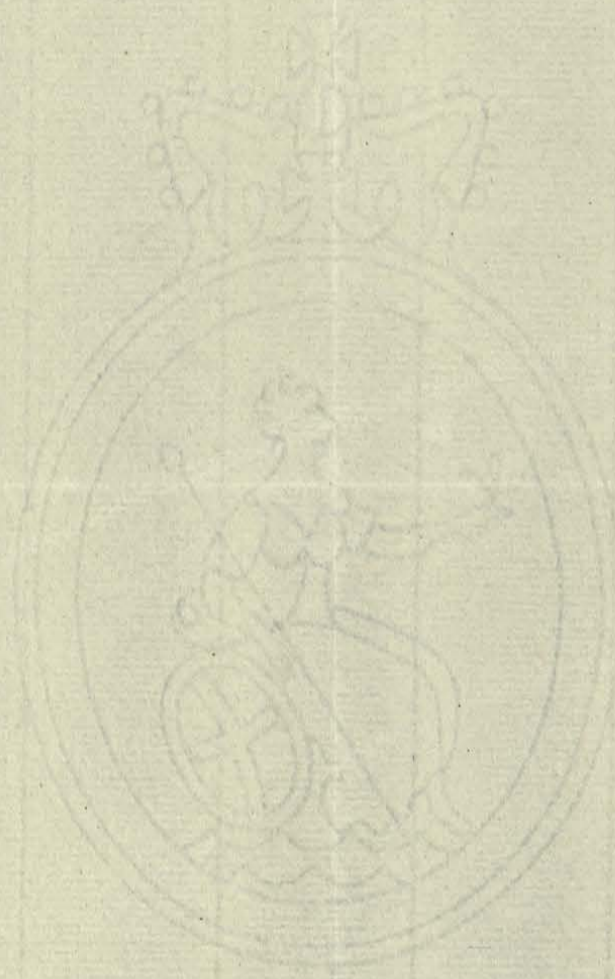


30906 — 30913



ALBERTINA
1881

✓

Case.

On the Construction of
51st Geo 3^d C.1. and
52^d Geo. 3^d C.8
in regard to the Property of
the Crown.

17 March 1812

75

Solrs
Treasury

The Board of Taxes having required a Return to the Income Tax for his Royal Highness The Prince of Wales, the 3.^d clause in the Act of the 23.th of his present Majesty relating to Taxes imposed or to be imposed upon His Royal Highness's Annuity was stated conceiving it to be an exemption (Vide the Act ~~sent herewith~~) upon which the following Letters have passed—

W.^o Lowndes President of Board of Taxes to W.^o Brent

Sir

I have fully considered the Import of the clause in the act relating to the affairs of His Royal Highness and am most decidedly of opinion that His Royal Highness's Income derived from the Annuity of £65000 is not exempt from the Income Tax, and that the claim is of a nature that when compared with other sources of Income, also under the same Circumstances, would render it extremely inexpedient to allow—

I am Sir

Your very humble servant—

W. Lowndes—

Tax Office

April 24.th 1799—

W.^o Brent to W.^o Lowndes—

Sir

Not being capable of discovering any grounds upon which I can alter my opinion respecting the Liability of The Prince of Wales's Annuity to the Income Tax. The words in the Act of Parliament for the Management of his Royal Highness's affairs being so immediately in exclusion of it. I shall feel infinitely obliged to you, for such reasons as have induced you to be of a different opinion from that you held, when I had the pleasure of meeting you—as I would upon every Account avoid the odium which must arise from an Appeal on the Subject—

I am Sir

Your very Obed.^t humble Serv^t.

