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Reference	IOR/L/PS/12/58
Title	PZ 6064/32 'Mr C C Garbett: liability to British Income Tax during period of employment under Iraq administration'
Date(s)	29 Mar 1932-21 Mar 1933 (CE, Gregorian)
Written in	English in Latin
Extent and Format	1 file (43 folios)
Holding Institution	British Library: India Office Records and Private Papers
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About this record

The file contains correspondence regarding the outstanding payment from Colin Campbell Garbett of income tax for his employment by the High Commission, Baghdad, between 1920 and 1922. As well as Mr Garbett, the primary correspondents are: Colonial Office; India Office; Neville Chamberlain, Chancellor of the Exchequer.



Previous File.

P. 2191
20

IOR: L/PS/12/58

POLITICAL (EXTERNAL) DEPARTMENT.

P.Z.
6064
1932.

SUBJECT:

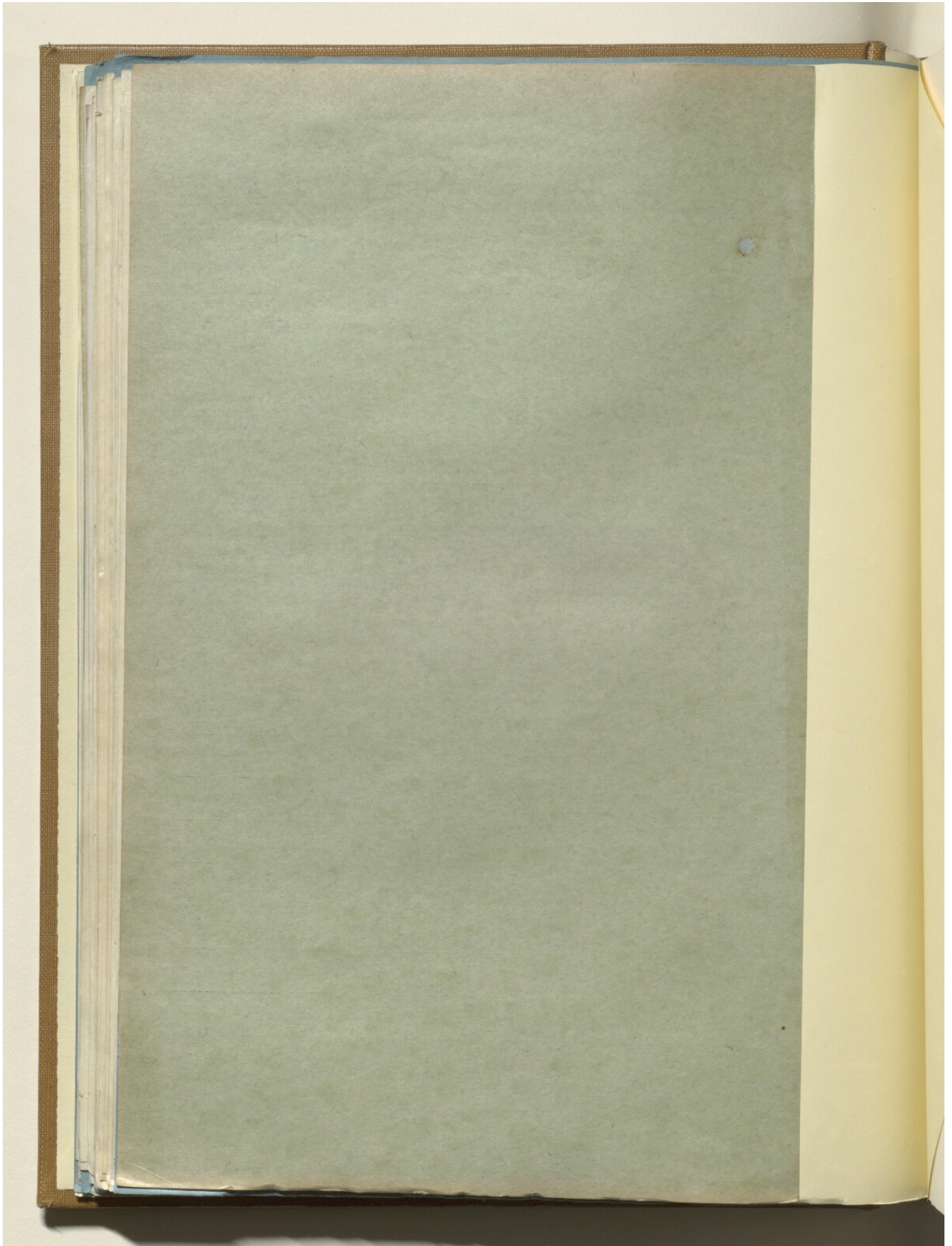
Mr C. C. Garbett: Liability to British
Income Tax during period of employment
under Iraq Administration

This File contains the following papers:—

YEAR.	
1932.	P. 2-5 & 11, 6064
1933.	P. 2. 1740
19	. P.
19	. P.
19	. P.
19	. P.
19	. P.
19	. P.

Papers may be removed from or placed within this File only by the Political Registry.

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INDEXED



96662/32.

P.V.
1740
1933

Colonial Office,
Downing Street, S.W.1.

27 March, 1933.

Handwritten notes:
P.B. 30/3
65
25/3

Handwritten notes:
6064/32
14/2/33

Dear Donaldson,

14th Feb. 1933.

With reference to Howard's letter of the 11th January, about the case of Mr. C.C. Garbett I enclose for your information a copy of a letter from Mr. Garbett containing his instructions to his bankers to pay the amount of income tax due.

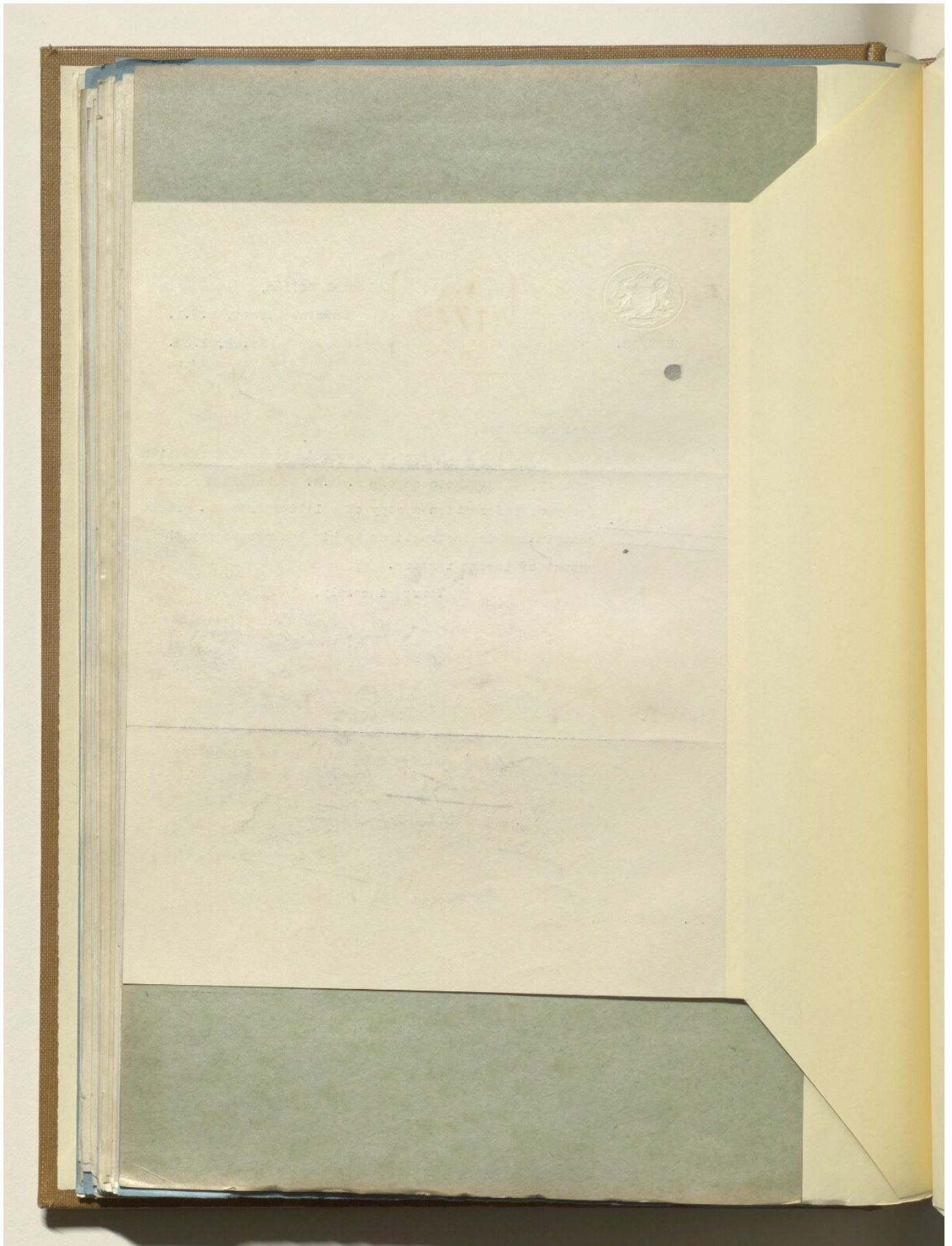
Yours sincerely,

Handwritten signature: L. M. C. Garbett

Handwritten notes:
Mr. Watson 14.2.33
Mr. Wakely 14.2.33
for information
Handwritten signature: R. M. C. Garbett
27.3.33

E.P. DONALDSON, ESQ.

X





COPY.

26, Race Course Road, Lahore,
14th February 1933.

To
The Under Secretary of State,
Colonial Office, London.

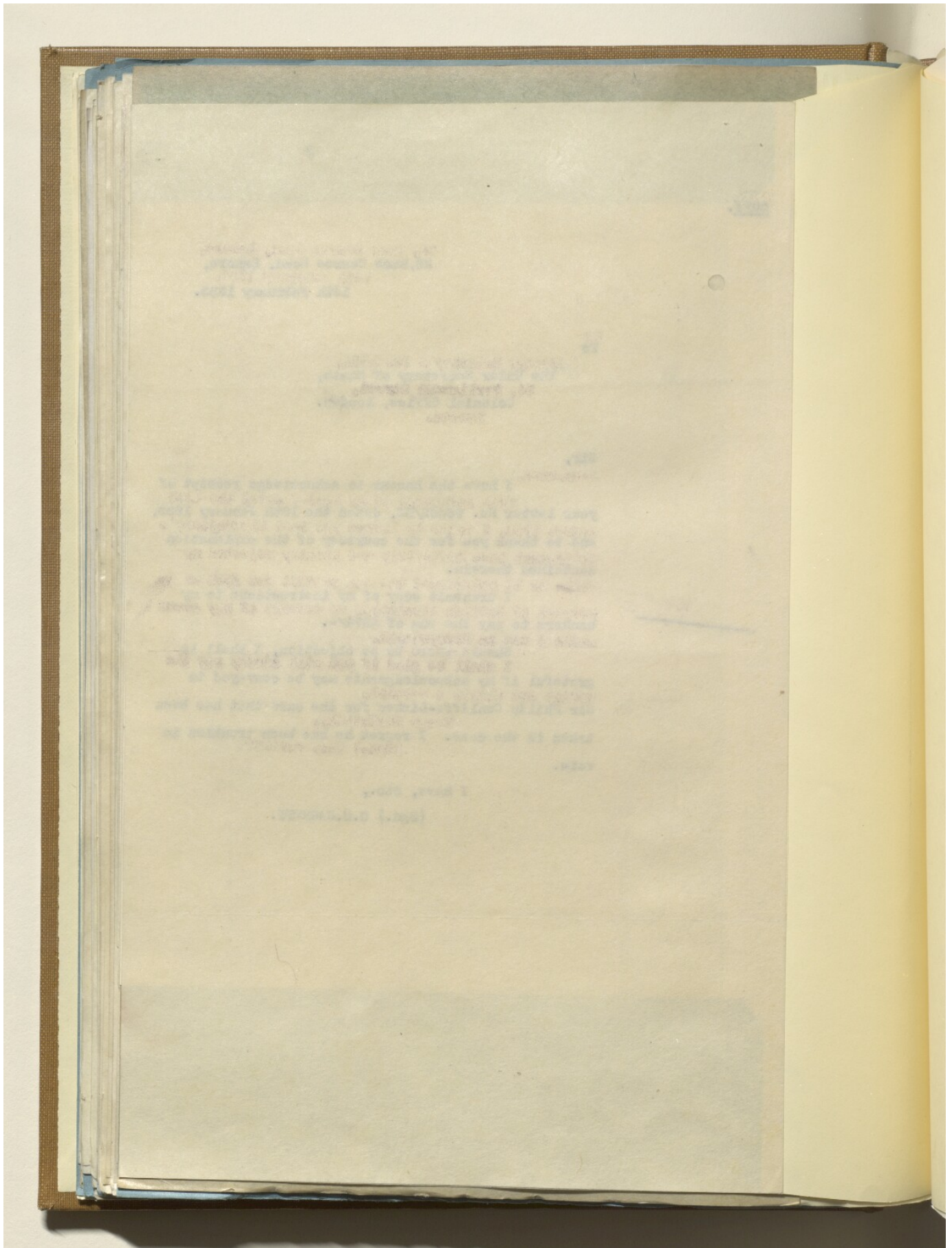
Sir,

I have the honour to acknowledge receipt of your letter No. 96662/32, dated the 18th January 1933, and to thank you for the courtesy of the explanation contained therein.

I transmit copy of my instructions to my bankers to pay the sum of 2274/-.

Should there be no objection, I shall be grateful if my acknowledgments may be conveyed to Sir Philip Cunliffe-Lister for the care that has been taken in the case. I regret he has been troubled in vain.

I have, etc.,
(Sgd.) C.C.GARBETT.





COPY.

26, Race Course Road, Lahore,
14th February 1933.

To
Messrs Grindlay & Co. Ltd.,
54, Parliament Street,
London.

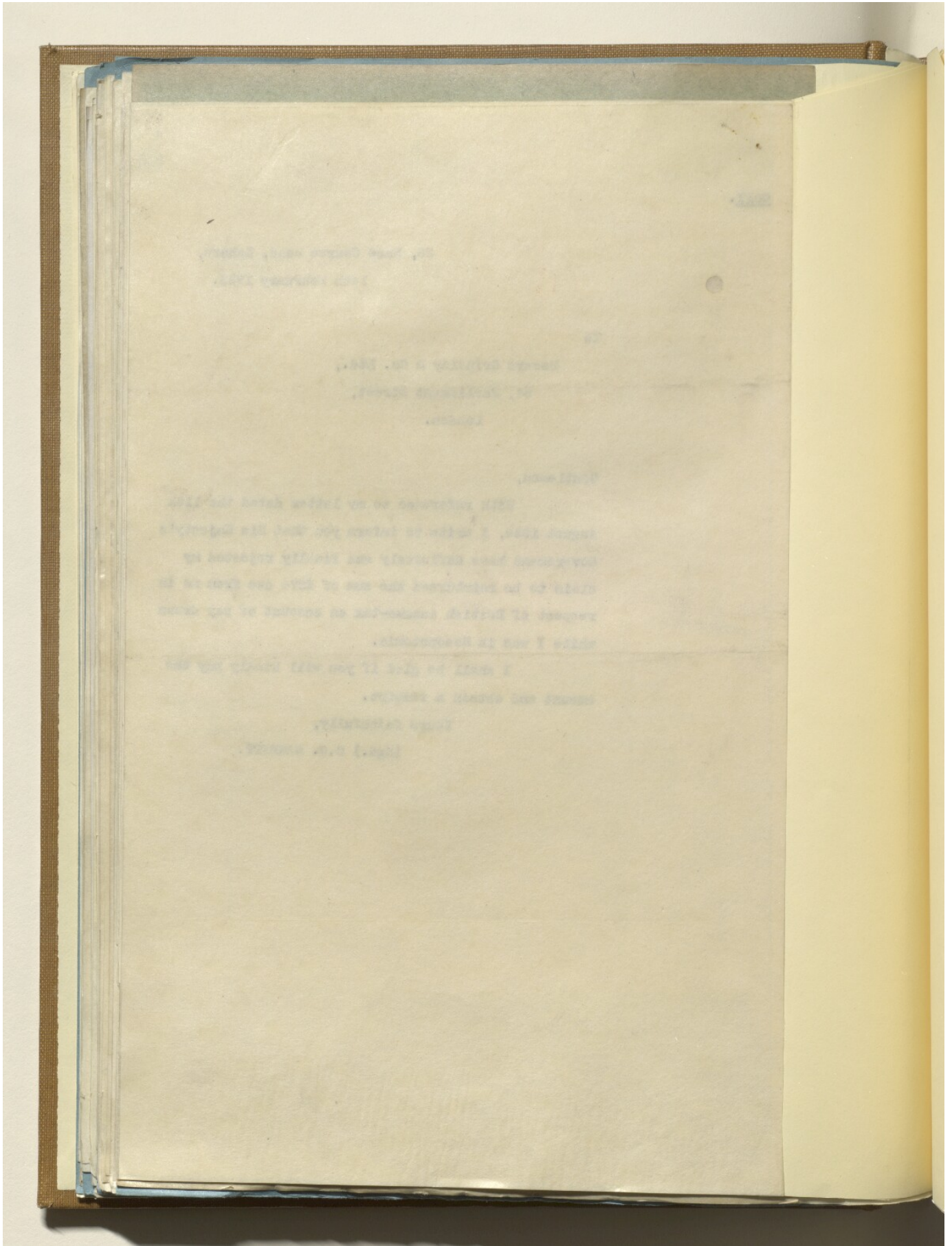
Gentlemen,

With reference to my letter dated the 11th August 1932, I write to inform you that His Majesty's Government have definitely and finally rejected my claim to be reimbursed the sum of £274 due from me in respect of British income-tax on account of pay drawn while I was in Mesopotamia.

I shall be glad if you will kindly pay the amount and obtain a receipt.

Yours faithfully,

(Sgd.) C.C. GARBETT.





Thank you. I have written privately to Mr. Garbett regarding the statement submitted by S.P. & (in enclosed are further from the letter part of the para. enclosed below.



721/23

Mr. Wakely.

Put by: [Signature] 27.1

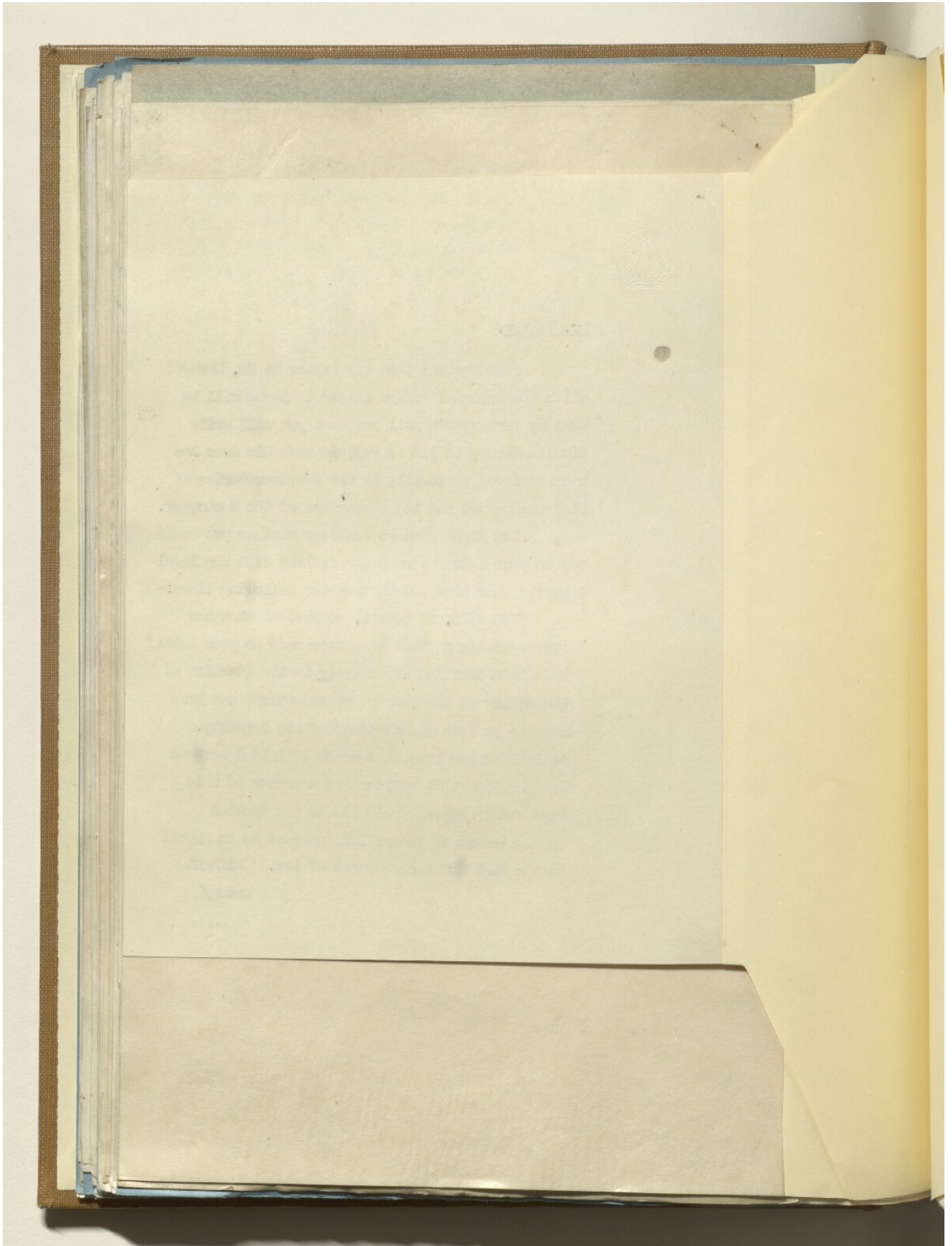
I understand that the letter to Mr. Garbett which the Colonial Office intend to issue will be sent by next week's mail and that you will write simultaneously to him to explain that his case has been reviewed personally by the two Secretaries of State concerned and the Chancellor of the Exchequer.

