2. The words however of Part I, respecting Schedule 4, do not seem to me to reach a case like Dr. Arthur's. He clearly holds no public office or employment of profit in India, nor any annuity or pension payable by the Government of India. It may be more doubtful whether the word "salary" would meet his case, but I think the term salary, as here used in the Act, refers to that of a permanent or continuous employment, not to a single payment for a single job.

3. As regards Part X, Rule 1, doubtless Dr. Arthur's was, in common parlance, an "employment held under the Government," and the "emoluments attached thereto are payable by the Government;" but, looking at the whole Rule taken together, the words "office or employment whereof the salary or emoluments are payable by Government" &c., &c., seem to me to contemplate some office or employment of a permanent character having a fixed salary, or fixed emoluments in the nature of per centage or commission, and not an employment altogether foreign to India, upon a single job, to be remunerated by a single payment.

4. So with regard to Clause 7, and Rule 4, I am of opinion that Dr. Arthur is not a public Officer within the meaning of the Act. Rule 2 seems to me to govern what follows, and to show that the Act meant to refer to Officers serving *in India* (which Dr. Arthur clearly is not), and to public offices and employments of profit in India, and not on the high seas.

5. I think also that Mr. Franklin's remark as to Dr. Arthur's liability to return his year's earnings to the Income Tax Commissioner in England is well founded.

6. I think, as regards the second query, that Schedule 2, where it refers to profits of a profession, speaks distinctly of a profession "carried on *within* India" which it is admitted is *not* Dr. Arthur's case.

7. I have already said that I think the fact of the duty for which, the payment is claimed, and admitted to be due, having been performed on the high seas by a person not in the service of any Indian Government, nor a resident in India, is a ground for exemption.

(Signed) THOMAS SYDNEY SMYTH,

No. 69. ORDER THEREON, 6th February 1861, No. 291.

1. Under the opinion expressed by the Advocate General, the Governor in Council is pleased to direct the refund to Dr. Arthur of the sum of Rupees (121-9-0) one hundred and twenty-one and Annas nine, deducted on account of Income Tax from that gentleman's bill for head money on the Government passengers landed from the "Aliquis."

2. Ordered to be communicated to the Military Department with reference to the Order in that Department of 19th ultimo.

(Signed) J. D. BOURDILLON,

Secretary to Government.

No: 29 January 1861. N^o 2463-464

" 20th April 1860. N^o 362-363

Revenue 1861 Report
No: of Govt for Treasury.

No: 281,

Opinion of the Advocate
General.

Dated 31st January 1861
No: 1 January —"

Submits his opinion
regarding the deduction
made on account of
income tax from the
British's Bill for the
Treasury.

N^o 68+69.

No: 291. 6: February
Washington 1861

4. Copy to my Dep. Secy.
2. - Mr. Wm. L. G. and
3. - Secy. of Marine
3. - Acct. Gen.

No: 291.

Under the opinion of

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Return of the claim of the
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annas nine, deducted on acc
of income tax from that sum
income Bill for head money on
the Government's charge to
from the "Aliguns".

2. Ordered to the Commis

called to the Military Department
reference to the order in that Depart
of 19th March.

1861 Jan 6: 1861

Wm. L. G.