

# The Public Record Office

John Avery Jones

# A mine of tax material

- What other sources do not tell you
  - Before we started negotiations with the US for the 1945 tax treaty we knew we had to adopt a foreign tax credit; we argued against it and eventually agreed; the US claimed it as a victory
  - 15% withholding tax on dividends (US 40% plus 15% of 60%; UK 50%); we had argued for nil US withholding tax; dividend article could be separately terminated
  - Nil withholding tax in interest: Senate told was same as Govt securities, but we deducted 50% from other interest
    - we thought 15% was discrimination in favour of Canada

# A mine of tax material

- 1930 legislation for agency tax treaties; Parliament told it was because of different views about where profit arose; Revenue told Ministers that Germany, Switzerland and Belgium were taxing UK residents doing businesses through agents there
- Why UK-Ireland defined company residence (to avoid *Swedish Central Railway*); copied on later tax treaties

# The whole story

- Singer family
  - UK residents receiving US dividends
  - US company bonus issue which the Revenue assessed as income (remitted?) affected 3-year average
  - Were making a *Gilbertson v Fergusson* deduction of half the dividends (started before UK subsidiaries formed)
  - Took technical points (assessment by Additional Comrs not signed and allowed by General Comrs; not validated by legislation saving income charged by wrong Comrs before Act) when faced with US tax 34%, no DTR except deduction, UK tax 10s 6d, 3-year average, income dropped in WWI

# Singer (2)

- *Singer v Williams* on whether foreign dividends were possessions (3-year average) or securities (current year basis)
- Real dispute was *Gilbertson v Fergusson*
  - Brothers had conflicting General Comrs decisions
  - Was settled, but for later years they could not obtain information about tax paid by UK subsidiaries from the subsidiaries (P&L accounts first published in 1929) or the Revenue (confidentiality)

# Princesse de Polignac

- Sister resident in Paris
- Bought house in UK in Washington Singer's name (but put telephone in her name) and claimed to be NR in affidavit not knowing what the Revenue knew from the solicitor's clerk who listened through a speaking tube (also the source of the Revenue's information about the bonus issue and the *Gilbertson* deduction)
  - Seller was brother of a member of the Board of IR
- Revenue prosecuted Washington (withdrawn at start of prosecution), the Princesse (stayed in France and the French refused to extradite a French citizen), and their solicitor (fined £500 but not struck off) with evidence from the solicitor's clerk

## Princesse (2)

- FE Smith (A-G) wanted to drop the prosecution for £20K in letter to Bonar Law (Chancellor of the Exchequer)
- Revenue could not agree but agreed to drop the prosecution of Washington S who had acted on advice
- As she was clearly non-domiciled why was she concerned about being non-resident?

# Princesse (3)

- She paid up as a resident
- *Williams v Singer* is the dispute for the first year of non-residence about the effect of the ending of the remittance basis for income from shares of her marriage settlement (UK resident trustees but income paid to her in the US)
  - Solicitor's Office said not taxable; counsel said appeal
  - Uncertainty in Revenue about effect of HL decision if trustees had received the income



# Incidental information

- Case heard with *W v S, Pool v Royal Exchange*, related to Mrs Axel Munthe (the Story of San Michele)
- Revenue telling the Chancellor “the question of cost is really a secondary matter and the important issue is rather the principles on which the double taxation agreement should be founded”

# 10 Tips

- Search the catalogue on the internet ([www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)) preferably using department code (IR, T, CUST) with customs under IR before 1816); catalogue says whether open or closed and until when
- Use all alternative names (Ireland did not find Irish Free State) and search more than once (on one occasion it failed to find a file of which I knew the number) with and without department code

## 10 Tips (2)

- Browsing can be useful for finding the relevant file (IR63 budget and Finance Bill) has 406 files from 1869)
- Some information that should be closed is open (UK-UK 1945 treaty material between the Revenue and the Chancellor under 1945 Finance Bill: 30 years, should be 75 years)

# 10 Tips (3)

- And the reverse
  - Singer file was listed as 1920 to 1950, closed until 2026) so try a Freedom of Information request (the file in fact ended in the 1920s)
  - UK-Ireland negotiations were in a closed file which was opened when I produced a copy that the Revenue had disposed of

# 10 Tips (4)

- The file title can be misleading (found a Solicitor's opinion on UK-Guernsey treaty in a file on Swiss partnerships)
- The Solicitor's Office (IR99) and their Counsel's opinions (IR98) (both closed 75 years) are particularly valuable but require 3 days' notice as they are off-site (make this clear in the internet order)

# 10 Tips (5)

- The PRO also has some books (website Research and learning/academic research/online resources)
- Also has Parliamentary papers on microfiche
- (although not the PRO) The Times online searched from a library is also a good source

# Practicalities

- Getting a reader's ticket is easy (bring proof of identity and address, see website [Visit us/plan your visit](#))
- Order files on the internet the day before (files ordered on the day 30-45 minutes)
- Good laptop and camera (better than copying) facilities
- Pencil (not rubber tip) and bound notebook
- Proposal to close Mondays in 2010 and to charge for car parking