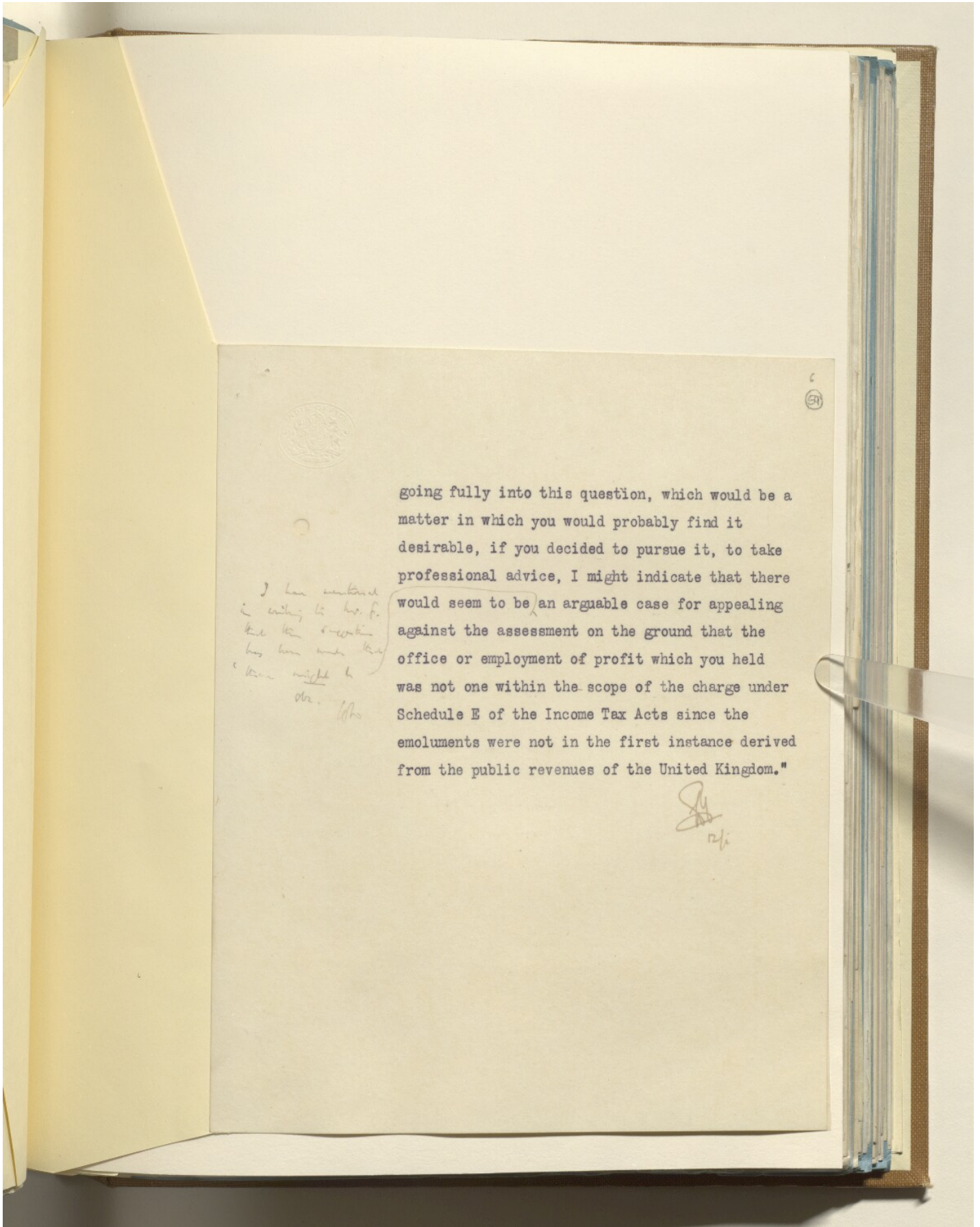
You might perhaps consider whether you could add to your letter a sentence dealing with the legal aspect of his case somewhat on the following lines:-

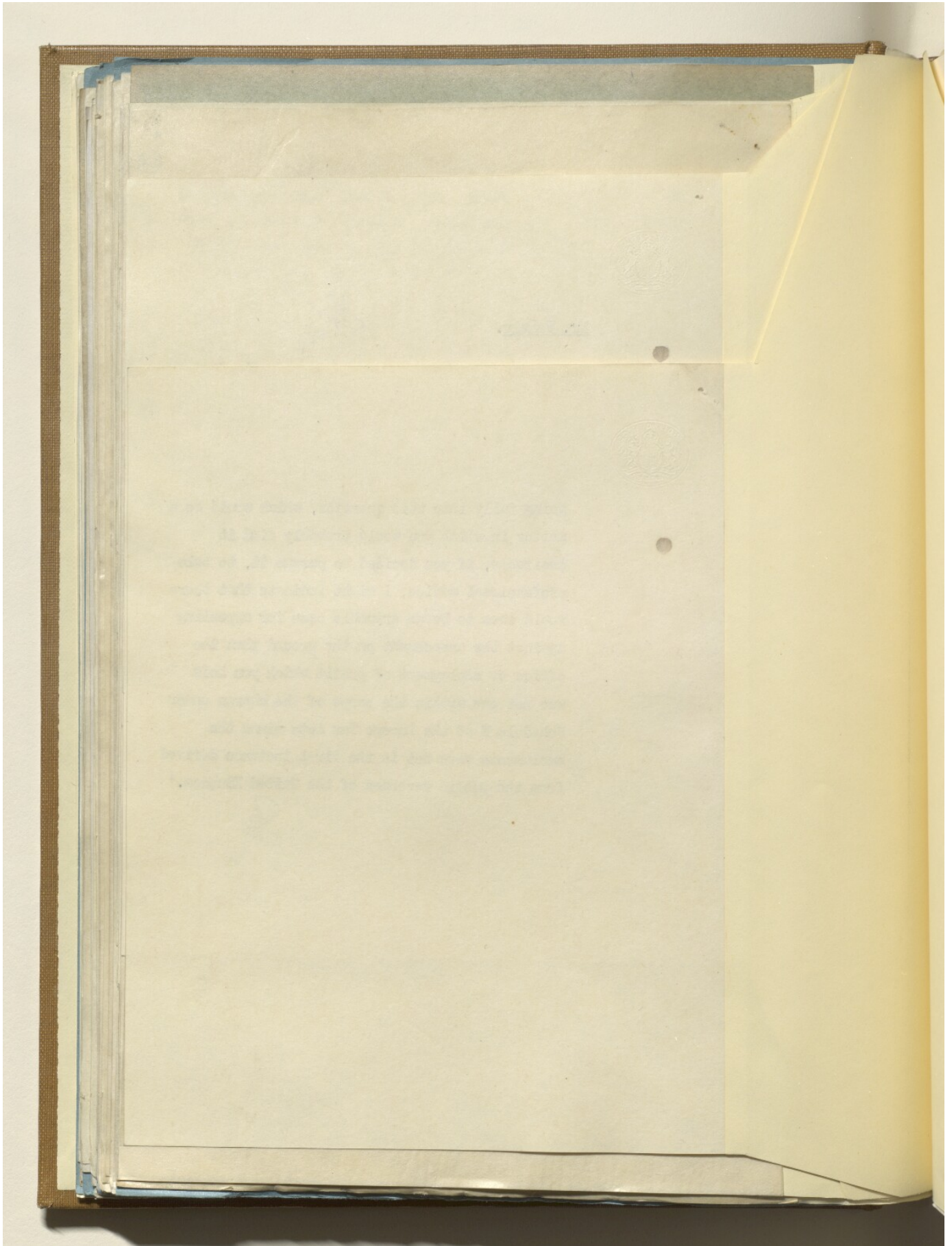
"You will, of course, understand that the representations which have been made on your behalf have been confined exclusively to the question of the equity of the charge and no attempt has been made to go into the question of its legality.

Has the Revenue satisfied as to legality?

As I think you know, the Board of Inland Revenue are not the final arbiters in a matter of this kind and an appeal would lie to the Special Commissioners of Income Tax, subject to an appeal to the High Court on a point of law. Without going/









96662/32.

Downing Street,
11 January, 1933.

Dear Donaldson,

To Mr. Chamberlain
7. 11. 1932.

Fr. -do-
1. 12. 1932.

To Mr. Garbett.

With further reference to Flood's letter of the 4th of October in regard to the case of Mr. Garbett, this matter has been referred to the Chancellor of the Exchequer by our Secretary of State. I enclose a copy of Sir Philip Cunliffe-Lister letter to Mr. Chamberlain and also a copy of the Chancellor's reply. You will see that it is quite definite, and I am afraid it must be taken as absolutely final. We shall now send a reply to Mr. Garbett, but the letter will not go off for another week. I enclose a copy of the letter which has been approved.

If anybody is writing to him privately from the India Office, it might be as well to let him know that the matter has been reviewed by the highest authorities personally. We can do no more for him.

You

E.P. DONALDSON, ESQ.



You may also like to see the enclosed note by our
Accounts Department.

Yours sincerely,

T. J. Howard



Copy.

Downing Street,
7th November, 1932.

My dear Chancellor,

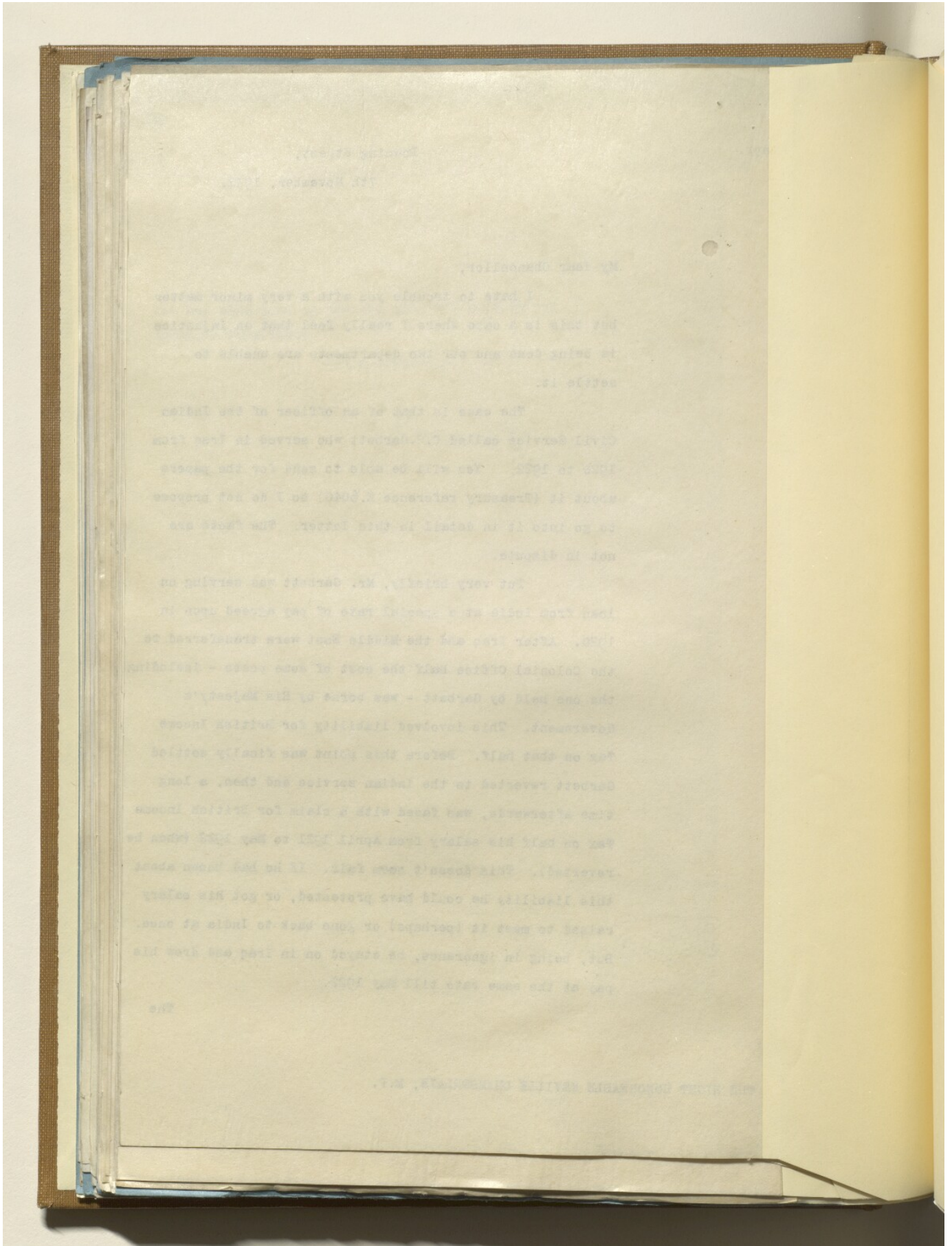
I hate to trouble you with a very minor matter but this is a case where I really feel that an injustice is being done and our two departments are unable to settle it.

The case is that of an officer of the Indian Civil Service called C.C.Garbett who served in Iraq from 1920 to 1922. You will be able to send for the papers about it (Treasury reference E.6040) so I do not propose to go into it in detail in this letter. The facts are not in dispute.

Put very briefly, Mr. Garbett was serving on loan from India at a special rate of pay agreed upon in 1920. After Iraq and the Middle East were transferred to the Colonial Office half the cost of some posts - including the one held by Garbett - was borne by His Majesty's Government. This involved liability for British Income Tax on that half. Before this point was finally settled Garbett reverted to the Indian service and then, a long time afterwards, was faced with a claim for British Income Tax on half his salary from April 1921 to May 1922 (when he reverted). This doesn't seem fair. If he had known about this liability he could have protested, or got his salary raised to meet it (perhaps) or gone back to India at once. But, being in ignorance, he stayed on in Iraq and drew his pay at the same rate till May 1922.

The

THE RIGHT HONOURABLE NEVILLE CHAMBERLAIN, M.P.



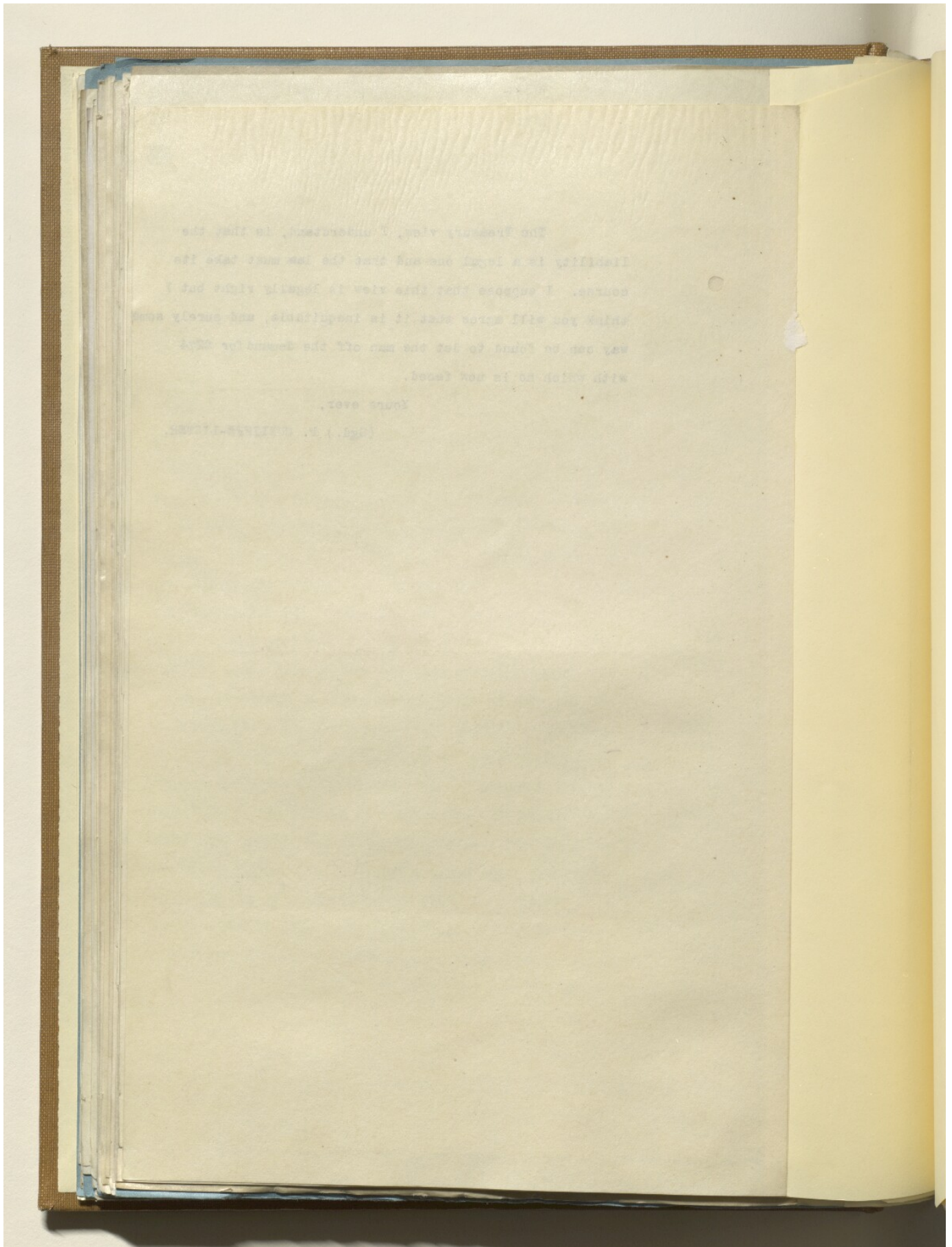


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The Treasury view, I understand, is that the liability is a legal one and that the law must take its course. I suppose that this view is legally right but I think you will agree that it is inequitable, and surely some way can be found to let the man off the demand for £274 with which he is now faced.

Yours ever,

(Sgd.) P. CUNLIFFE-LISTER.





Copy.

TREASURY CHAMBERS,
WHITEHALL, S.W.

1st December, 1932.

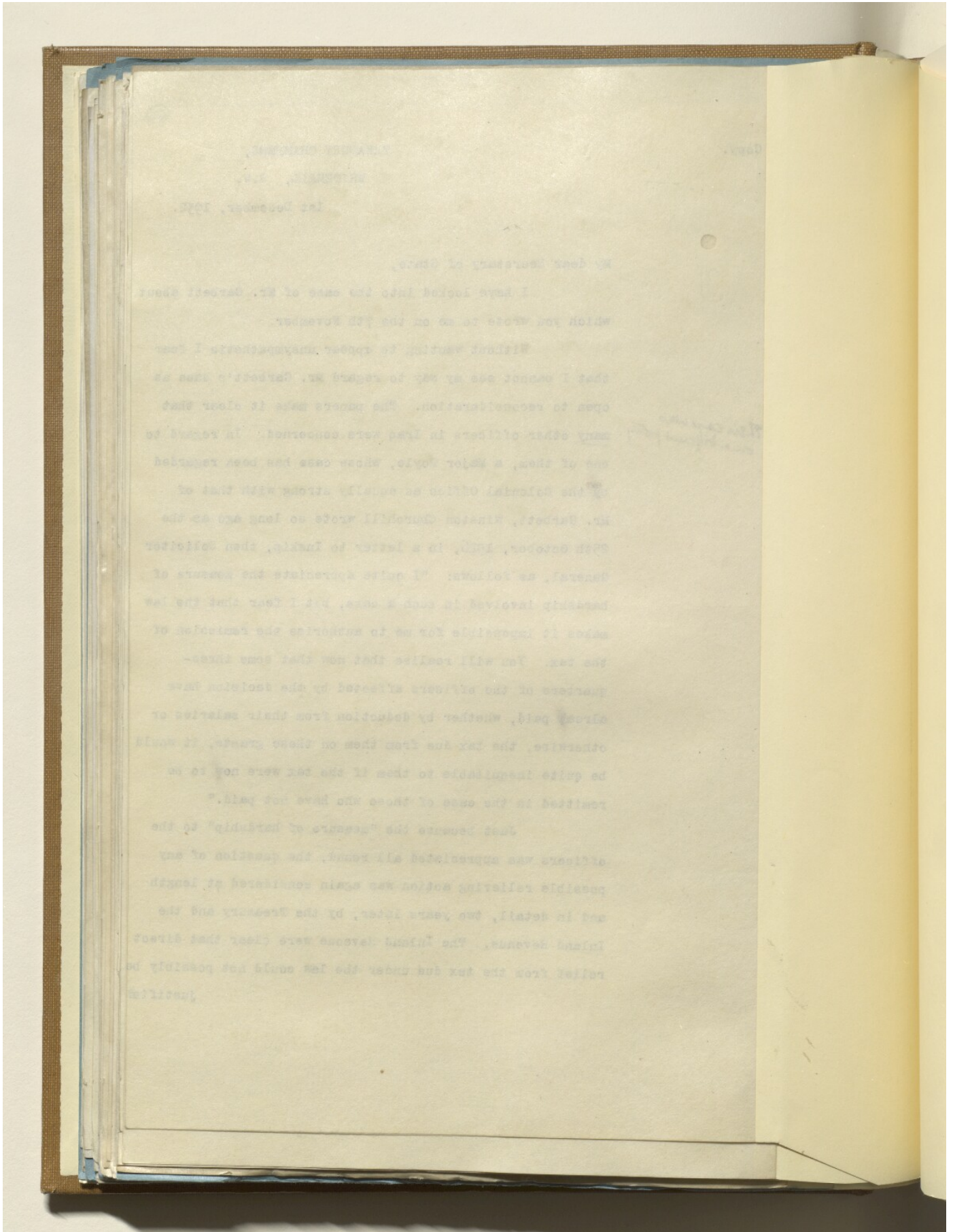
My dear Secretary of State,

I have looked into the case of Mr. Garbett about which you wrote to me on the 7th November.