Timothy Brent—

Carlton House

25.th April 1799—

W.^o Lowndes to W.^o Brent—

W.^o Lowndes presents his compliments to W.^o Brent, he upon looking attentively at the clause which W.^o Brent shewed him in the street, finds that the Annuity is free of Taxes, but the Income arising from that Annuity, is the object of the late Act. That clause means only that the Annuity shall be paid to His Royal Highness free of Taxes, when in his Hands the late Act effects it as his Income, all the Funds are exactly in the same Predicament, which is the reason why W.^o Lowndes thinks the construction put on the clause by W.^o Brent ought not to be allowed, as it will effect the produce so materially, and which reason he is persuaded will induce His Royal Highness to relinquish his claim to exemption—

Tax Office

April 26.th 1799.

~~W.^o Winter Secretary to the Board of Taxes to W.^o Brent~~

~~Office for Taxes 2.th May 1799—~~

~~the~~

30906

The Board of Taxes having required a Return to the Income Tax for His Royal Highness the Prince of Wales, the 3^d clause in the Act of the 25th of his present Majesty relating to Taxes imposed or to be imposed upon His Royal Highness's Annuity was stated concerning it to be an exemption (Vide the Act) upon which the following Letters have passed—
 M^r. Lowndes president of Board of Taxes to M^r. Brient.

Sir

I have fully considered the Import of the clause in the Act relating to the affairs of His Royal Highness, and am most decidedly of opinion that His Royal Highness's Income, derived from the annuity of £65000. is not exempt from the Income Tax and that the claim is of a nature that when compared with other sources of Income, also under the same Circumstances, would render it extremely inexpedient to allow—

Tax Office
 April 24th 1799.

I am Sir

Your very humble Servant.
 W. Lowndes

M^r. Brient to M^r. Lowndes

Sir

Not being capable of discovering any grounds upon which I can alter my opinion respecting the liability of the Prince of Wales's Annuity to the Income Tax, The words in the Act of Parliament for the management of his Royal Highness's affairs being so immediately in exclusion of it. I shall feel infinitely obliged to you, for such reasons as have induced you to be of a different opinion from that you held, when I had the pleasure of meeting you as I would upon every Account—avoid the odium which must arise from an Appeal on the Subject—

Carlton House
 25th April 1799.

I am Sir

Your very obed^t. humble Servant
 Timothy Brient

M^r. Lowndes to M^r. Brient

M^r. Lowndes presents his compliments to M^r. Brient, he upon looking attentively at the clause which M^r. Brient showed him in the street, finds that the Annuity is free of Taxes but the Income arising from that annuity, is the object of the late Act. That clause means only that the Annuity shall be paid to his Royal Highness free of Taxes, when in his Hands the late Act effects it as his Income, all the Funds are exactly in the same predicament, which is the reason why M^r. Lowndes thinks the construction put on the clause by M^r. Brient ought not to be allowed, as it will effect the produce so materially and which reason he is persuaded will induce His Royal Highness to relinquish his claim to exemption—

Tax Office
 April 26th 1799.

M^r.

COMMISSIONERS
1898



30907

Mr Winter Secretary to the Board of Taxes to Mr. Trent
Office for Taxes 8th May 1799.

Sir

The Commissioners for the affairs of Taxes having received an Application from the Commissioners for the parish of Saint James's respecting the Return of the Income of his Royal Highness the Prince of Wales. I am directed by the Board to refer to Mr. Lowndes's Letter on this subject and to request that you will receive the Commands of His Royal Highness and acquaint me whether it is his pleasure that a return should be transmitted through this office —

The Board are induced to submit this communication to his Royal Highness as in case no return is made either to this office or to the Officers they apprehend the Commissioners will be under the necessity of making an assessment upon his Royal Highness to the full amount of one tenth of the annuities granted by Parliament and of His other Income,

I am Sir

Your most humble Servant —

Matthew Winter

Your opinion is requested whether His Royal Highness's Annuity of £65,000 is not exempt from the Income Tax —

I am of opinion that so much of this sum of £65,000 (viz the £60,000 as is by the Act appropriated to liquidate the Princes Debts is exempt from the Income tax as a proper subject of Condition, but that the Prince is chargeable in respect of the £5,000 as part of his Royal Highness's clear Income —

Robert Graham

Lincoln's Inn May 24th 1799.

