M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 22.

(2) Date of repair 24.2-67.

(3) Initials of the Referencer [illegible]

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue. DEPARTMENT

G.O. No. / B.P. No.	1349.	Press / Mis.
Dated	19-10-1874 196	

Not to be folded or roughly handled

No. 257. Read the following:—

OPINION.

As to the printed forms of Bills of Exchange, a refund of the duty on which is desired by the Secretary to the Madras Bank, I am of opinion that they may be deemed "spoiled or unfit for use" within the last clause but one of Section 46 of the General Stamp Act, 1869, as being negotiable instruments which have "never been brought into use."

2. As to the powers of attorney I do not consider that they can be deemed to have become "spoiled or unfit for use" within the meaning of Section 46. They cannot, without a too violent stretch of language, be regarded as falling within the 2nd clause of the section as suggested by the Collector. They are in no sense "spoiled or unfit for use," and the only reason why the Bank Agent wishes to cancel them is that the Bank authorities prefer another form. He ought, I think, to be informed that the refund cannot now be allowed, more than a year having elapsed since the purchase.

3. With respect to the Notification of the Government of India under which these refunds are claimed, I adhere to my previous opinion that the provision that a refund may be had within six months after the stamped paper becomes spoiled or unfit for use, although more than a year has elapsed from the date of purchase, is of very doubtful legality. Section 16 empowers the Governor-General in Council to remit or reduce the stamp duties on particular instruments; but I do not find in the Act any power conferred on the Governor-General in Council of varying the conditions under which a refund may be made under Section 45, and I scarcely think that such a power can be fairly inferred from Section 16. I think the point should be referred for the consideration of the Government of India in the Legislative Department, and, if necessary, for the opinion of the law-officers. One difficulty involved in the Notification is that in several of the cases of "becoming spoiled, etc.," mentioned in Section 46, it is impossible to say at what moment the spoiling takes place, and consequently to fix the commencement of the period of six months prescribed by the Notification. In my opinion, the refund can be legally made under Section 45 only within a year after the date of purchase.

No. 1,041 of June 13th, 1873.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

No. 258. ORDER THEREON, 19th October 1874, No. 1,349.

Separate Revenue, No. 20.
Stamps.

COMMUNICATED to the Board of Revenue in continuation of G. O., 26th August last, No. 1,087.

2. The opinion expressed in paragraphs 1 and 2 should be acted upon.

2
1849

Proceedings of the Madras Government, Revenue Department,
19th October 1874.

3. A reference to the Government of India will be made with reference to paragraph 3.

(True Extract.)

(Signed) C. G. MASTER
Acting Secretary to Government.

To the Board of Revenue.
,, the Government Solicitor.

Exd. F. R. Bantleman.

Govt. of India Madras.

REVENUE.

To

The BOARD OF REVENUE,

&c., &c., &c.

Dated October 19th.

Rec'd.

Encl.

G. O., 10th October 1874, No. 1,349.

OCTOBER.

Nos. 257-258.

Reference to Standing Order No. 1 of 1874 (Rules and Powers of Attorney).

Subject of Bills of Exchange and Powers of Attorney.

—Communicating to Revenue Board the Advocate General's opinion regarding claim for — preferred by the Madras and Oriental Banks; directing that the opinion expressed in paragraphs 1 and 2 be acted upon; and resolving to make a reference to the Government of India in regard to paragraph 3.

S/1349

3/1349

Oct 10th 1874

My dear Carmichael

With reference to the Govt order of 15 Dec 1873 No 1427 in which on "erroneous interpretation" is attributed to the Advocate General, I venture to ask you kindly to look through the papers again, as I think that my opinion is

5/1849

4/1849

was not understood; the mon
or as there occurs a misprint in the
which renders the whole to
nonsence.
I thought there a Number was Number
of the Notification of the Govt of
India is illegal as being
ultra vires - Section 16 of
the General Steam Act enables

the G.G. to remit or reduce the
Stamps in particular cases, but
not to modify the conditions under
which a refund may be made under
Section 45.
I think a representation should be
made to the Govern= of India,
pointing out the illegality of the
Notification, & requesting the
issue of another - At any rate

5/1849

I hope that I am not understood as pleading guilty to "an erroneous interpretation". I maintain that I am right & the Govt of India wrong.

Even were I so

I have the honour to be
Sir
Your most obedient
humble Servant
H Lawrence
Lahore
6th July

7th September 1874.

Re
The claims preferred by the Madras and Oriental Banks for Refund of Stamp duty paid on certain printed forms of Bills of Exchange and Powers of Attorney.

H.V.
13.10.74

The Honorable
The Advocate Genl:

Will be pleased to advise as requested in the accompanying Order of Government dated 26 August 1874 No 1087. Revenue Department

Prichard
Govt: Solicitor

Opinion

7/1869

As to the printed forms of Bills of Exchange a refund of the duty as claimed is deserved by the Secretary & the Madras Bank, & one of the opinion that they may be deemed "spoiled or unfit for use" within the last clause but one of section 46 of the General Stamp Act 1869, as being negotiable Instruments which have never been brought into use".

As to the powers of attorney I do not consider that they can be deemed to have become "spoiled or unfit for use" within the meaning of section 46. They can just as well be a too weeks after stamp

of language, to be regarded as pattern

to be the 2nd clause of the section, as

suggested by the Collector - They are as

suggested by the Collector. They are as

the only reason why the Bank agent

cancel

writes to grant them is that the

Bank authorities prefer another form.

It ought, I think, to be informed

that the refund can not now be

allowed, more than a year having

elapsed since the purchase.

3 With respect to the Notification of the

No 1041 of June 13. 1873. Govt. of India, under which these

refunds are claimed, I adhere

8/
1.349

to my previous opinion that the provision

that a refund may be had within 6 mths

after the Stamps become spoiled or

unfit for use, although more than a year

has elapsed from the date of purchase,

is of very doubtful legality. Section 16

in Council

empowers the Governor General to remit

or return the Stamp Duties on particular

Instruments, but I do not find in the

Act any power conferred on the Govern.

General in Council of varying the

Conditions under which a refund

may be made under Section 45, &

I scarcely think that such a power

can be legally inferred from Section 16.

I think the point should be reserved
for the consideration of the Govt. of Ind
in the Legislative Department, & if
necessary, for the opinion of the Courts of Law
Appeals. On difficulty involved in
the Notification is that in general
of the cases of "becoming provided for"
mentioned in Section 46, it is
impossible to say at what moment
the Sporting Rights have consequently
to fix the commencement of the period
of 6 months prescribed by the Notif.
In any opinion the refund can be
legally made under section 65, only within
a year after the date of purchase

No 3612.
Revenue 1874 Depart.

From

The Advocate General

Dated
Recd 14 } Oct. 1874.

SO No 1349. 19 October 1874

Stating his opinion on the claim to refund of Stamp duty paid on certain printed forms of Bills of Exchange and Powers of Attorney, prepared by the Madras and Oriental Bank Co.

257.

Revenue Department

No 1349 10/1363

Proceedings of the Madras Government
Under date the 19th October 1874

Read the following
opinion of the Advocate Gen

On the claim to refund
Stamp duty paid on cer-
tain printed forms of Bills of
Exchange and Powers of
Attorney, prepared by the
Madras & Oriental Bank Co

H.C. October 1874.

Communicated to
the Board of Revenue
in continuation of G.O.
20th August last. No
1087.

2. The opinion
expressed in paragraphs
1 and 2 should be acted
upon.

3. A reference to
the Government of Indi
will

will be made with
reference to paragraph

14 To the Board of Revenue Dec 5 No
14 · the Government Solicitor's