This case was on a different footing.

Without wanting to appear unsympathetic I fear that I cannot see my way to regard Mr. Garbett's case as open to reconsideration. The papers make it clear that many other officers in Iraq were concerned. In regard to one of them, a Major Boyle, whose case has been regarded by the Colonial Office as equally strong with that of Mr. Garbett, Winston Churchill wrote so long ago as the 25th October, 1926, in a letter to Inskip, then Solicitor General, as follows: "I quite appreciate the measure of hardship involved in such a case, but I fear that the law makes it impossible for me to authorise the remission of the tax. You will realise that now that some three-quarters of the officers affected by the decision have already paid, whether by deduction from their salaries or otherwise, the tax due from them on these grants, it would be quite inequitable to them if the tax were now to be remitted in the case of those who have not paid."

Just because the "measure of hardship" to the officers was appreciated all round, the question of any possible relieving action was again considered at length and in detail, two years later, by the Treasury and the Inland Revenue. The Inland Revenue were clear that direct relief from the tax due under the law could not possibly be justified





*Yes, after agreeing
semi-officially to
drop the charge!*

justified, and the Treasury wrote eventually to the Colonial Office on the 25th October, 1929, that they had come to the conclusion that they would not be justified in asking Parliament to vote monies for the relief of the officers concerned. The Treasury decision was definite, and was of course followed, on the part of the Revenue, by a resumption of the work of collecting arrears.

*The Treasury never
sanctioned anything:
they agreed to Garbett's
salary on the understanding
that it came out of Iraq funds:
or he might have got a
complementary allowance from
Iraq funds.*

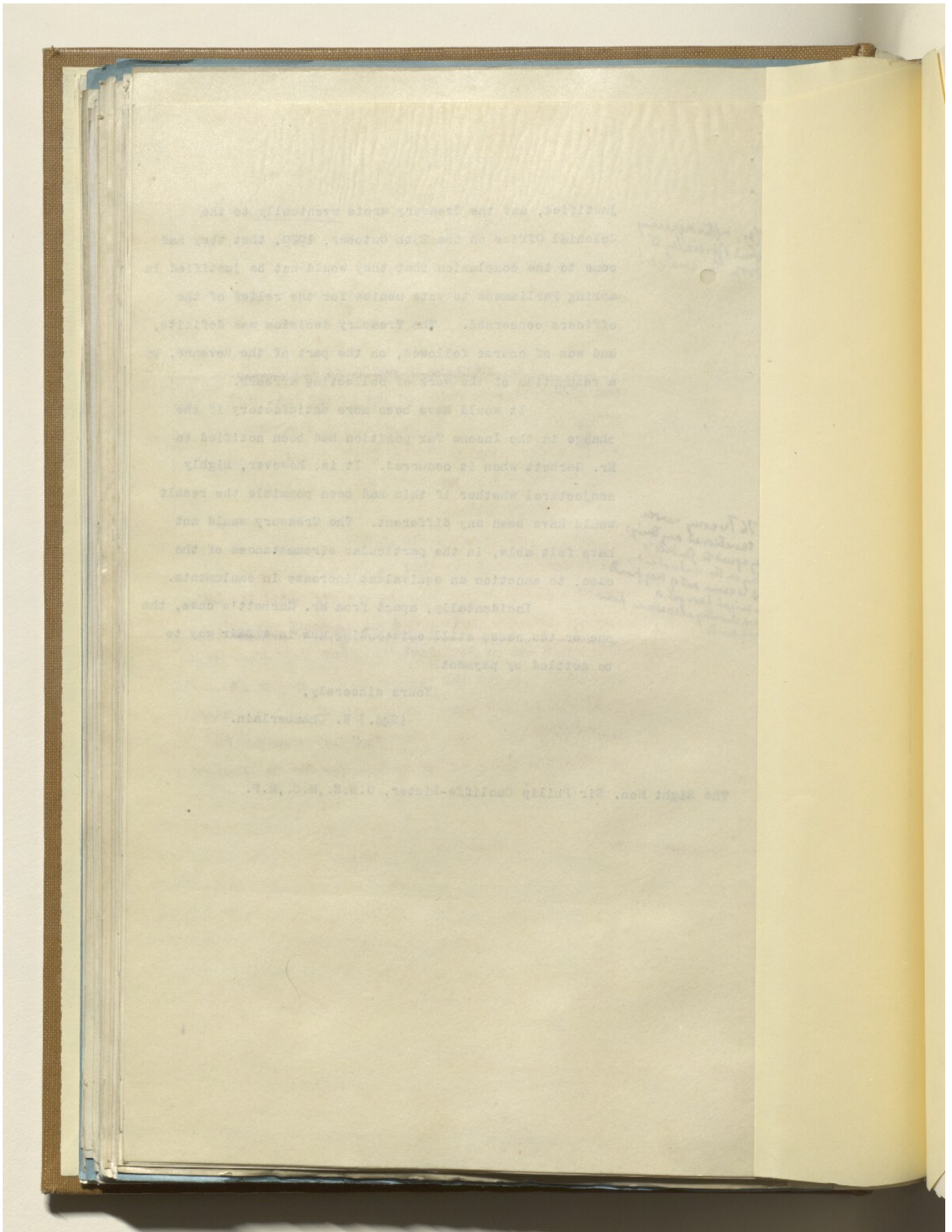
It would have been more satisfactory if the change in the Income Tax position had been notified to Mr. Garbett when it occurred. It is, however, highly conjectural whether if this had been possible the result would have been any different. The Treasury would not have felt able, in the particular circumstances of the case, to sanction an equivalent increase in emoluments.

Incidentally, apart from Mr. Garbett's case, the one or two cases still outstanding are in a fair way to be settled by payment.

Yours sincerely,

(Sgd.) N. Chamberlain.

The Right Hon. Sir Philip Cunliffe-Lister, G.B.E., M.C., M.P.





12.

(66)

January 3

96662/32.

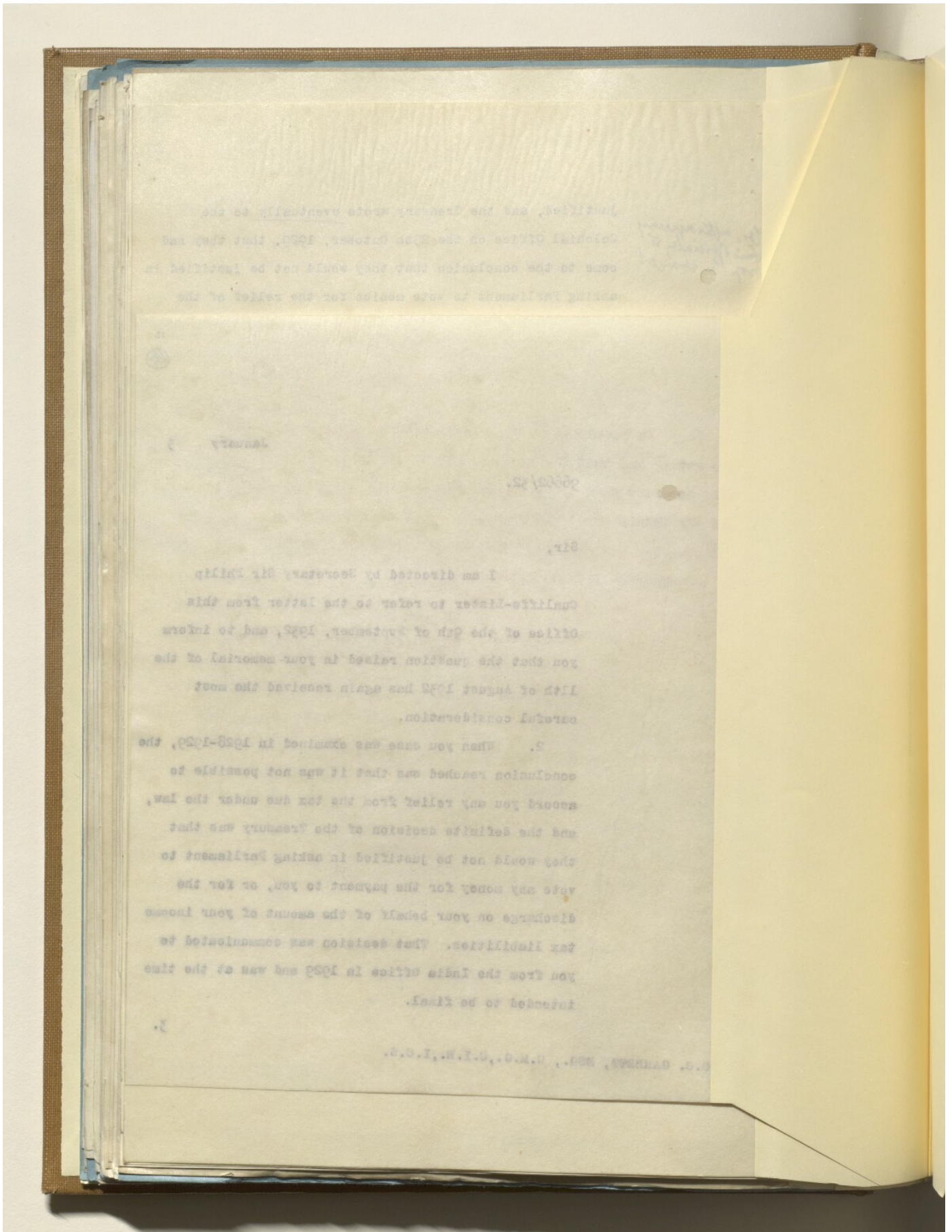
Sir,

I am directed by Secretary Sir Philip Cunliffe-Lister to refer to the letter from this Office of the 9th of September, 1932, and to inform you that the question raised in your memorial of the 11th of August 1932 has again received the most careful consideration.

2. When your case was examined in 1928-1929, the conclusion reached was that it was not possible to accord you any relief from the tax due under the law, and the definite decision of the Treasury was that they would not be justified in asking Parliament to vote any money for the payment to you, or for the discharge on your behalf of the amount of your income tax liabilities. That decision was communicated to you from the India Office in 1929 and was at the time intended to be final.

3.

C.C. GARBETT, ESQ., C.M.G., C.I.E., I.C.S.





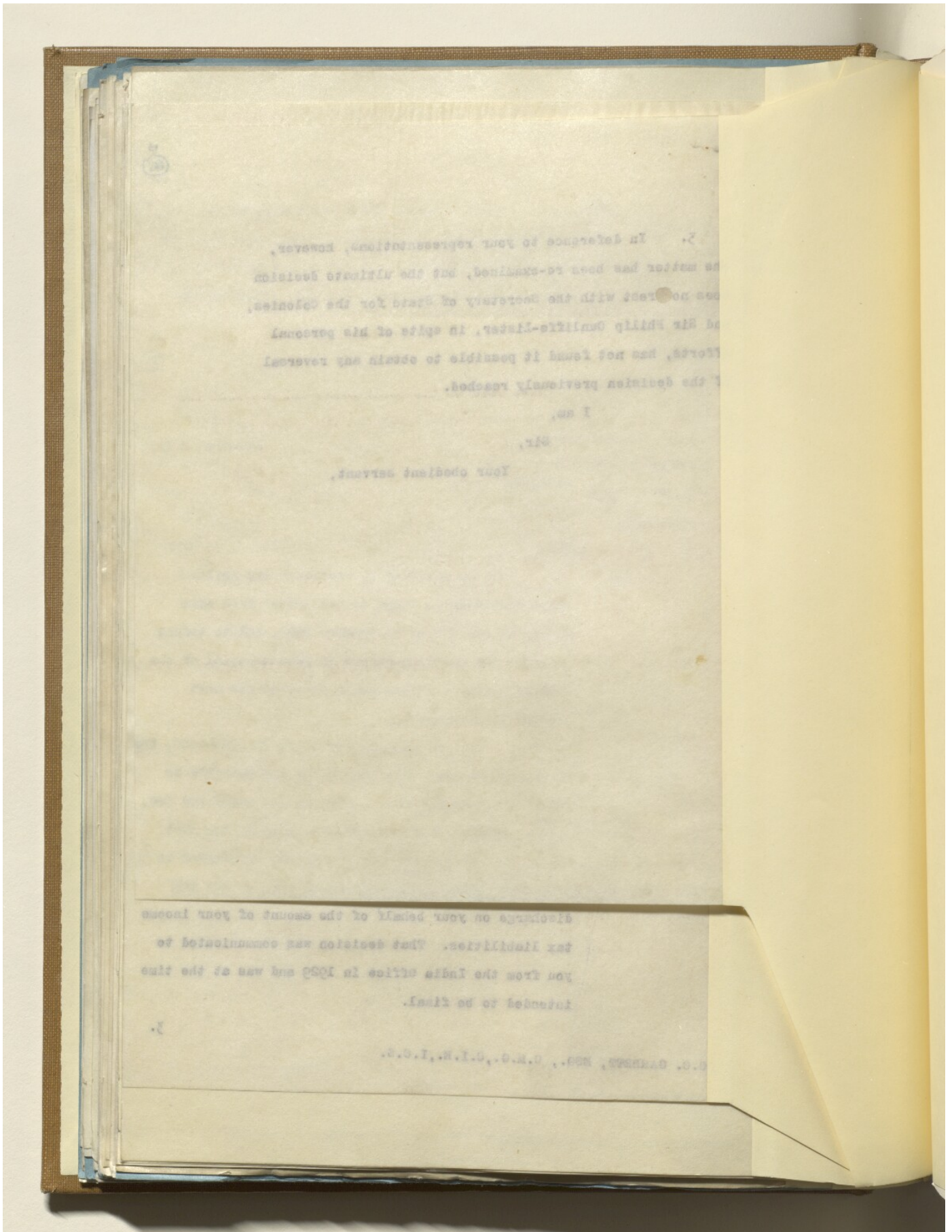
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3. In deference to your representations, however, the matter has been re-examined, but the ultimate decision does not rest with the Secretary of State for the Colonies, and Sir Philip Cunliffe-Lister, in spite of his personal efforts, has not found it possible to obtain any reversal of the decision previously reached.

I am,

Sir,

Your obedient servant,

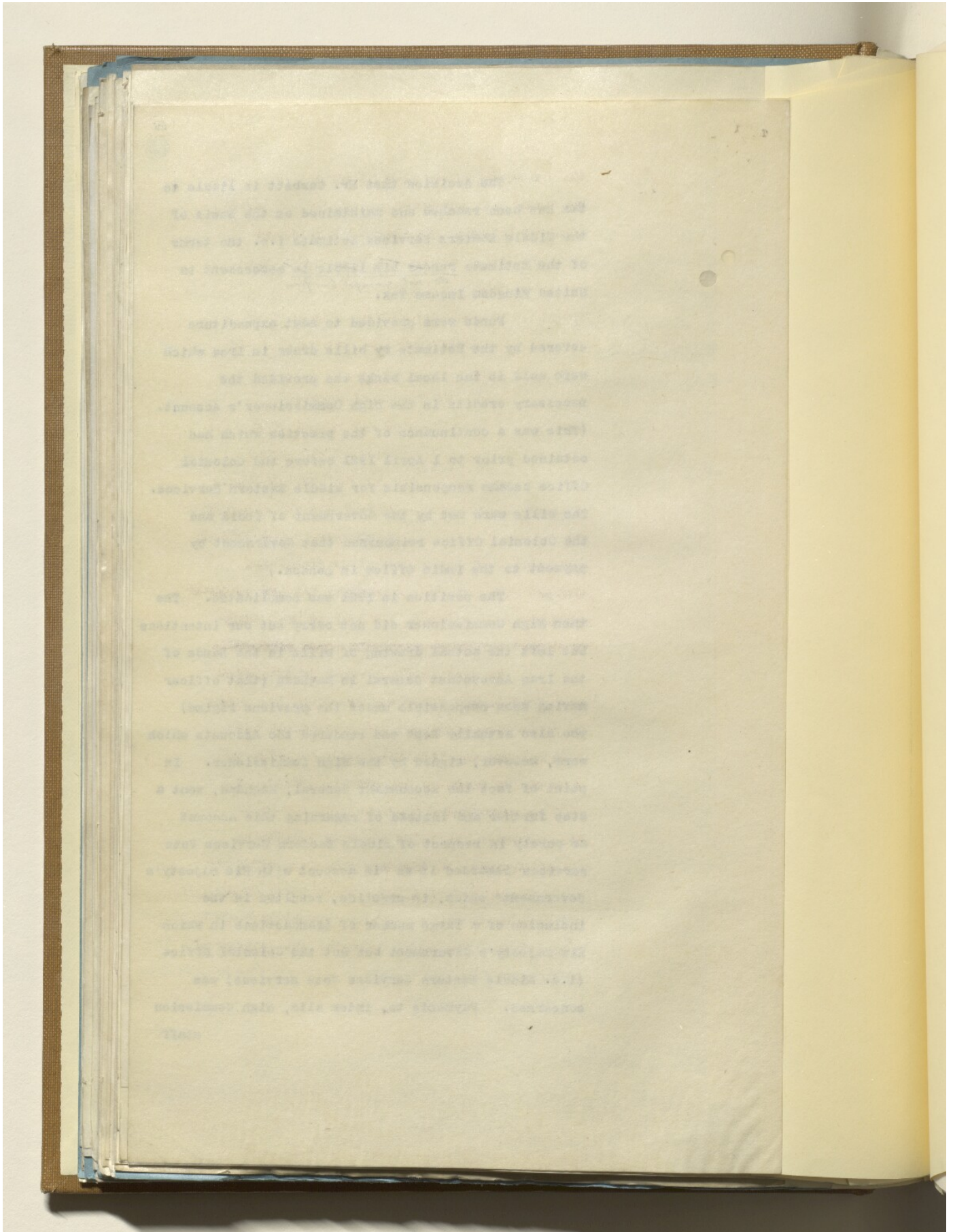




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The decision that Mr. Garbett is liable to tax has been reached and maintained on the basis of the Middle Eastern Services Estimate i.e. the terms of the Estimate render him liable to assessment to United Kingdom Income Tax. *do not exempt him from*

Funds were provided to meet expenditure covered by the Estimate by bills drawn in Iraq which were sold to the local banks who provided the necessary credits in the High Commissioner's Account. (This was a continuance of the practice which had obtained prior to 1 April 1921 before the Colonial Office became responsible for Middle Eastern Services. The bills were met by the Government of India and the Colonial Office reimbursed that Government by payment to the India Office in London.)

The position in 1921 was complicated. The then High Commissioner did not carry out our intentions but left the actual drawing of bills in the hands of the Iraq Accountant General in Baghdad (that officer having been responsible under the previous régime) who also actually kept and rendered the Accounts which were, however, signed by the High Commissioner. In point of fact the Accountant General, Baghdad, went a step further and instead of regarding this Account as purely in respect of Middle Eastern Services Vote services regarded it as "in account with His Majesty's Government" which, in practice, resulted in the inclusion of a large number of transactions in which His Majesty's Government but not the Colonial Office (i.e. Middle Eastern Services Vote services) was concerned. Payments to, inter alia, High Commission staff





The Credit side of which included the bills referred to above plus, roughly, a sum equivalent to $\frac{1}{12}$ of the annual amount of the Iraq share of the cost of the staff.

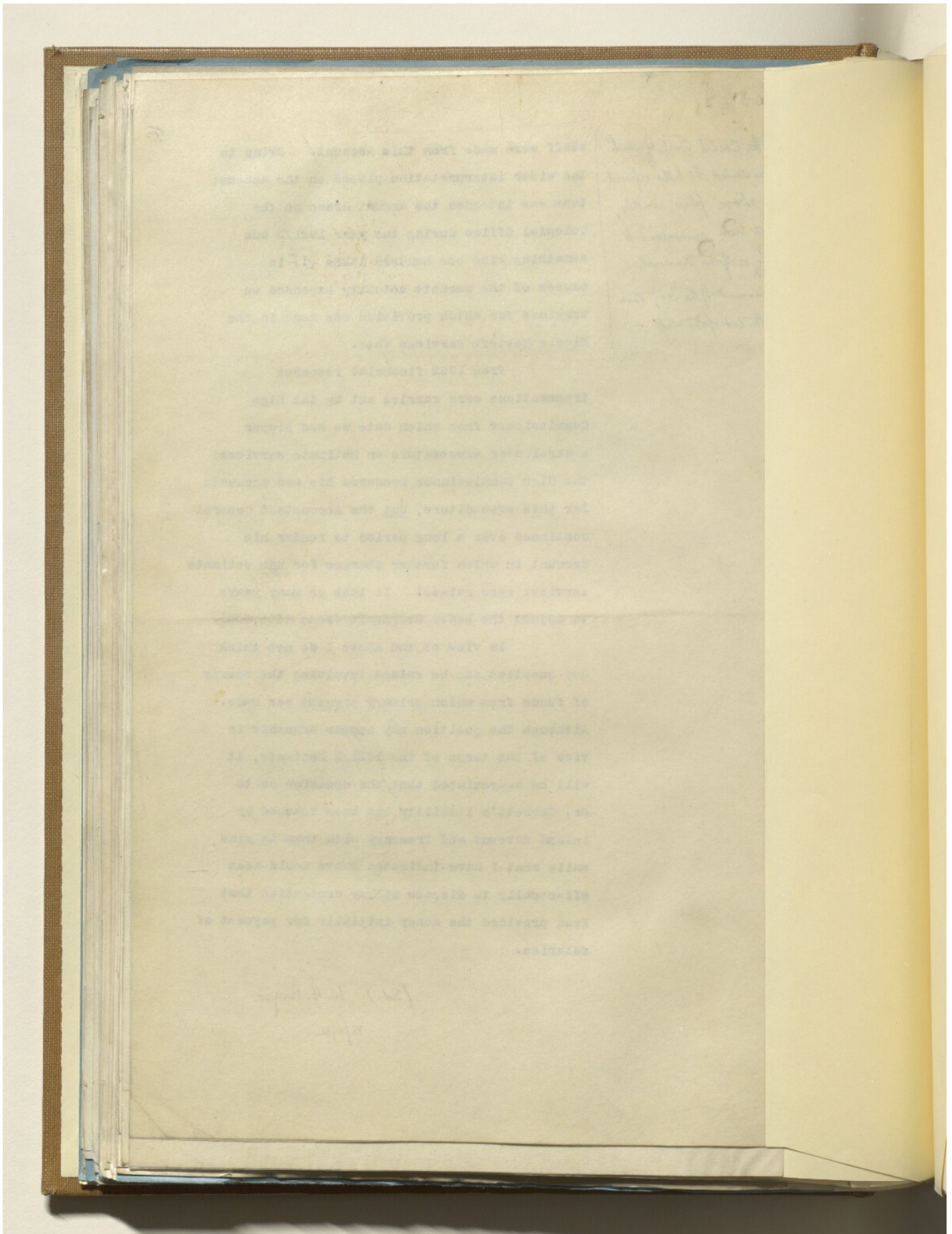
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62

staff were made from this Account. Owing to the wider interpretation placed on the account than was intended the amount drawn on the Colonial Office during the year 1921/2 was something like one hundred lakhs (£) in excess of the amounts actually expended on services for which provision was made in the Middle Eastern Services Vote.