I think that by the 3^d sect of the 25th G. 3^d the Annuity of £65,000 is to be paid free from all Taxes imposed or to be imposed, but that the £5,000 over which alone His Royal Highness has any controul. becomes a part of his Income when paid to him, and is liable to the Income Tax —

V. Gibbs

Temple May 25th 1799.

Office for Taxes

11th June 1799 —

Sir

I am favoured with your Letter of the 9th Instant enclosing a Copy of the Case and opinion given by Mr. Gibbs on the subject of the Income Tax being charged on the Annuity granted to His Royal Highness the Prince of Wales by an Act passed in the 25th year of His Majesty's — Reign &c.

I am directed to acquaint you that the Commissioners for the affairs of Taxes have considered the Case and opinion transmitted to them, and see no ground to alter their Opinion that the whole of the £65,000 granted to His Royal Highness by his Majesty is subject to the Tax on Income notwithstanding the 3^d Section. They observe that £5,000 being the sum paid to His Royal Highness under the 6th section, is conceded to be liable and they are at a loss to consider why the whole £65,000 is not covered by the clause of Exemption if any part thereof is exempt. — They are led to consider from this, that the Learned Council has not grounded his opinion on the 3^d Sect of the

30908



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the Act. but on the different application of the two Sums of £60,000 and £5,000 the latter being receivable by his Royal Highness personally, or by his order, and the other being receivable by his officers for the express purpose of discharging thereout the Current Expences of the Quarter —

They admit that this mode of application may render a considerable part of that Sum not liable to the Income Tax, as the Income of his Royal Highness, but they cannot admit that the whole of the Sum which goes to pay the Expences of his Royal Highness's Household ought to be considered in the same light, on the contrary they think that the part which is expended in his Royal Highness's Household or about his person is as much His Royal Highness's Income as if it was paid to His Royal Highness personally —

They at the same time apprehend the learned Council may have been misled as to the application of the £6000 of the annuity granted by his Majesty and may have conceived it to be the Sum mentioned in Section 5. and appropriated to the payment of his Royal Highness's Debts That Sum is certainly not liable —

And if that mistake should have crept in, they doubt not but the learned Council will readily correct it —

Remaining of this opinion the Commissioners request that an immediate return may be made in the Manner best suited to his Royal Highness's Pleasure, and that if the Commissioners can be of service in digesting the statement they will with pleasure lend their best assistance — They also desire to have it observed that a statement should also be given of the Revenues of the Duchy of Cornwall —

I am Sir

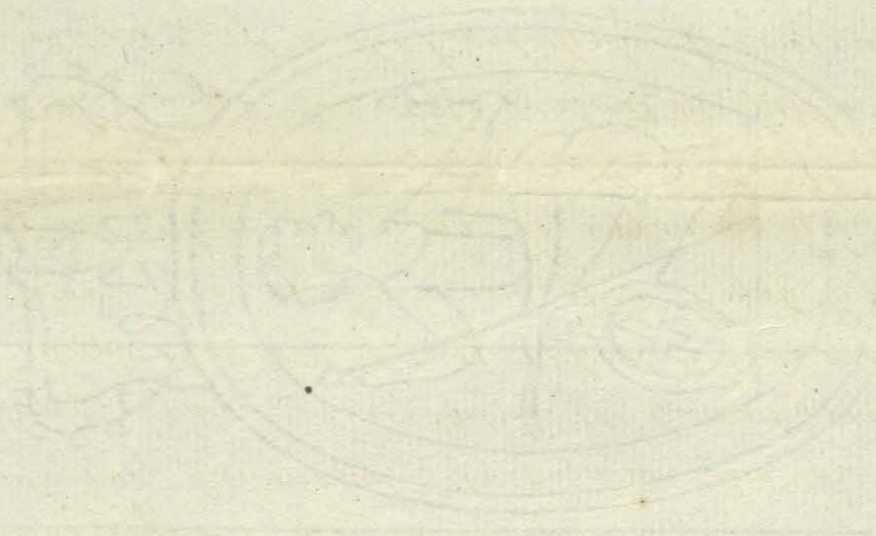
Y^r most Obed^t Servant

Matthew Winter

Timothy Buent Esq^r —

CHRISTIE'S

1803



30909

Case

On the Construction of the acts of the 51st Geo. 3^d Cap. 1 and 52^d Geo. 3^d Cap. 8 in regard to the property of the Crown.