From 1922 financial resource transactions were carried out by the High Commissioner from which date we had proper control over expenditure on Estimate services: the High Commissioner rendered his own accounts for this expenditure, but the Accountant General continued over a long period to render his account in which further charges for non estimate services were raised. It took us many years to adjust the heavy overdraft (some £600,000).

In view of the above I do not think any question can be raised involving the source of funds from which primary payment was made. Although the position may appear arguable in view of the terms of the 1921/2 Estimate, it will be appreciated that the decision as to Mr. Garbett's liability has been reached by Inland Revenue and Treasury with them in mind, while what I have indicated above would seem effectually to dispose of any contention that Iraq provided the money initially for payment of salaries.

(Sd.) W. H. Boyce
15/x/32





~~Mr. Garbett~~ agree. This is a hard case, but, try as I will, I do not see what more can be done. 16
Sits (69)

Secretary of Treas.

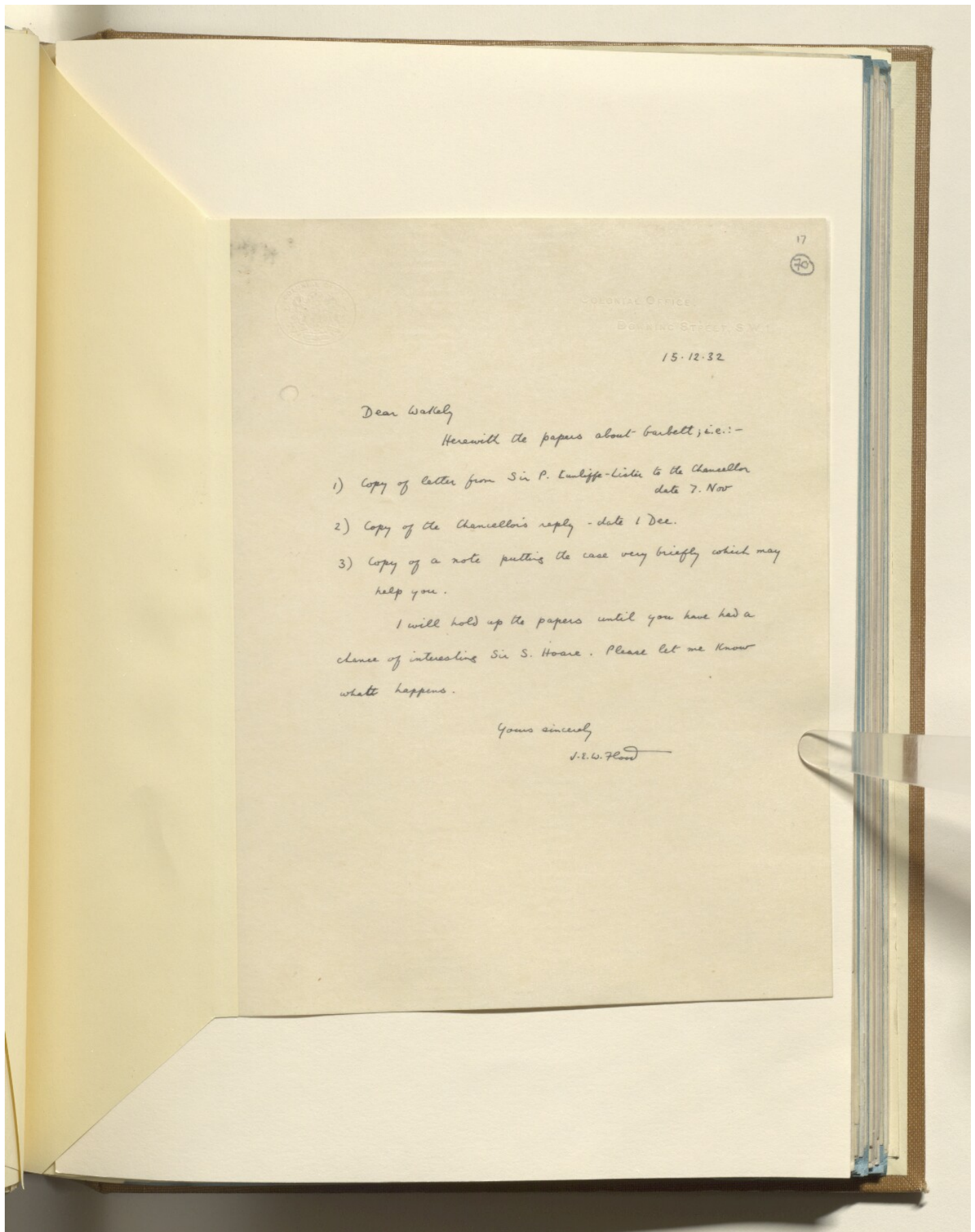
I hesitate to handle for like this case, which does not concern his Office except to the extent that Mr. Garbett was originally appointed to Mesopotamia, in 1920, by this Office, & that he still has a claim on us as a member of the Indian Civil Service. I had hoped that a satisfactory settlement might be reached between the Colonial Office & the Treasury; but the Treasury have now again refused to make any concession, & in view of Mr. Garbett's special request in his letter of the 11th August (P. 15 A) it would be difficult to give satisfaction to him - a matter being particularly so in consideration that he has been long (10 years)



an intermission of 2 years - if I could
tell him that the papers have been before you
personally (as they have already been before
P. Ansell-Lister & Mr. Chamberlain).

The facts will appear sufficiently from Mr. P.
Ansell-Lister's letter of the 7th November & the Circular
Office note below it. Mr. P. Ansell-Lister has not yet
replied to Mr. Chamberlain's letter of the 17th December,
but I understand that it is unlikely that he
will feel able to pursue the matter further.

The case is a hard one, particularly in that no
intimation of his liability to tax was made to Mr.
Garbett until long after he had received his pay in
Iraq & returned to Britain. If you feel that
you will write to Mr. Chamberlain I will accept
a draft. Otherwise may I tell Mr. Garbett, un-
officially, that the papers have been before you & that
you have not made any reply to the conclusion that there
is nothing more that can be done? L.H.L. 17.12.48



17
70

COLONIAL OFFICE
DOWNING STREET, S.W. 1

15.12.32

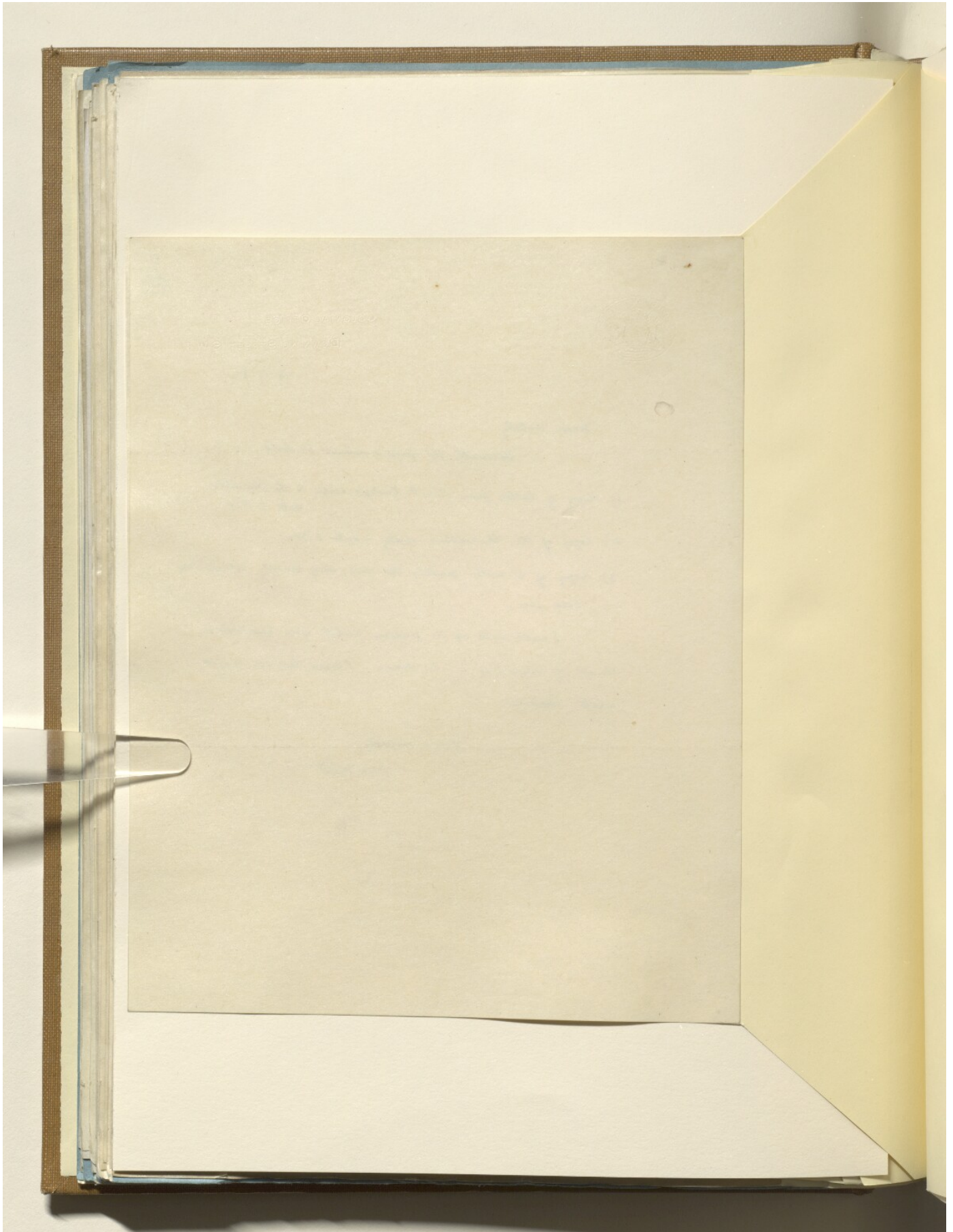
Dear Walsely

Herewith the papers about Garbett; i.e.:-

- 1) Copy of letter from Sir P. Lushington-Lister to the Chancellor date 7. Nov
- 2) Copy of the Chancellor's reply - date 1 Dec.
- 3) Copy of a note putting the case very briefly which may help you.

I will hold up the papers until you have had a chance of interesting Sir S. Hoare. Please let me know what happens.

Yours sincerely
J.E.W. Flood





Copy.

TREASURY CHAMBERS,
WHITEHALL, S.W.

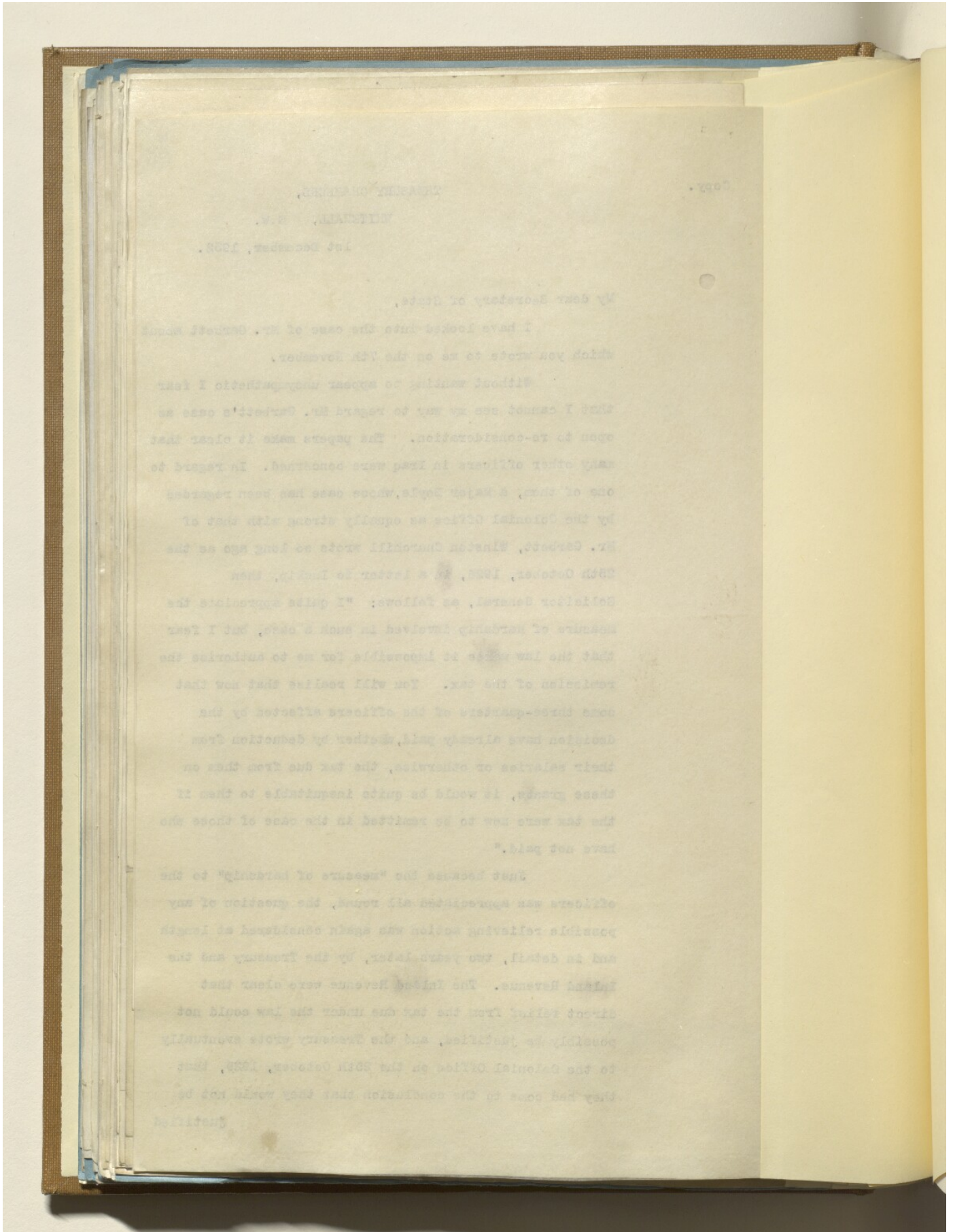
1st December, 1932.

My dear Secretary of State,

I have looked into the case of Mr. Garbett about which you wrote to me on the 7th November.

Without wanting to appear unsympathetic I fear that I cannot see my way to regard Mr. Garbett's case as open to re-consideration. The papers make it clear that many other officers in Iraq were concerned. In regard to one of them, a Major Boyle, whose case has been regarded by the Colonial Office as equally strong with that of Mr. Garbett, Winston Churchill wrote so long ago as the 25th October, 1926, in a letter to Inskip, then Solicitor General, as follows: "I quite appreciate the measure of hardship involved in such a case, but I fear that the law makes it impossible for me to authorise the remission of the tax. You will realise that now that some three-quarters of the officers affected by the decision have already paid, whether by deduction from their salaries or otherwise, the tax due from them on these grants, it would be quite inequitable to them if the tax were now to be remitted in the case of those who have not paid."

Just because the "measure of hardship" to the officers was appreciated all round, the question of any possible relieving action was again considered at length and in detail, two years later, by the Treasury and the Inland Revenue. The Inland Revenue were clear that direct relief from the tax due under the law could not possibly be justified, and the Treasury wrote eventually to the Colonial Office on the 25th October, 1929, that they had come to the conclusion that they would not be justified





1742

justified in asking Parliament to vote monies for the relief of the officers concerned. The Treasury decision was definite, and was of course followed, on the part of the Revenue, by a resumption of the work of collecting arrears.

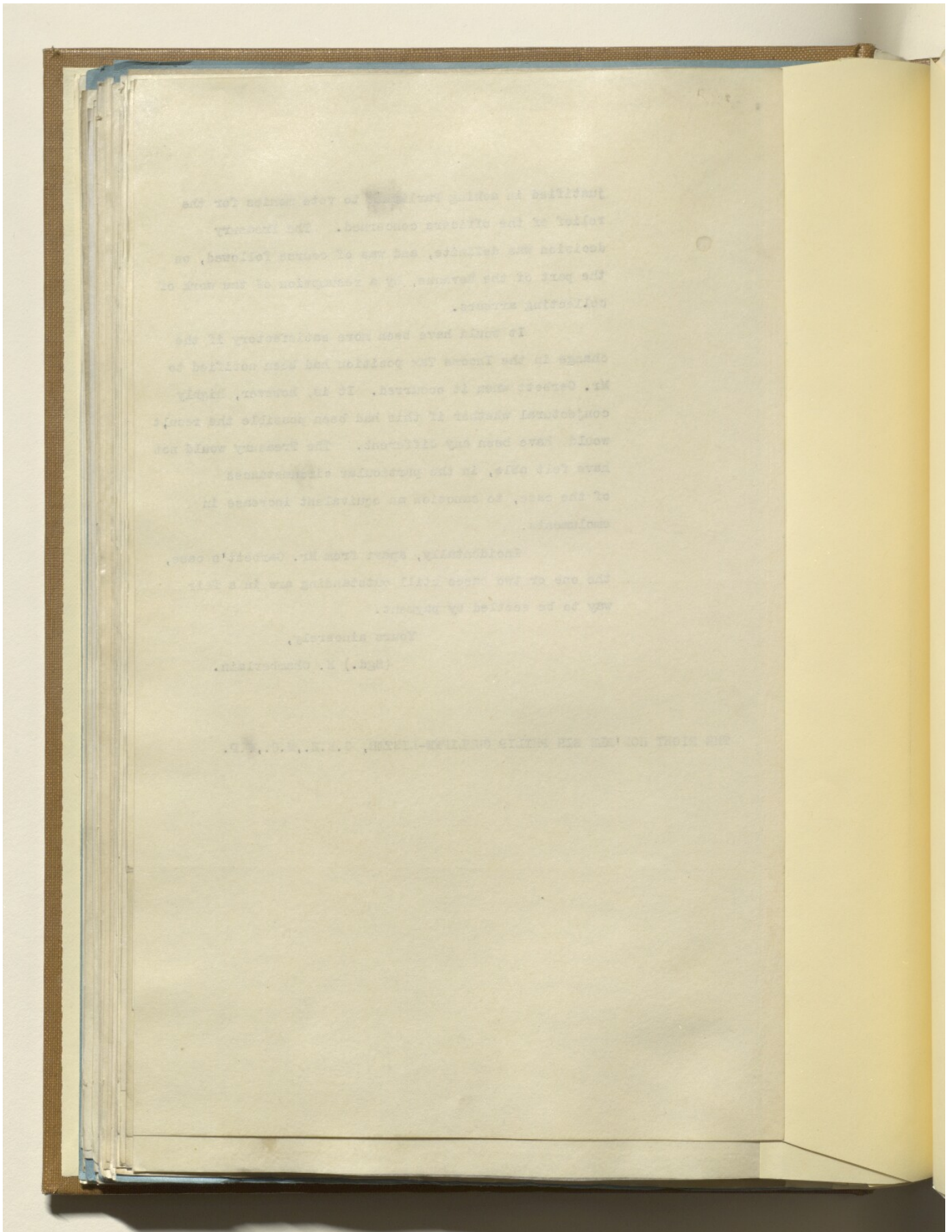
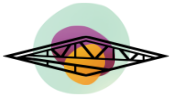
It would have been more satisfactory if the change in the Income Tax position had been notified to Mr. Garbett when it occurred. It is, however, highly conjectural whether if this had been possible the result would have been any different. The Treasury would not have felt able, in the particular circumstances of the case, to sanction an equivalent increase in emoluments.

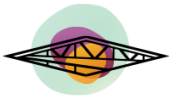
Incidentally, apart from Mr. Garbett's case, the one or two cases still outstanding are in a fair way to be settled by payment.

Yours sincerely,

(Sgd.) N. Chamberlain.

THE RIGHT HON'BLE SIR PHILIP CUNLIFFE-LISTER, G.B.E., M.C., M.P.





COPY.

DOWNING STREET.

7th November, 1932.

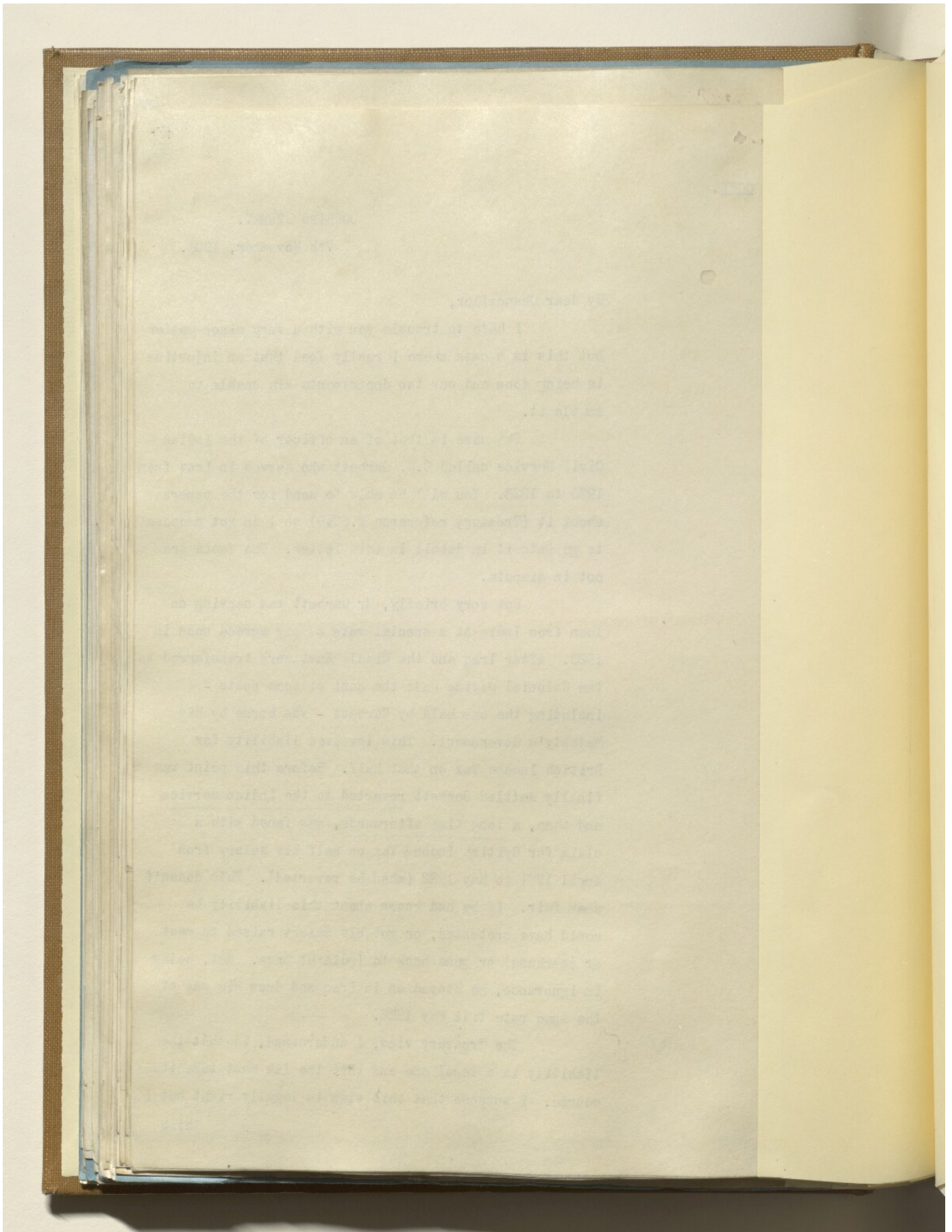
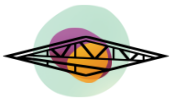
My dear Chancellor,

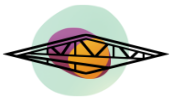
I hate to trouble you with a very minor matter but this is a case where I really feel that an injustice is being done and our two departments are unable to settle it.

The case is that of an officer of the Indian Civil Service called C.C. Garbett who served in Iraq from 1920 to 1922. You will be able to send for the papers about it (Treasury reference E.6040) so I do not propose to go into it in detail in this letter. The facts are not in dispute.

Put very briefly, Mr Garbett was serving on loan from India at a special rate of pay agreed upon in 1920. After Iraq and the Middle East were transferred to the Colonial Office half the cost of some posts - including the one held by Garbett - was borne by His Majesty's Government. This involved liability for British Income Tax on that half. Before this point was finally settled Garbett reverted to the Indian service and then, a long time afterwards, was faced with a claim for British Income Tax on half his salary from April 1921 to May 1922 (when he reverted). This doesn't seem fair. If he had known about this liability he could have protested, or got his salary raised to meet or (perhaps) or gone back to India at once. But, being in ignorance, he stayed on in Iraq and drew his pay at the same rate till May 1922.

The Treasury view, I understand, is that the liability is a legal one and that the law must take its course. I suppose that this view is legally right but I think

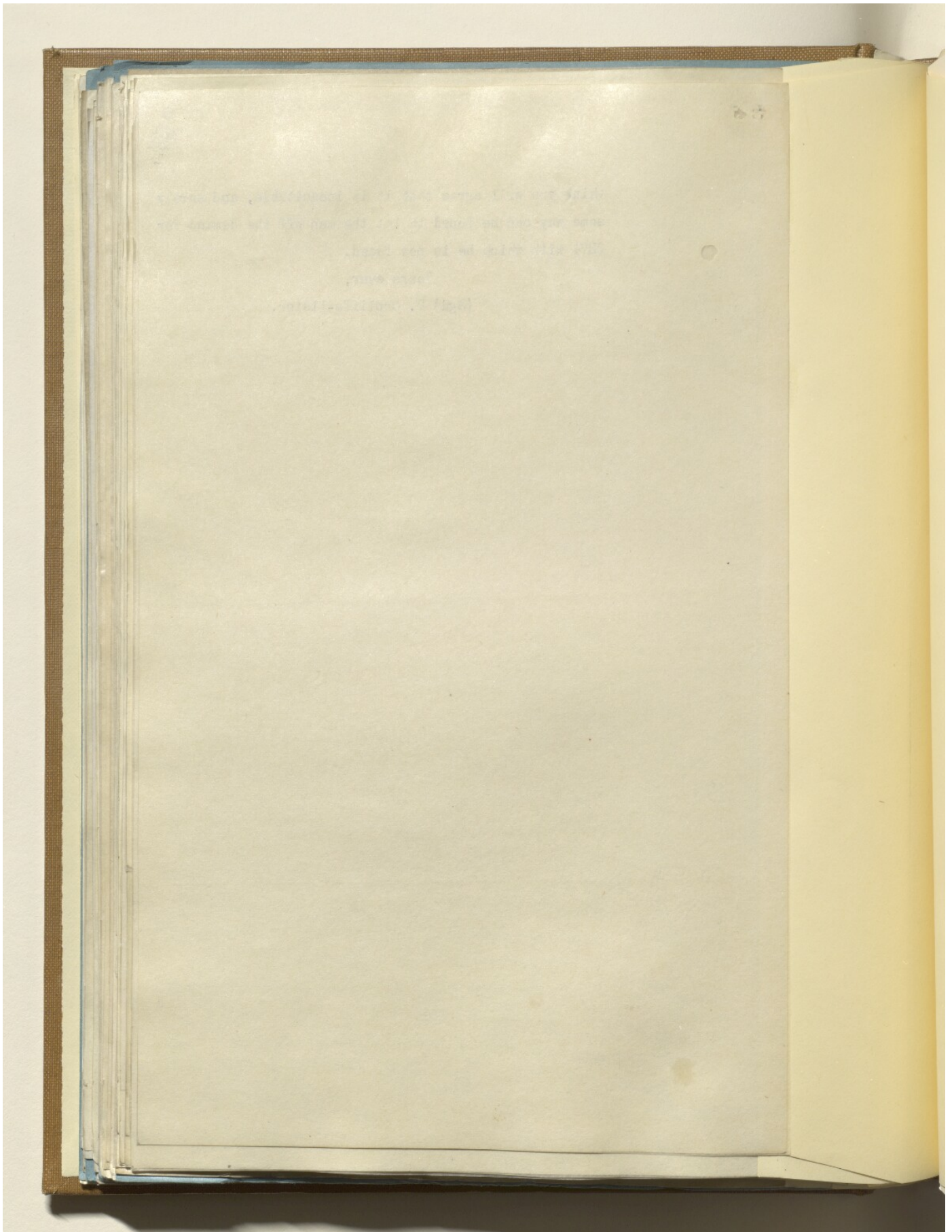
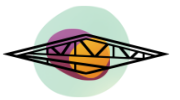


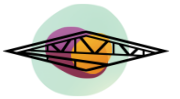


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think you will agree that it is inequitable, and surely
some way can be found to let the man off the demand for
£274 with which he is now faced.

Yours ever,
(Sgd) P. Cunliffe-Lister.





COPY.

Note on the application of Mr C.C. Garbett
for exemption from United Kingdom Income Tax.

Mr C.C. Garbett, C.M.G., C.I.E., is a highly placed official of the Indian Civil Service. In 1920, while the India Office were still running Iraq, he was lent by India to Iraq to act as Civil Secretary to the High Commissioner ("placed on deputation" is the Indian phrase). His service in Iraq counted as Indian service and there was no idea of a permanency in Iraq.

The question of his pay came up as, of course, he would expect to get more while serving in Iraq and the Treasury in a letter dated 16th September 1920 agreed to a salary of Rs2500 per mensem on the understanding that it was temporary, personal to Mr Garbett, and inclusive of everything "the expenditure being a charge on Mesopotamian funds".

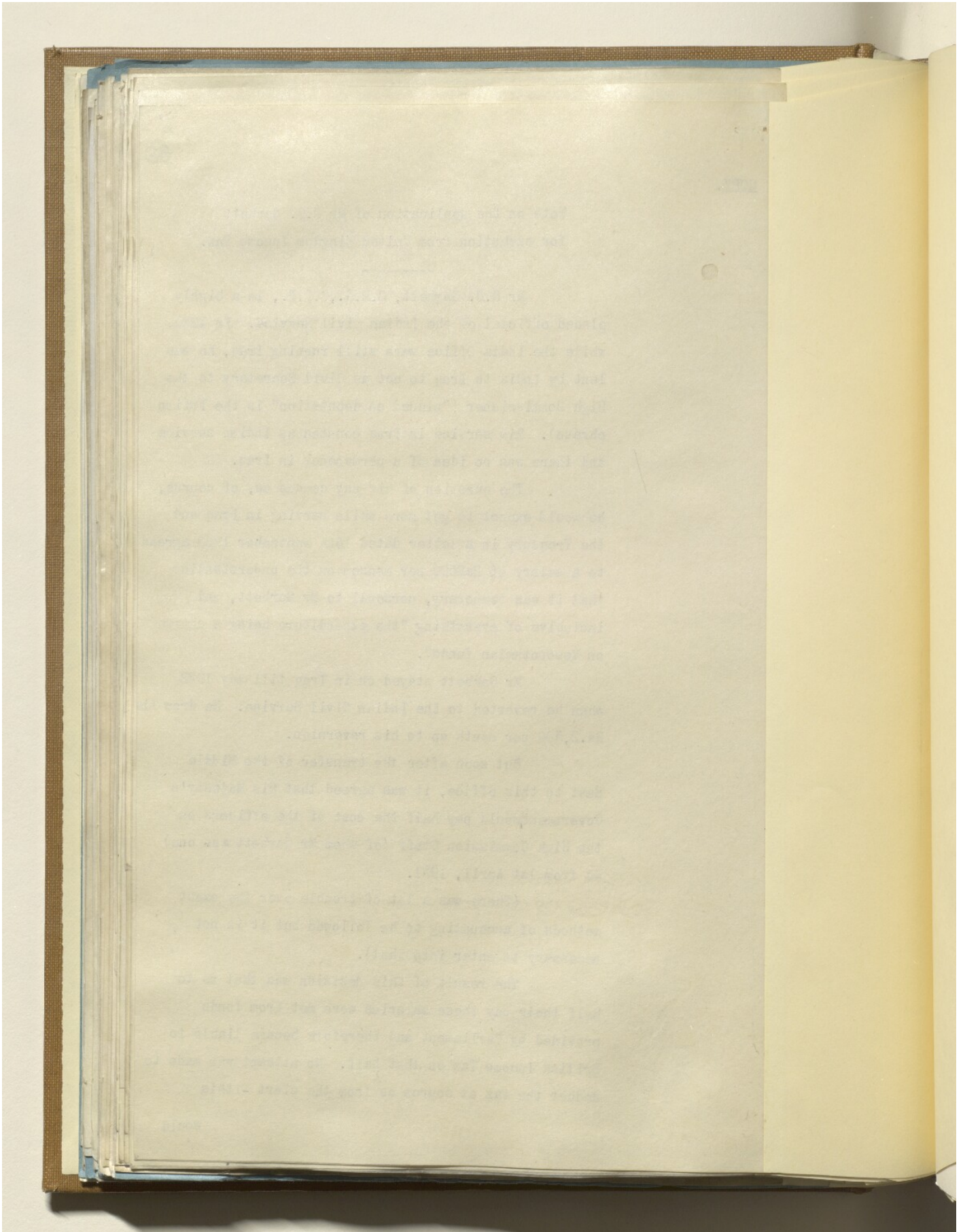
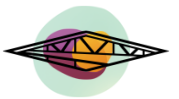
Mr Garbett stayed on in Iraq till May 1922 when he reverted to the Indian Civil Service. He drew his Rs.2,500 per month up to his reversion.

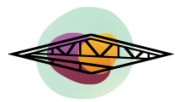
But soon after the transfer of the Middle East to this office, it was agreed that His Majesty's Government would pay half the cost of the officers on the High Commission Staff (of whom Mr Garbett was one) as from 1st April, 1921.

(There was a lot of trouble over the exact methods of accounting to be followed but it is not necessary to enter into that).

The result of this decision was that as to half their pay these salaries were met from funds provided by Parliament and therefore became liable to British Income Tax on that half. No attempt was made to deduct the tax at source as from the start - this

would





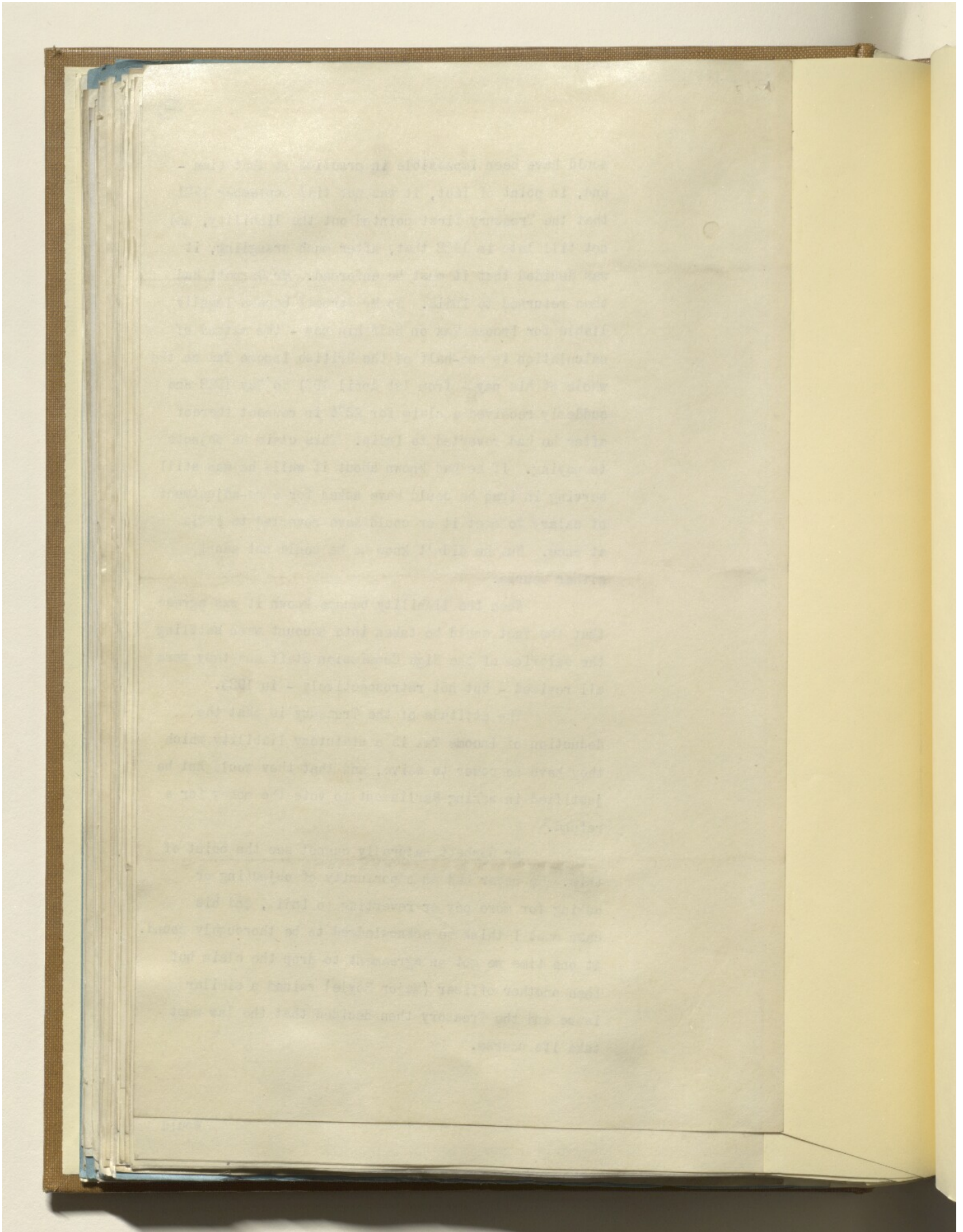
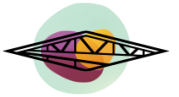
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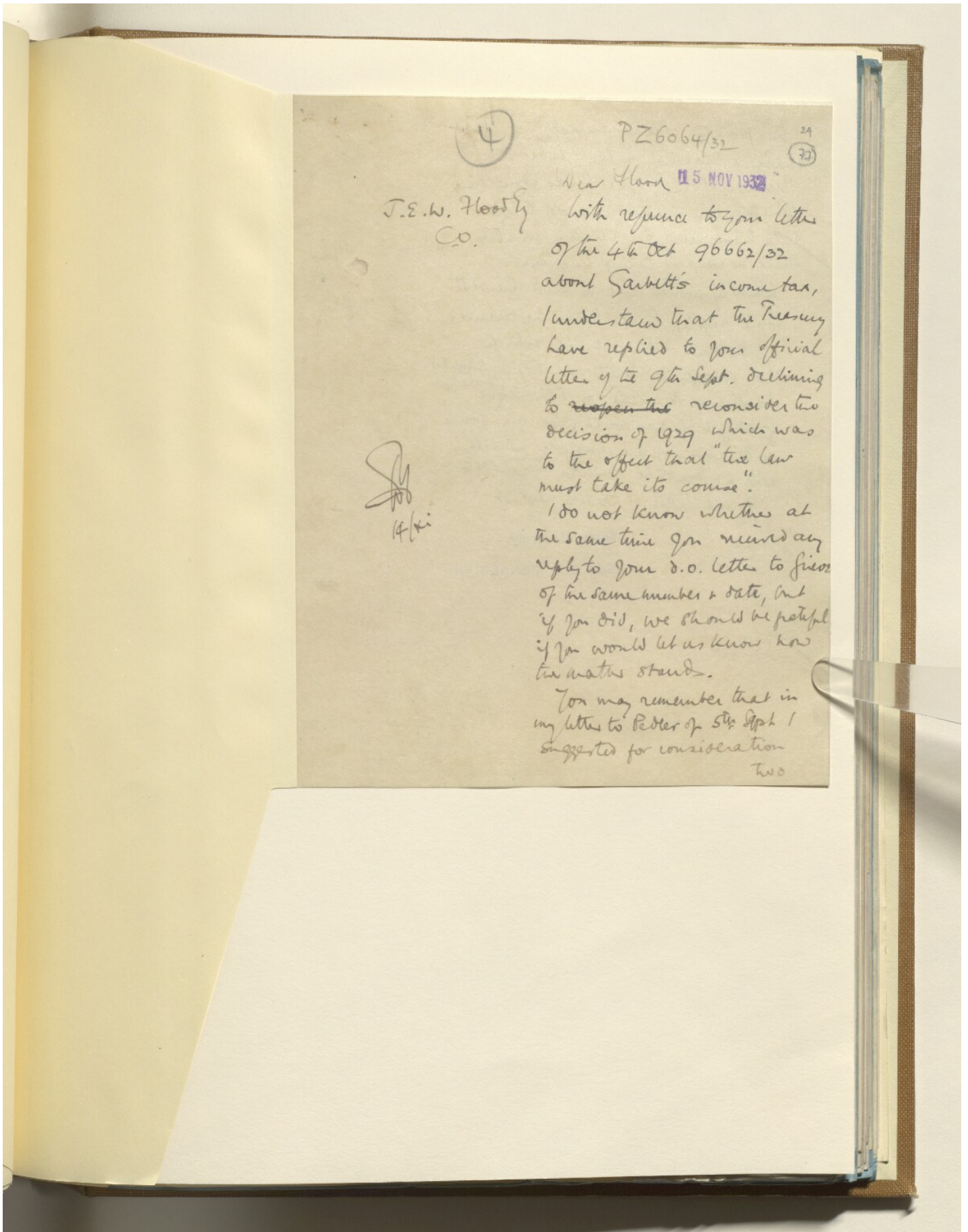
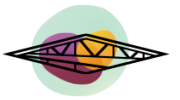
would have been impossible in practice at that time - and, in point of fact, it was not till September 1921 that the Treasury first pointed out the liability, and not till late in 1922 that, after much wrangling, it was decided that it must be enforced. Mr Garbett had then returned to India. So Mr Garbett became legally liable for Income Tax on half his pay - the method of calculation is one-half of the British Income Tax on the whole of his pay - from 1st April 1921 to May 1922 and suddenly received a claim for £274 in respect thereof after he had reverted to India. This claim he objects to paying. If he had known about it while he was still serving in Iraq he could have asked for a re-adjustment of salary to meet it or could have reverted to India at once. But he didn't know so he could not adopt either course.