The following is a Copy of a Letter from John Simeon Esq. one of the Masters of the Court of Chancery to Colonel Taylor

"London 17th March 1812."

My dear Sir

"As it is necessary we should have a clear View of the extent and nature
"of the Trust created by the Act of Parliament under which we are about to act
"I have applied my mind to the attentive Consideration not only of this Statute
"but also of the former acts of 51st Geo. 3^d C. 1. and of the 39th and 40th
"Cap. 88 of His present Majesty to both which the act of this Session refers
"as explanatory of its meaning

"It is not without some anxiety that I must state it to be my clear
"Opinion, subject to any doubts you may raise upon it that the last act
"embraces not only His Majesty's private and Trust property but every thing
"of which he is seized or possessed jure Coronae, real or personal, which is
"not taken from him by Statute or which he has not granted but as this
"is contrary to the first impression we both had under a preconceived Idea that
"it was intended to put only the private property of His Majesty within
"the trust created, I will state shortly to you the reasons upon which my
"Opinion is grounded

First - That there is no Limitation in the Act to private property
"- But as well in the Clause creating Commissioners as in every other
"Subsequent part of the Act the largest words are used viz. "Real and
"personal Estate and property" without any restriction and that these words
"comprehend all real & without any discrimination, seems abundantly clear
"by referring to the 29th Section of the 51st Geo. 3^d Cap. 1. where the words are
"All the real and personal Estate and property of His Majesty, in relation to
"which no disposition shall have been made by His Majesty before his Illness
"which shall not now be vested in any Trustee or Trustees for His Majesty's use

Do not the words scored under afford a
reason for limiting the construction of
the gen^l words the "real and personal Estate"
and property" to that property of which alone
he could previous to his illness have made
that undoubtedly was the intention
any disposition, and if these words will do
it then the gen^l words are limited necessarily
to private property. -

Sp. P.

①

30910



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" Shall immediately from and after the passing of this act vest & in the Queen
 " Prince Regent and privy purse) for the protection and care thereof during His
 " Majesty's illness and preservation thereof for His Majesty's use and future
 " disposal &

" So that all property public or private in trust or not is put under their
 " Control by that act and the act of this Session does not transfer the same
 " Trust to Commissioners which by the former Act was vested in the Queen Prince Regent
 " and Privy Purse; except only as to specific sums and payments to be received and made
 " by privy Purse which it was thought more convenient to leave to him

The reference in the recital of the 29th Section of the 51st Geo. 3^d Cap. 1 to
 " the 39th & 40th Geo. 3^d Cap. 88 clearly does not mean to narrow the Trust created by
 " the 51st Geo. 3^d to the private property of the King, treated of in the 39th & 40th
 " Geo. 3^d - That recital was intended merely for the purpose of excluding all doubts
 " whether the 51st Geo. 3^d should comprehend and extend to such property as had been
 " acquired by the King himself and was vested in Trustees and which was first made
 " private property by the 39th & 40th of the King - For before that Statute all
 " property whether devolving upon or purchased by the King vested in him in his
 " Royal and politic Capacity, Jure Corona, became annexed to the Crown and
 " would devolve upon his Successor on the demise of the King - but as the last &
 " mentioned Statute made property acquired by the Kings own act private Property
 " it became necessary that the Legislature when it was providing for the &
 " Administration and Support of the Executive Government during the Kings Incapacity
 " should expressly extend its Care to the Kings private Property or it must have remained
 " without any protection - The recital therefore does not mean to narrow but to extend
 " the construction of the Statute of 51. Geo. 3^d and the act of the present Session
 " is co-extensive with that.