When the liability became known it was agreed that the fact could be taken into account when settling the salaries of the High Commission Staff and they were all revised - but not retrospectively - in 1923.

The attitude of the Treasury is that the deduction of Income Tax is a statutory liability which they have no power to waive, and that they would not be justified in asking Parliament to vote the money for a refund.

Mr Garbett naturally cannot see the point of this. He never had an opportunity of objecting or asking for more pay or reverting to India, and his case must I think be acknowledged to be thoroughly sound. At one time we got an agreement to drop the claim but then another officer (Major Boyle) raised a similar issue and the Treasury then decided that the law must take its course.





(4)

PZ6064/32

21
(72)

J.E.W. Flood
Co.

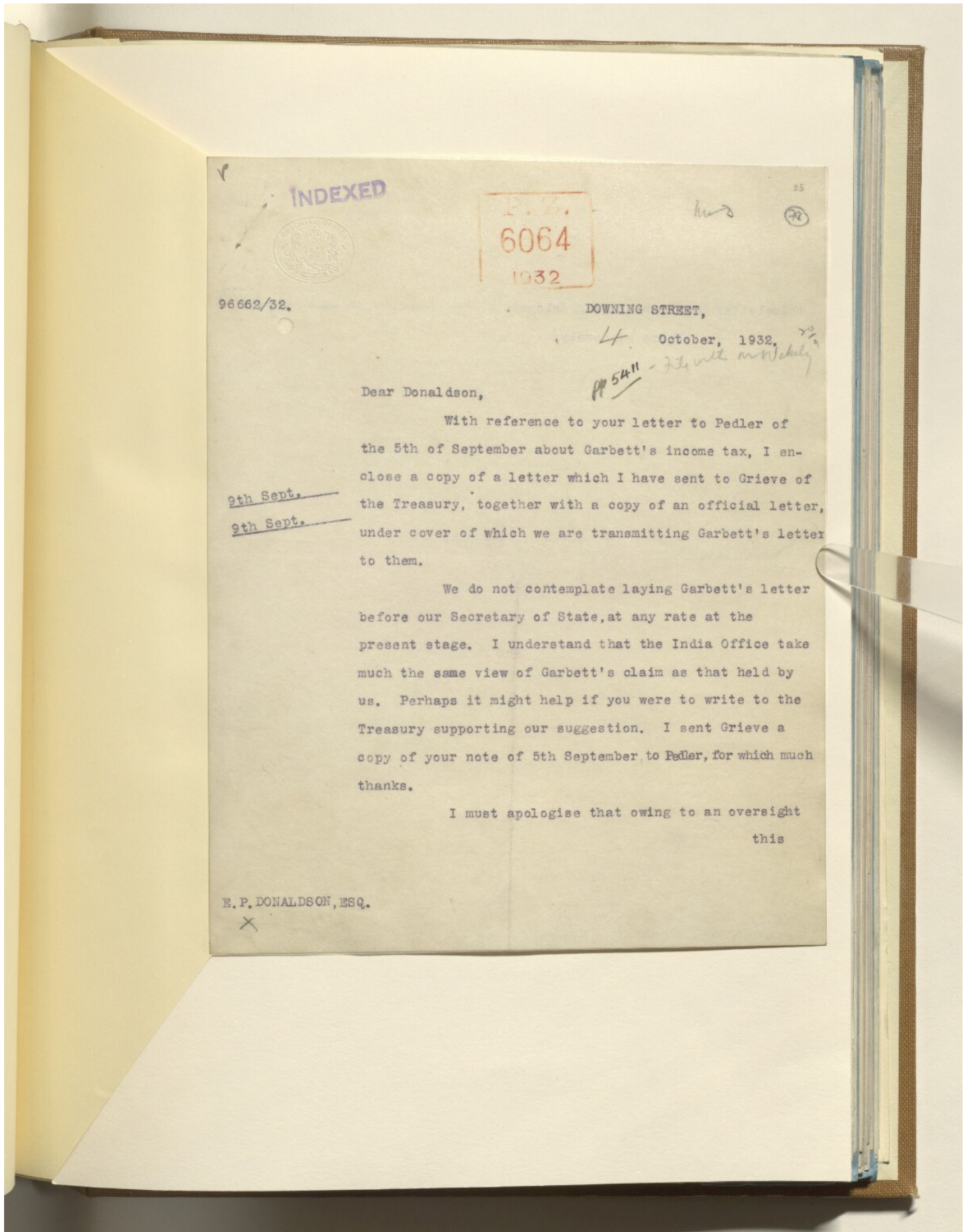
Dear Flood 15 NOV 1932

With reference to your letter of the 4th Oct 96662/32 about Garbett's income tax, I understand that the Treasury have replied to your official letter of the 9th Sept. declining to ~~reopen the~~ reconsider the decision of 1929 which was to the effect that "tax law must take its course".

JW
14/11

I do not know whether at the same time you received any reply to your d.o. letter to Finance of the same number & date, but if you did, we should be grateful if you would let us know how the matter stands.

You may remember that in my letter to Bedder of 5th Sept I suggested for consideration
two



INDEXED

P.Z.
6064
1932

25

96662/32.

DOWNING STREET,

4 October, 1932.

PP 54'' - The will in Wadley

Dear Donaldson,

With reference to your letter to Pedler of the 5th of September about Garbett's income tax, I enclose a copy of a letter which I have sent to Grieve of the Treasury, together with a copy of an official letter, under cover of which we are transmitting Garbett's letter to them.

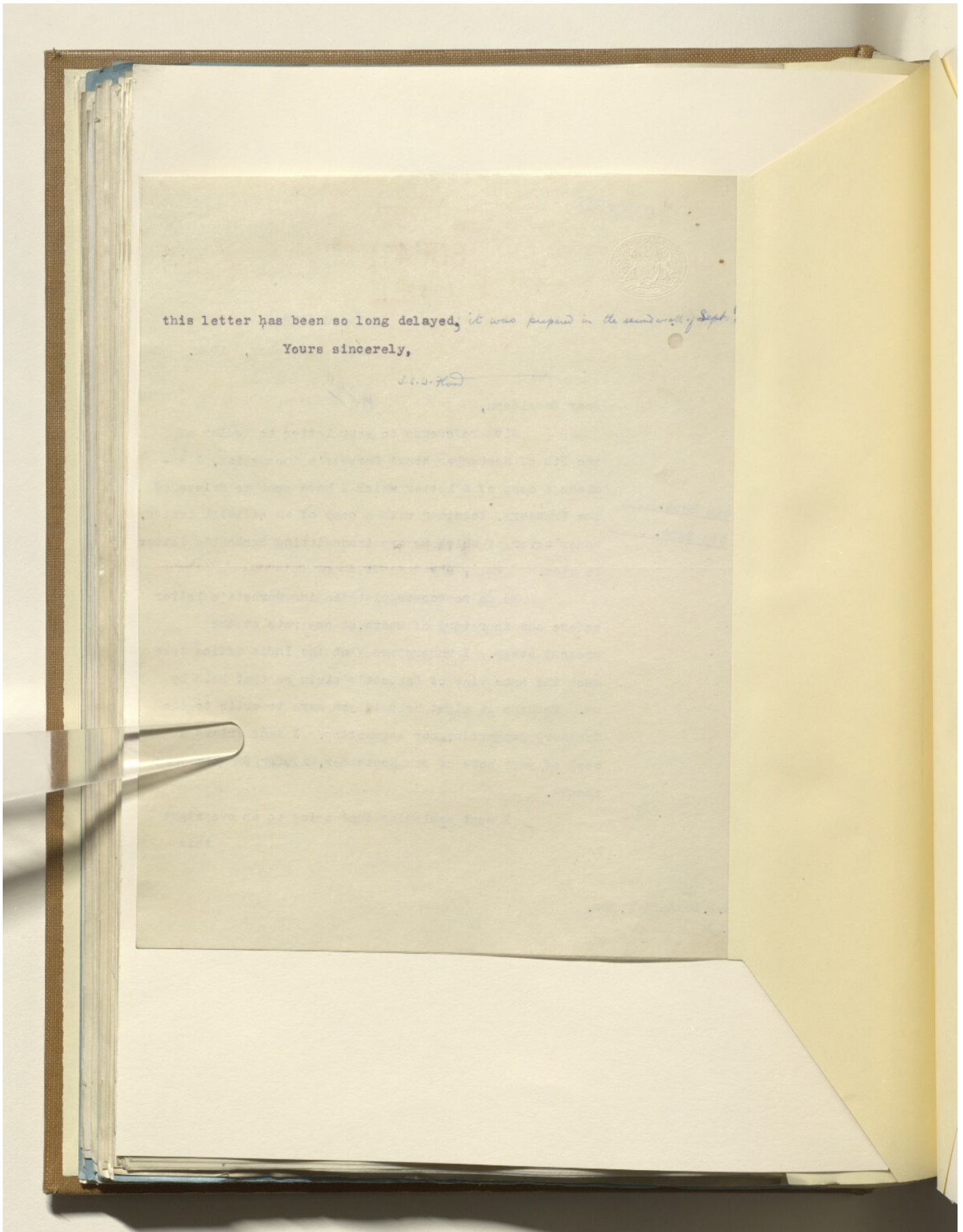
9th Sept.
9th Sept.

We do not contemplate laying Garbett's letter before our Secretary of State, at any rate at the present stage. I understand that the India Office take much the same view of Garbett's claim as that held by us. Perhaps it might help if you were to write to the Treasury supporting our suggestion. I sent Grieve a copy of your note of 5th September, to Pedler, for which much thanks.

I must apologise that owing to an oversight this

E. P. DONALDSON, ESQ.

X





96662/32.

Downing Street,

6064

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September, 1932.

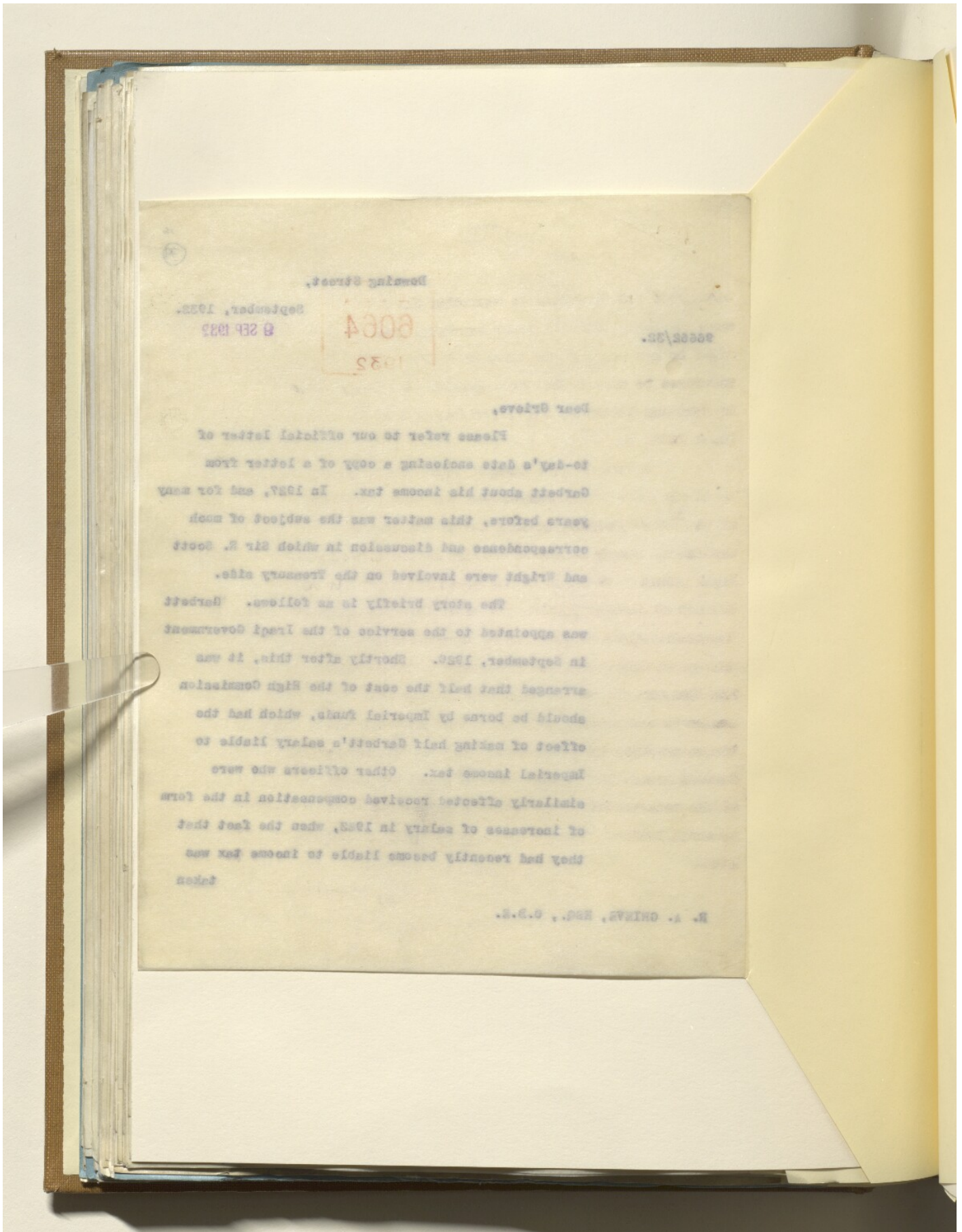
9 SEP 1932

Dear Grieve,

Please refer to our official letter of to-day's date enclosing a copy of a letter from Garbett about his income tax. In 1927, and for many years before, this matter was the subject of much correspondence and discussion in which Sir R. Scott and Wright were involved on the Treasury side.

The story briefly is as follows. Garbett was appointed to the service of the Iraqi Government in September, 1920. Shortly after this, it was arranged that half the cost of the High Commission should be borne by Imperial funds, which had the effect of making half Garbett's salary liable to Imperial income tax. Other officers who were similarly affected received compensation in the form of increases of salary in 1923, when the fact that they had recently become liable to income tax was taken

R. A. GRIEVE, ESQ., O.B.E.



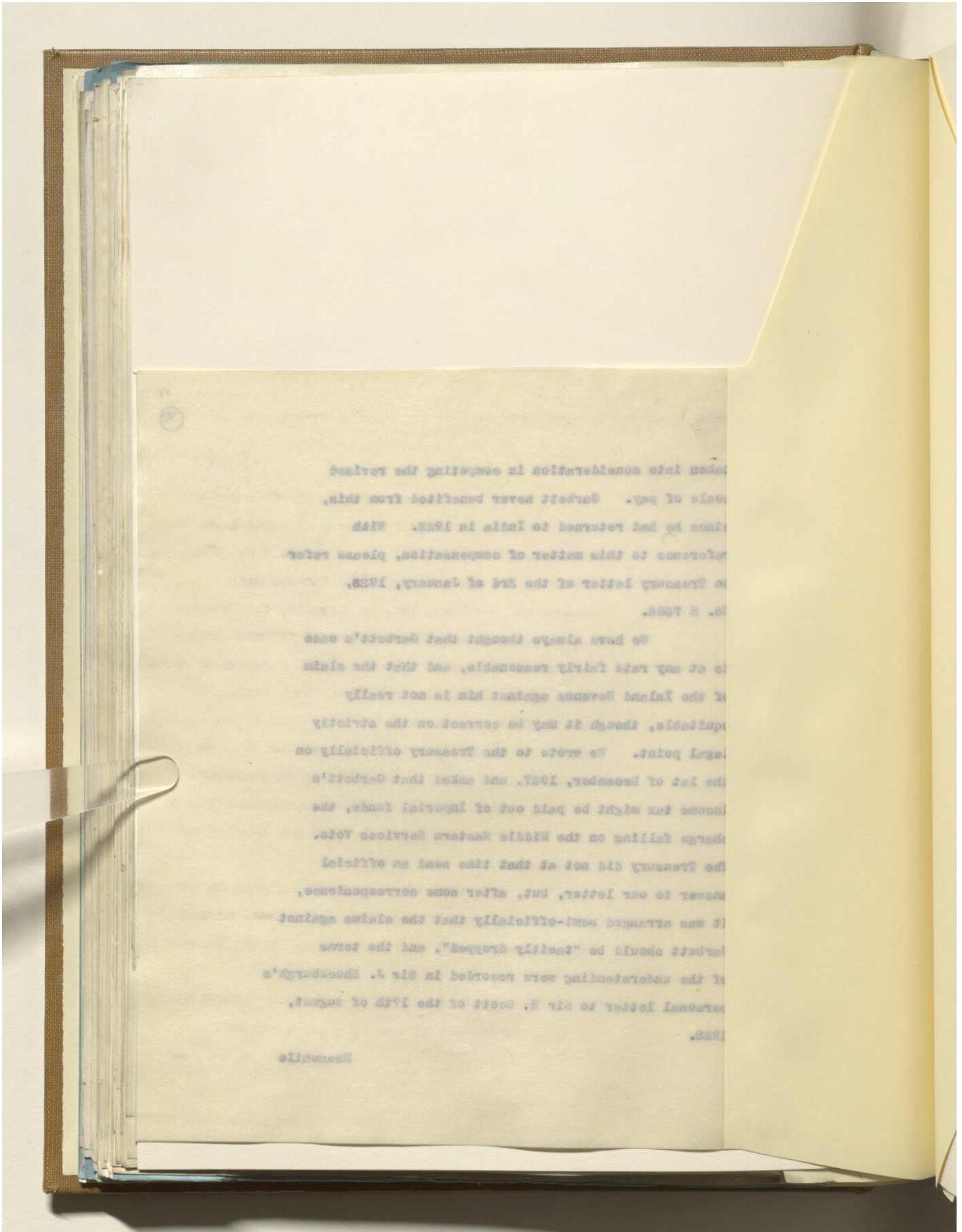


27
83

taken into consideration in computing the revised scale of pay. Garbett never benefited from this, since he had returned to India in 1922. With reference to this matter of compensation, please refer to Treasury letter of the 3rd of January, 1923, No. B 7586.

We have always thought that Garbett's case is at any rate fairly reasonable, and that the claim of the Inland Revenue against him is not really equitable, though it may be correct on the strictly legal point. We wrote to the Treasury officially on the 1st of December, 1927, and asked that Garbett's income tax might be paid out of Imperial funds, the charge falling on the Middle Eastern Services Vote. The Treasury did not at that time send an official answer to our letter, but, after some correspondence, it was arranged semi-officially that the claims against Garbett should be "tacitly dropped", and the terms of the understanding were recorded in Sir J. Shuckburgh's personal letter to Sir R. Scott of the 17th of August, 1928.

Meanwhile





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81

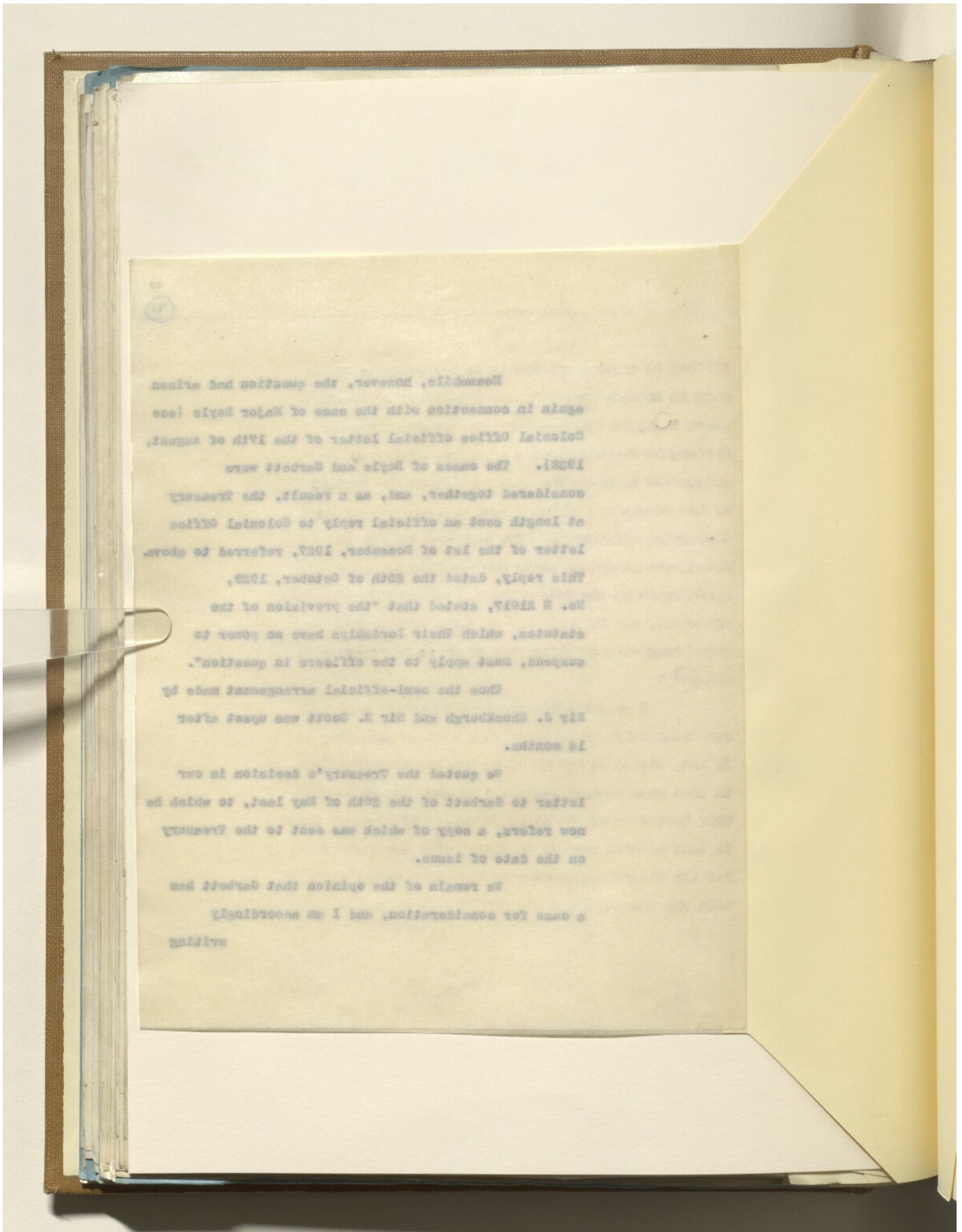
Meanwhile, however, the question had arisen again in connection with the case of Major Boyle (see Colonial Office official letter of the 17th of August, 1926). The cases of Boyle and Garbett were considered together, and, as a result, the Treasury at length sent an official reply to Colonial Office letter of the 1st of December, 1927, referred to above. This reply, dated the 25th of October, 1929, No. B 21017, stated that "the provision of the statutes, which Their Lordships have no power to suspend, must apply to the officers in question".

Thus the semi-official arrangement made by Sir J. Shuckburgh and Sir R. Scott was upset after 14 months.

We quoted the Treasury's decision in our letter to Garbett of the 20th of May last, to which he now refers, a copy of which was sent to the Treasury on the date of issue.

We remain of the opinion that Garbett has a case for consideration, and I am accordingly

writing



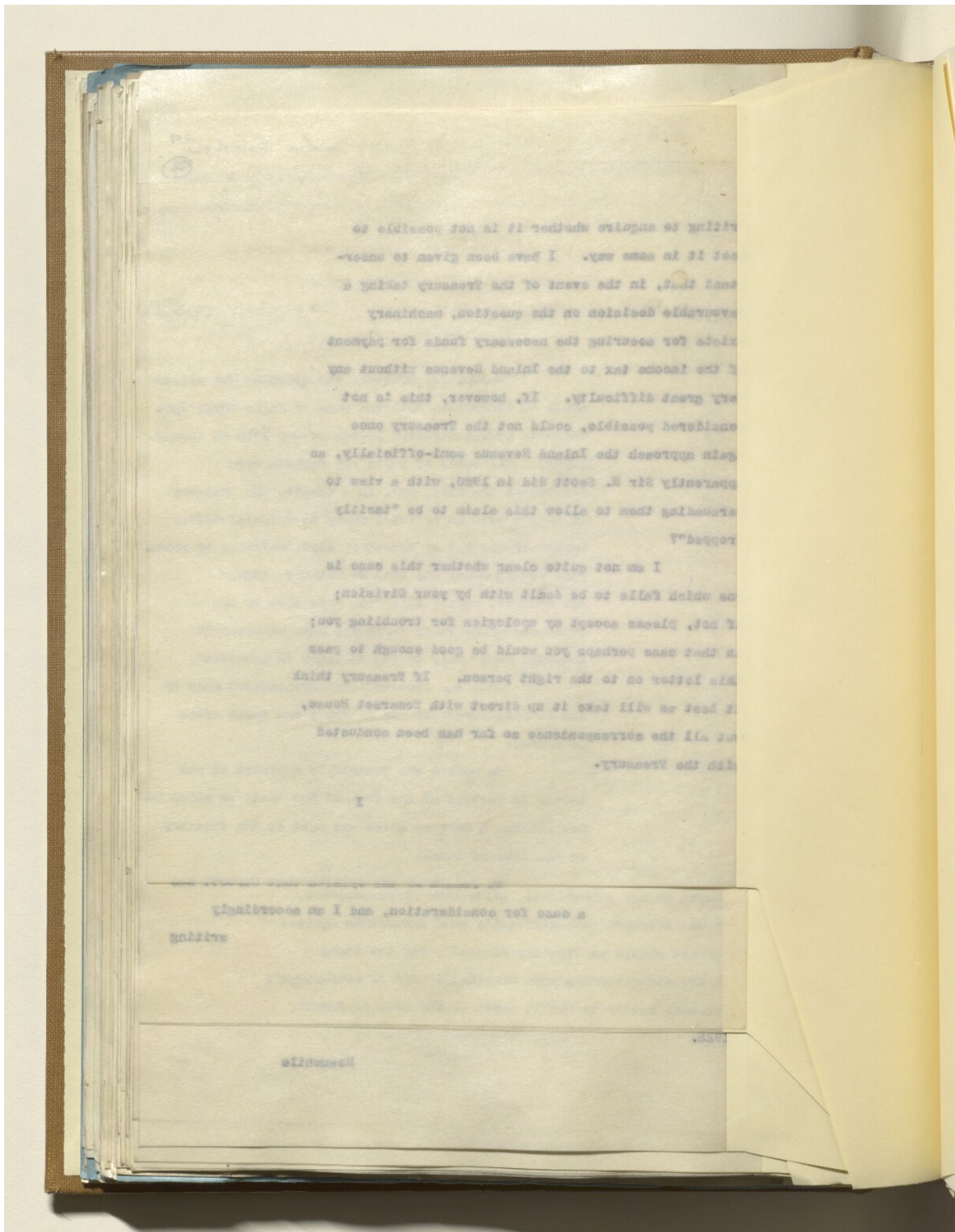


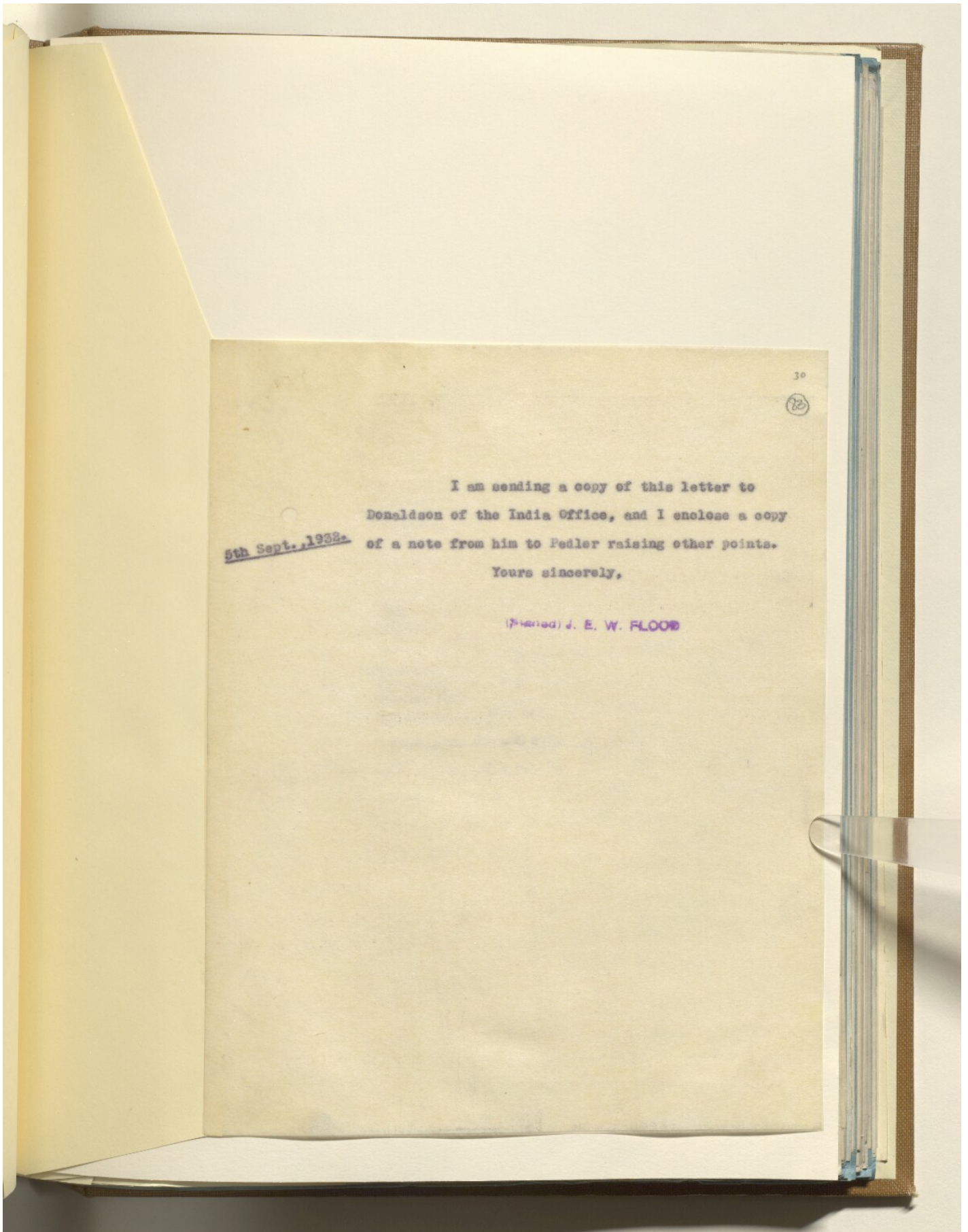
27
22

writing to enquire whether it is not possible to meet it in some way. I have been given to understand that, in the event of the Treasury taking a favourable decision on the question, machinery exists for securing the necessary funds for payment of the income tax to the Inland Revenue without any very great difficulty. If, however, this is not considered possible, could not the Treasury once again approach the Inland Revenue semi-officially, as apparently Sir R. Scott did in 1926, with a view to persuading them to allow this claim to be "tacitly dropped"?

I am not quite clear whether this case is one which falls to be dealt with by your Division; if not, please accept my apologies for troubling you; in that case perhaps you would be good enough to pass this letter on to the right person. If Treasury think it best we will take it up direct with Somerset House, but all the correspondence so far has been conducted with the Treasury.

I



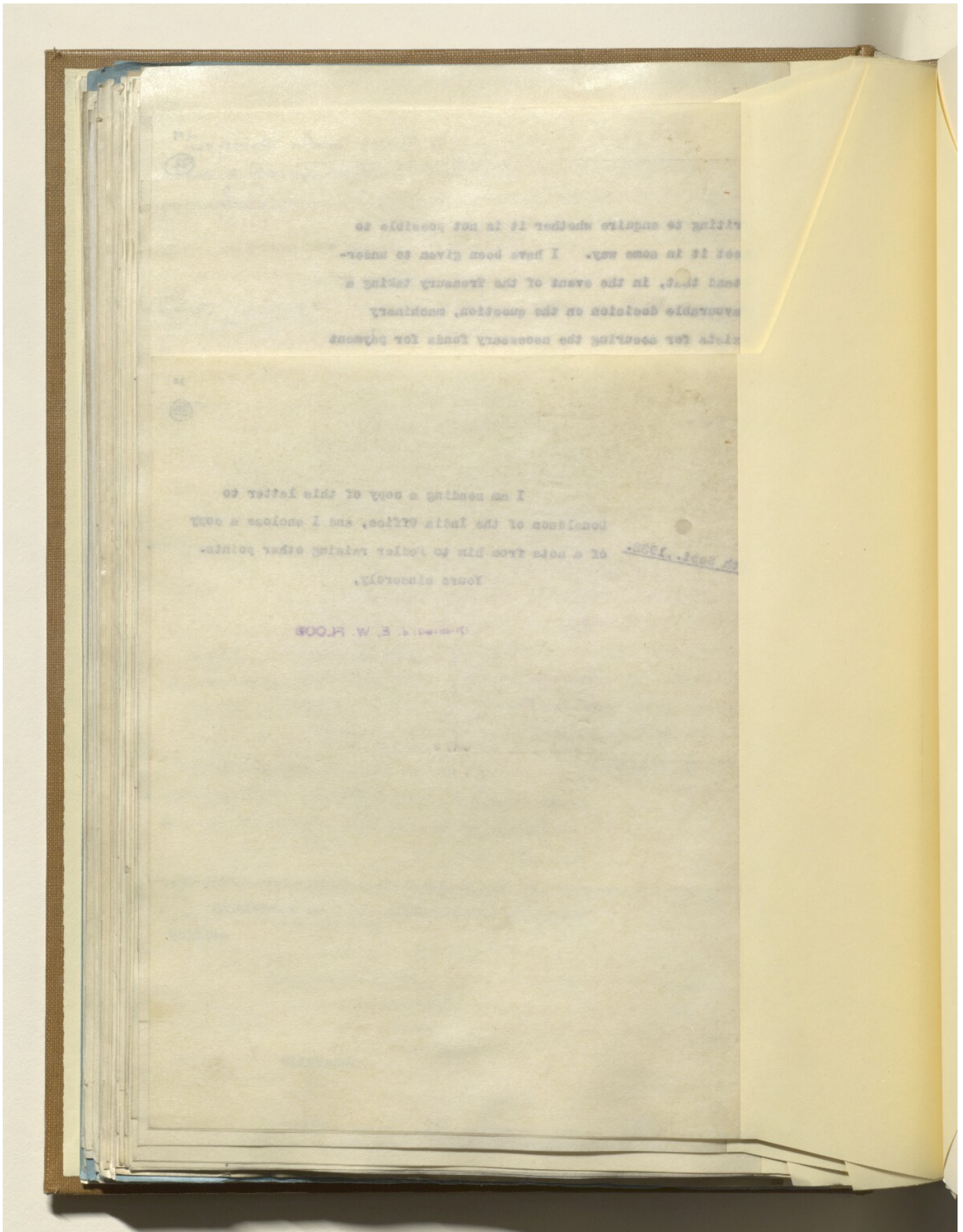


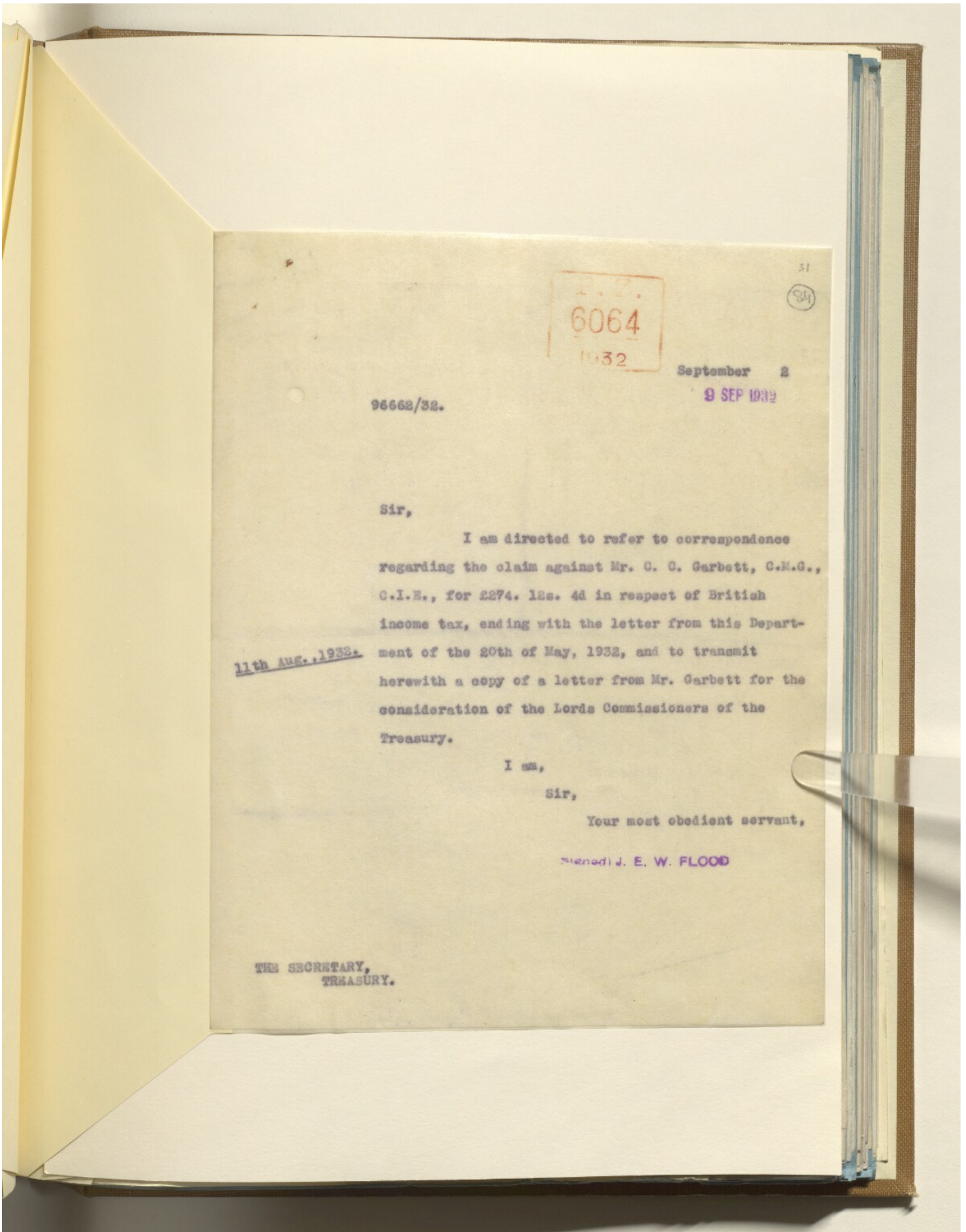
5th Sept., 1932.

I am sending a copy of this letter to Donaldson of the India Office, and I enclose a copy of a note from him to Pedler raising other points.

Yours sincerely,

(Signed) J. E. W. FLOOD





96662/32.

P. 2.
6064
1932

31

(84)

September 2

9 SEP 1932

Sir,

11th Aug. 1932.

I am directed to refer to correspondence regarding the claim against Mr. C. C. Garbett, C.M.G., C.I.E., for 2274. 12s. 4d in respect of British income tax, ending with the letter from this Department of the 20th of May, 1932, and to transmit herewith a copy of a letter from Mr. Garbett for the consideration of the Lords Commissioners of the Treasury.

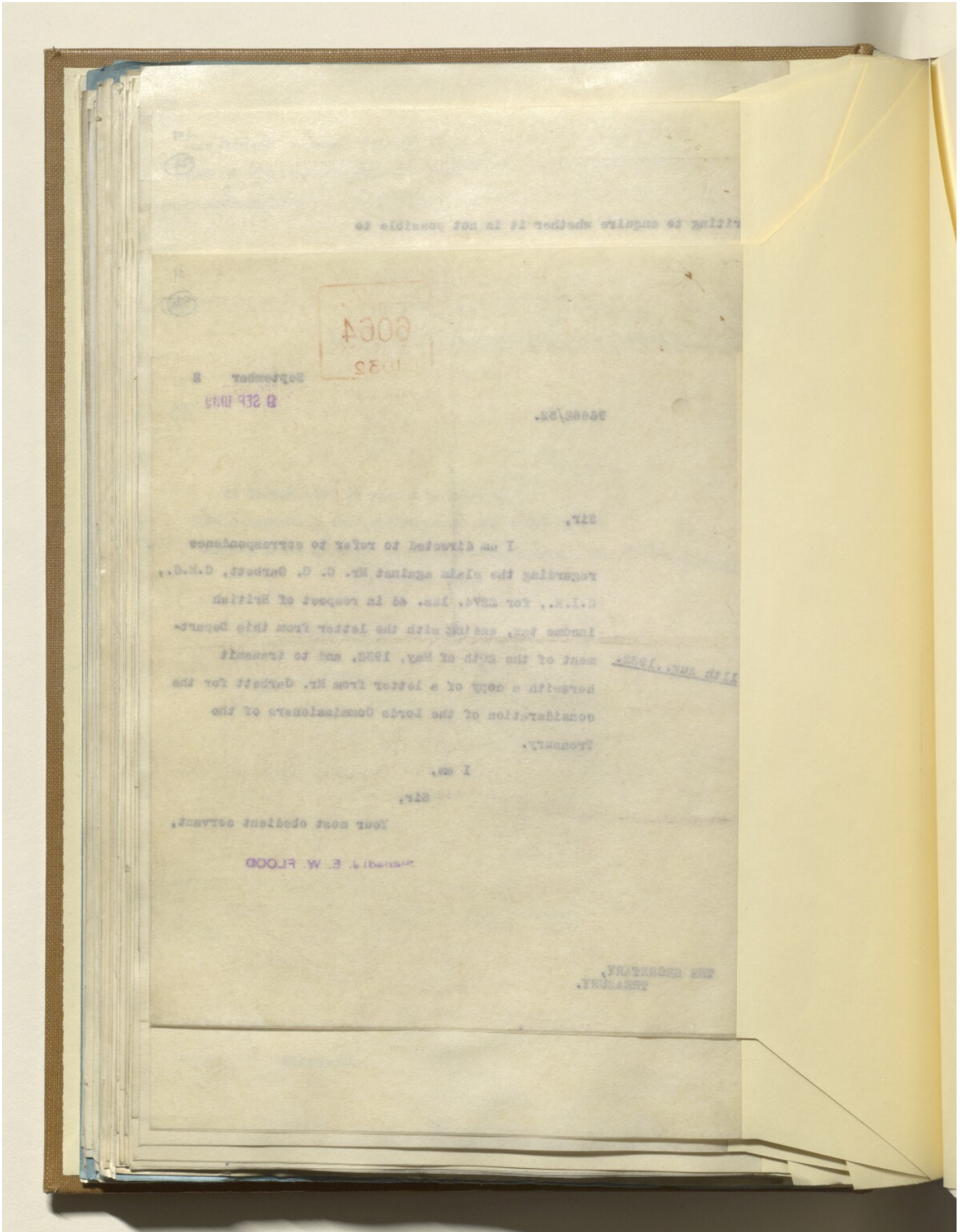
I am,

Sir,

Your most obedient servant,

Signed J. E. W. FLOOD

THE SECRETARY,
TREASURY.