It may possibly have this effect
 but certainly it was not so intended

Sp. P.

Secondly - From the nature of the Trust it is clear that no restriction could
 " be intended because the object of the Statute is to preserve the Kings property "during
 " his Indisposition" in order to reinstate him in it without damage when he sho^d
 " recover - and the trust must be commensurate with this object or else it is created in vain
 " as to all the property which it does not embrace. For it is no where vested in the
 " Prince Regent the natural Guardian and protector of it if no other be constituted - The
 " Clause appointing His Royal Highness, Regent transferring nothing but
 " the Royal power Privileges and Immunities but being quite silent as
 " to Transfer of property and expressly providing only the

30911



Civil List (with some Deductions) for maintenance of the Royal Dignity and with a limited power to make Grants to Captains out of the Druits of Admiralty Nor is it transferred to her Majesty; who has only an additional Income allotted for ~~the~~ purposes therein mentioned.

I beg you my dear Sir to examine and criticise these Reasons in support of the Opinion I have ventured so strongly to express, with that freedom ^{which} we should mutually use towards each other.

Although I should have been well pleased to have found the trust less extensive than it appears to me upon the fullest deliberation yet I will not shrink from my share of responsibility & Labour assisted by the Kindness & ability of my Colleagues; happy as I am sure we all are to render the best Service in our power to the affairs of our beloved & afflicted Sovereign

I have &c.

(signed) John Simeon

The foregoing Letter has been transmitted to the Solicitor of the Treasury with directions to lay the same before the Attorney & Solicitor General for their Opinion

1st Whether the Construction which Mr. Simeon seems to think must be put upon those clauses of the Regency Act which refer to the property of the Crown is right?

2^a Whether the same reasoning if it be correct in supporting this extensive Construction by which all the property of the Crown held pure Crown is supposed to be vested in the Trustees, would not extend to prevent the Treasury from issuing the money & Treasures of the King under the Regents Sign manual?

1st & 2^a Whatever doubt might have arisen concerning the extent of the 39th Section of 51st Geo. 3^d. C. 1. if this Act were to be construed by itself yet Reference must now be had, in construing it to the 11th & 15th Sects of 52^d Geo. 3^d. ^{c.d.}

30912

WILLIAM
ROBERTSON



which evidently contemplate the 51st Geo 3^d Cap. 1. as applying only to the real and personal property of the Crown within the 39th & 40th Geo 3^d and with the aid of this Legislative Interpretation we think that it may be so construed.

It is however to be observed that the 11th Sect. of the 52^d Geo. 3^d Cap. 8 appoints the Commissioners for the Management of His Majesty's Property generally and that the 12th Sect. has like general Words and that the 15th Sect. provides that nothing contained in the 51st Geo. 3^d relative to His Majesty's real or personal Estate or property under 39th & 40th Geo 3^d nor contained in this Act in relation to any such real or personal Estate or to any powers hereby given to the Commissioners for the Protection &c. of His Majesty's Property (generally) shall extend to any property usually issued under the Sign Manual & countersigned by the Lords of the Treasury or by any authority from the Treasury or shall authorize the Commissioners to interfere therewith. This clearly excludes the Commissioners from all Interference with property which has usually so issued but if there be any real or personal property at His Majesty's Disposal not within the 39th & 40th Geo 3^d and which is not usually so issued it furnishes a Strong Ground for saying that such property is placed under the Care of the Commissioners.

We cannot say whether there be any property of this Description or not.

3^d What distinction there is in Law between the Property given to the King by Parliament to be applied to any State purposes and any ^{other} Property which must be administered through his Treasury or his Surveyor General or other public Officer of the Crown.

In our View of the Subject these acts do not affect any property which is appropriated to particular Services or given up to the public. We apprehend that ^{the} Prince Regent may administer this in the usual form.

(signed) V. Gibbs
Tho^s. Plumer

Lin. Inn 28th May 1812.

30913

AMERICAN
MISSION