INDIA OFFICE,
WHITEHALL, S.W. 1.

5th September, 1932.

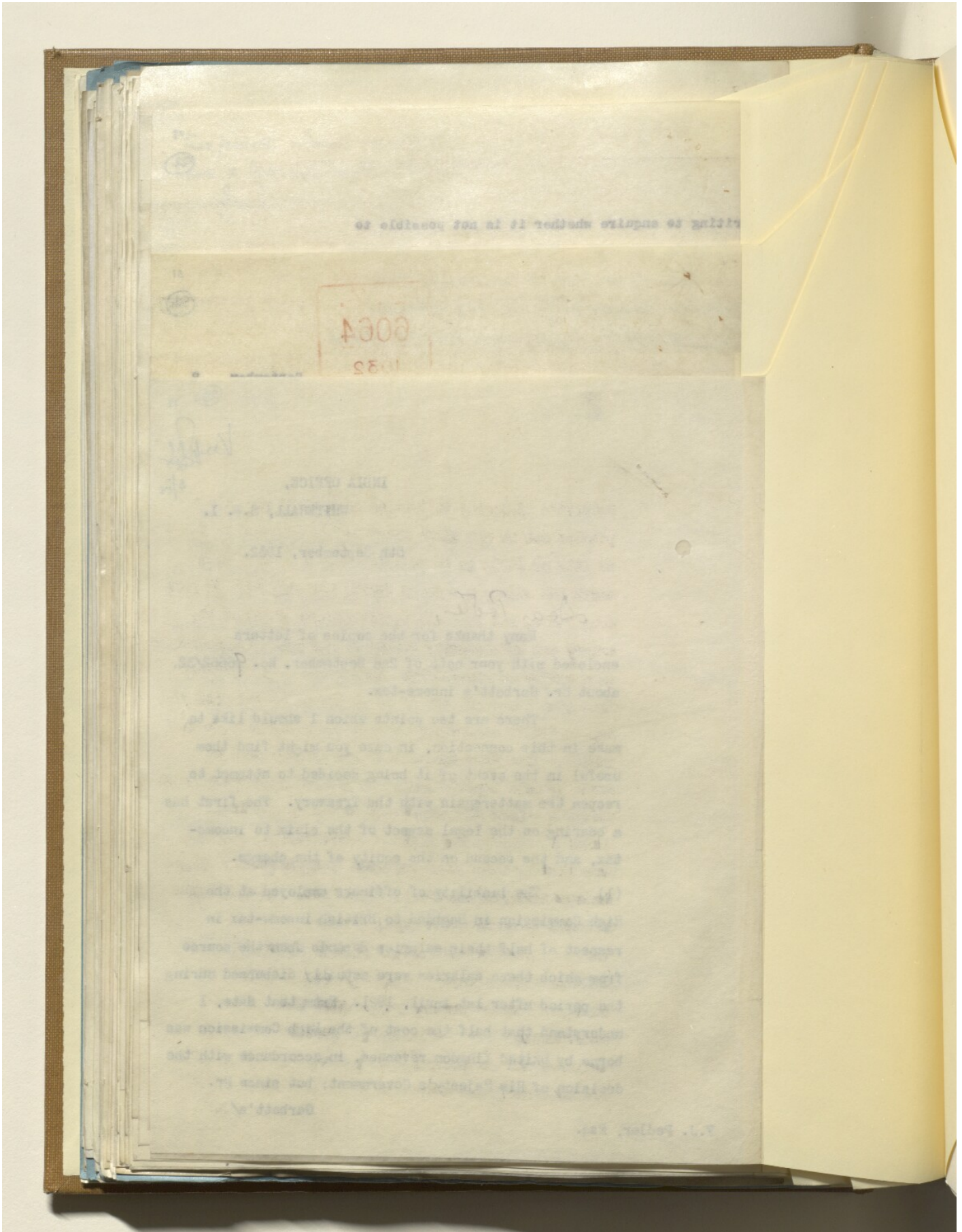
Dear Potter,

Many thanks for the copies of letters enclosed with your note of 2nd September, No. 76662/32, about Mr. Garbett's income-tax.

There are two points which I should like to make in this connection, in case you might find them useful in the event of it being decided to attempt to reopen the matter again with the Treasury. The first has a bearing on the legal aspect of the claim to income-tax, and the second on the equity of the charge.

(1) The liability of officers employed at the High Commission in Baghdad to British income-tax in respect of half their salaries depends upon the source from which these salaries were actually disbursed during the period after 1st April, 1921. From that date, I understand that half the cost of the High Commission was borne by United Kingdom revenues, in accordance with the decision of His Majesty's Government; but since Mr. Garbett's/

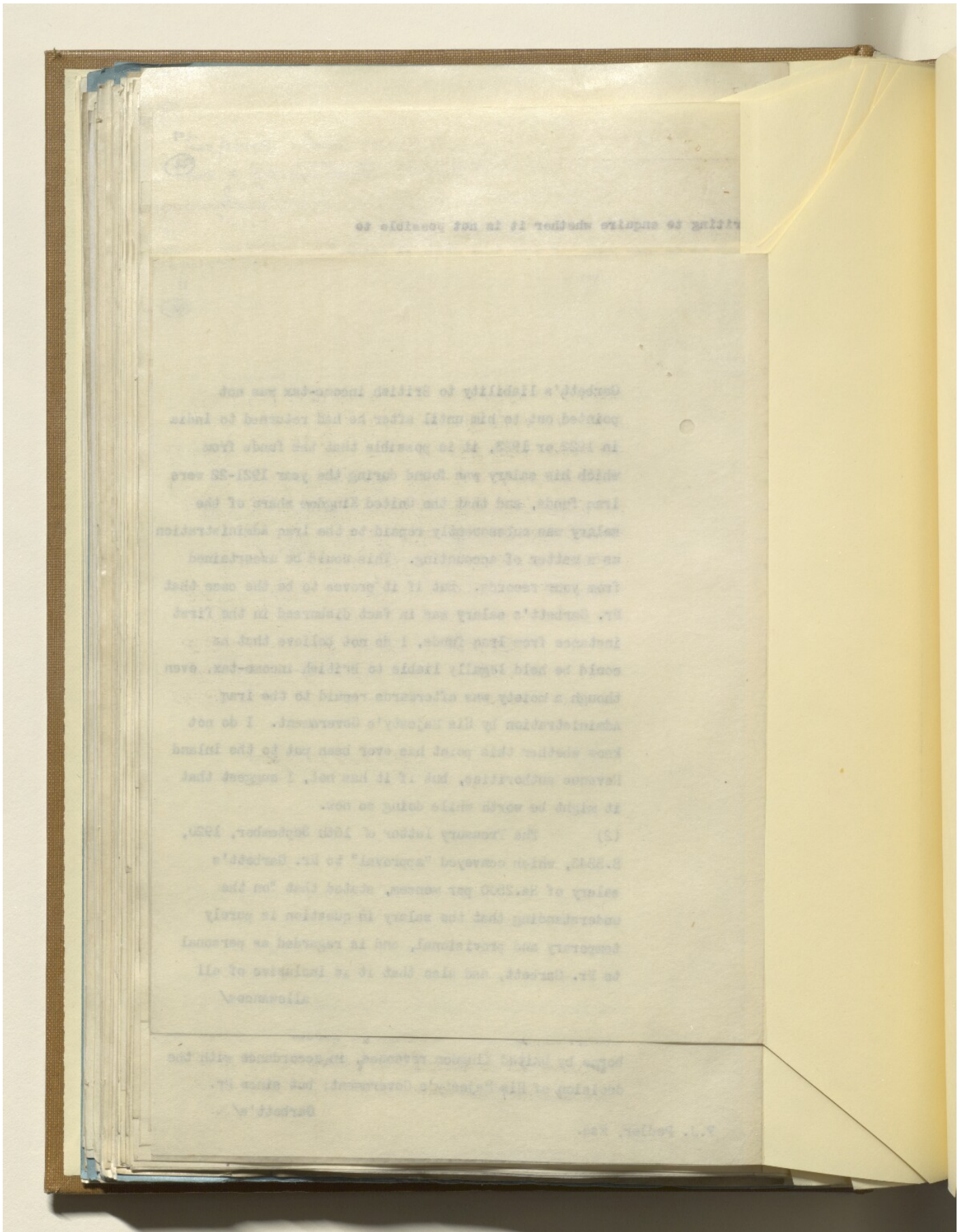
F.J. Pedler, Esq.





Garbett's liability to British income-tax was not pointed out to him until after he had returned to India in 1922 or 1923, it is possible that the funds from which his salary was found during the year 1921-22 were Iraq funds, and that the United Kingdom share of the salary was subsequently repaid to the Iraq Administration as a matter of accounting. This could be ascertained from your records. But if it proves to be the case that Mr. Garbett's salary was in fact disbursed in the first instance from Iraq funds, I do not believe that he could be held legally liable to British income-tax, even though a moiety was afterwards repaid to the Iraq Administration by His Majesty's Government. I do not know whether this point has ever been put to the Inland Revenue authorities, but if it has not, I suggest that it might be worth while doing so now.

(2) The Treasury letter of 16th September, 1920, S.3343, which conveyed "approval" to Mr. Garbett's salary of Rs.2500 per mensem, stated that "on the understanding that the salary in question is purely temporary and provisional, and is regarded as personal to Mr. Garbett, and also that it is inclusive of all allowances/





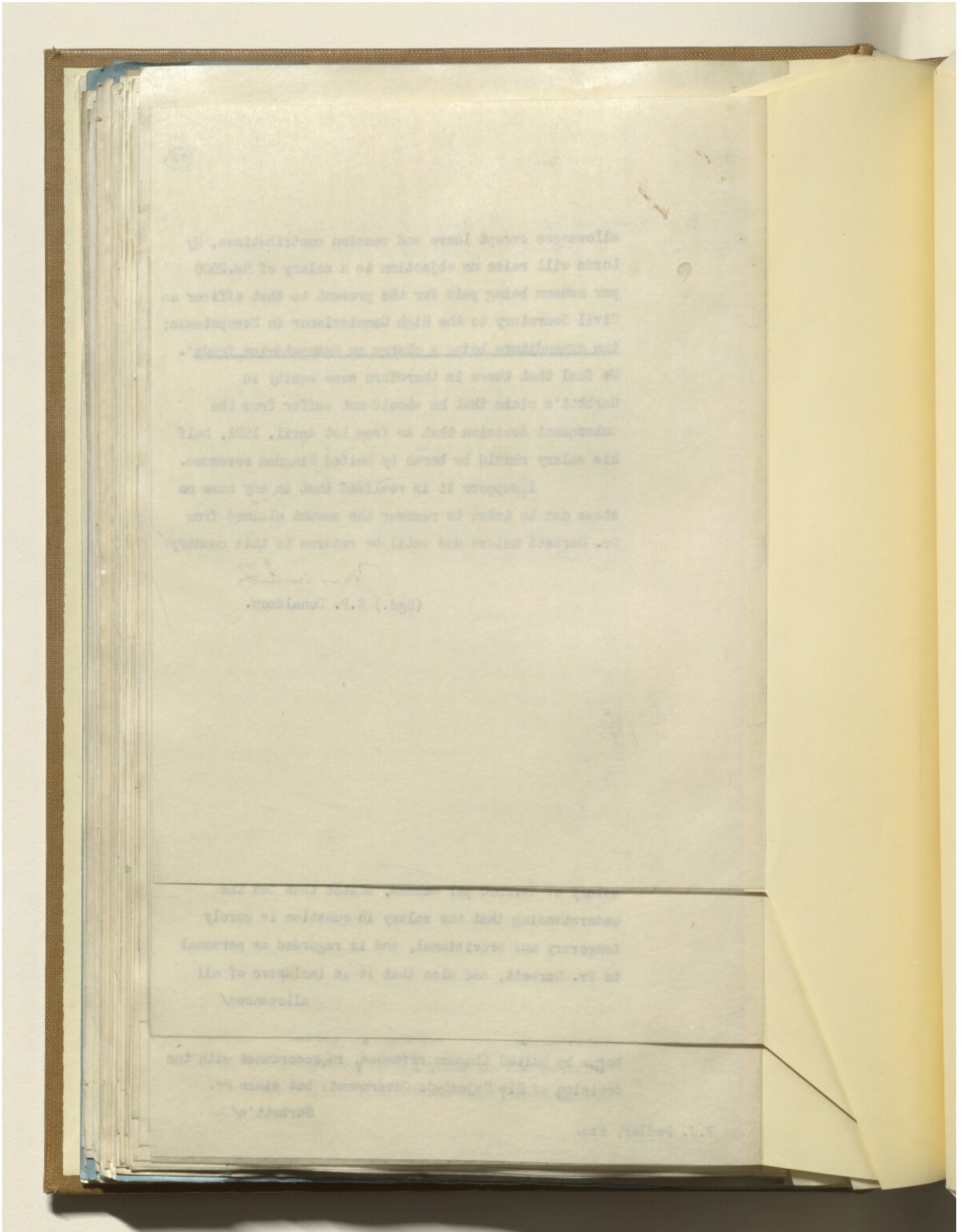
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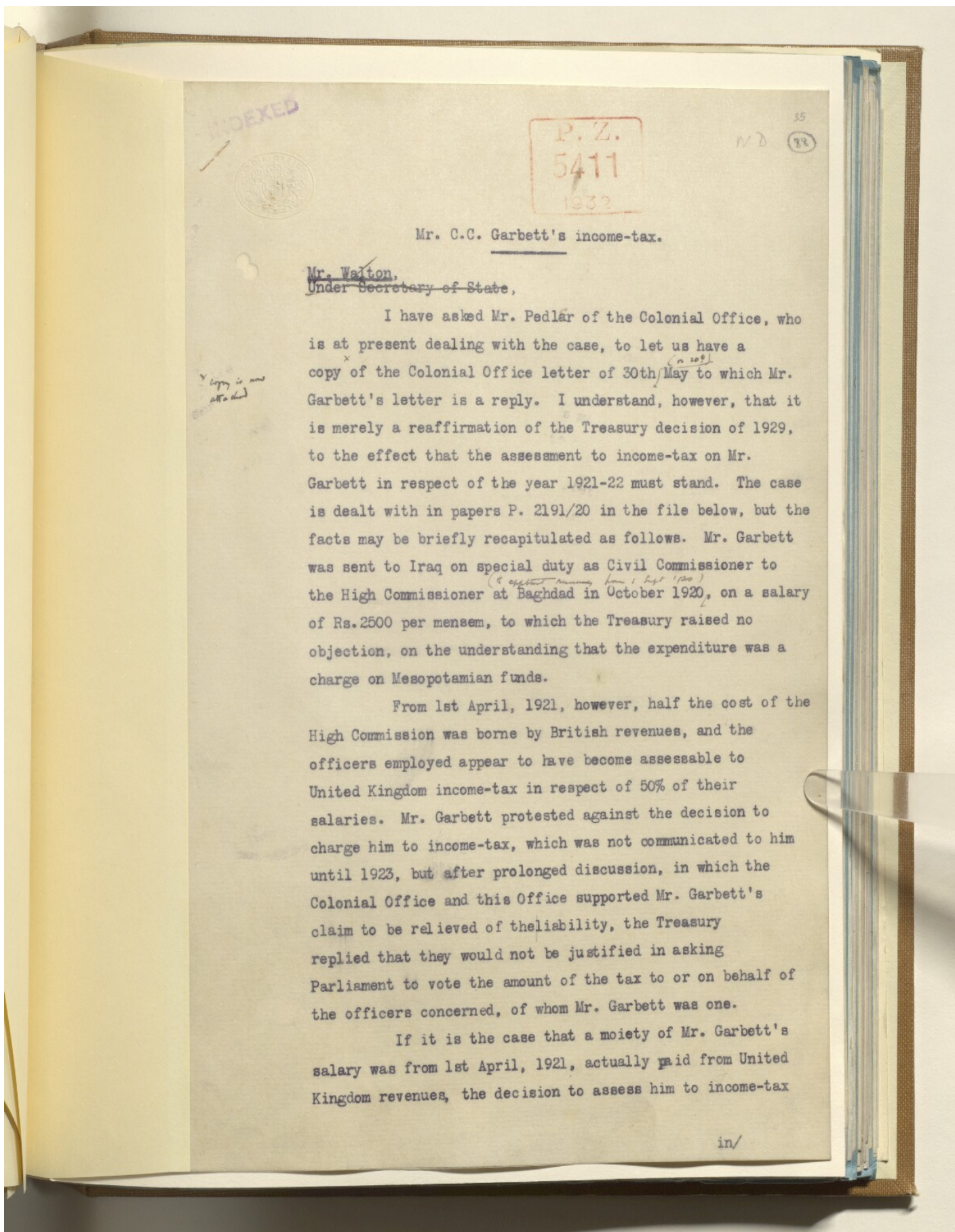
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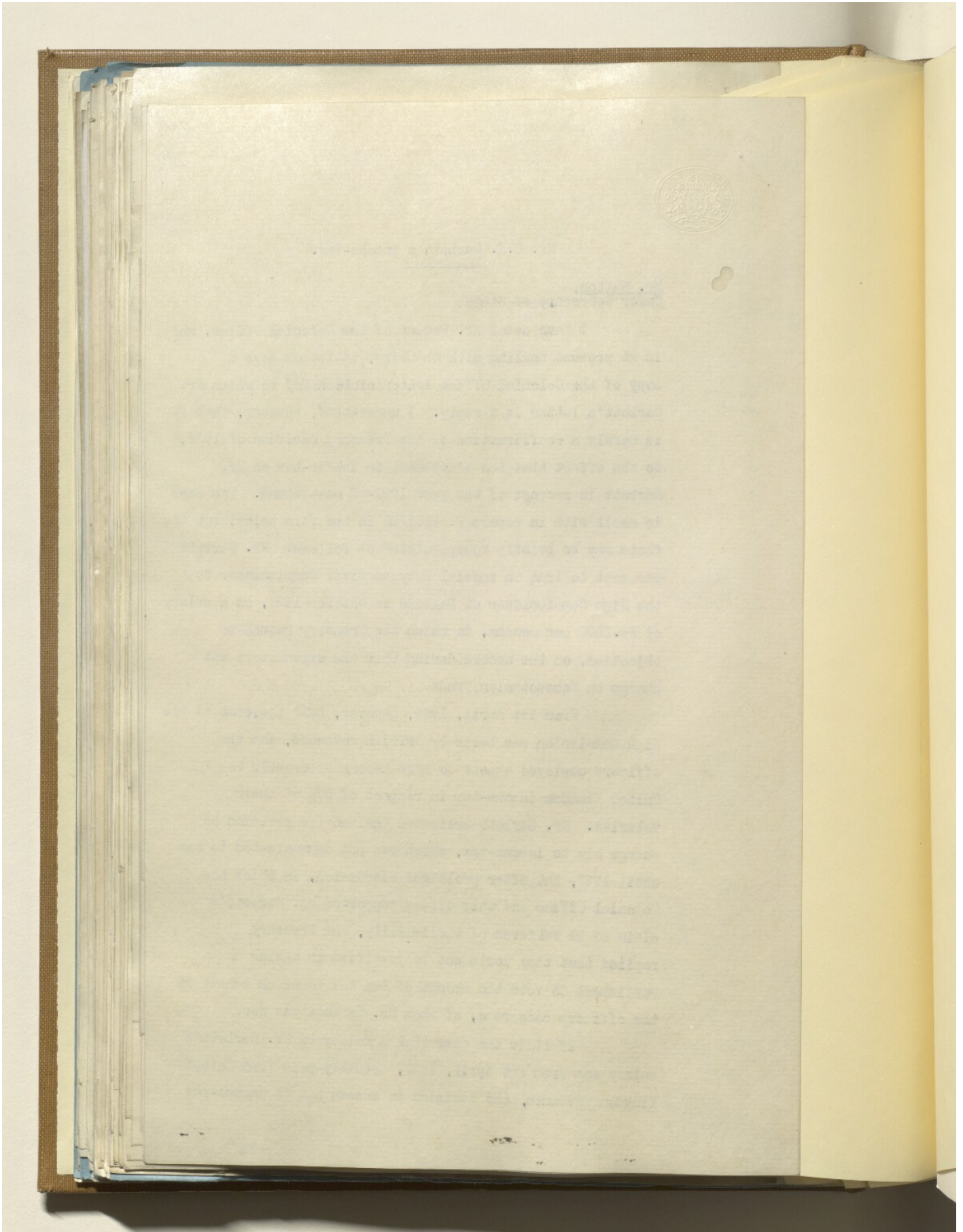
allowances except leave and pension contributions. My Lords will raise no objection to a salary of Rs.2500 per mensem being paid for the present to that officer as Civil Secretary to the High Commissioner in Mesopotamia; the expenditure being a charge on Mesopotamian funds". We feel that there is therefore some equity in Garbett's claim that he should not suffer from the subsequent decision that as from 1st April, 1921, half his salary should be borne by United Kingdom revenues.

I suppose it is realised that in any case no steps can be taken to recover the amount claimed from Mr. Garbett unless and until he returns to this country?

John Sinclair
(Sgd.) E.P. Donaldson.









in the Colonial Office, as the Department from which the issue of pay was made, appears to be legally correct, but if the pay was in fact issued from Iraq funds and subsequently reimbursed from the British Treasury, I think a case could be made out for holding that the charge to income-tax is not in accordance with the rules applicable to Schedule E in the Income-Tax Act, 1918, and Mr. Garbett could, in that event, appeal to the Special Commissioners against the assessment, and could test the validity of the proposed charge.

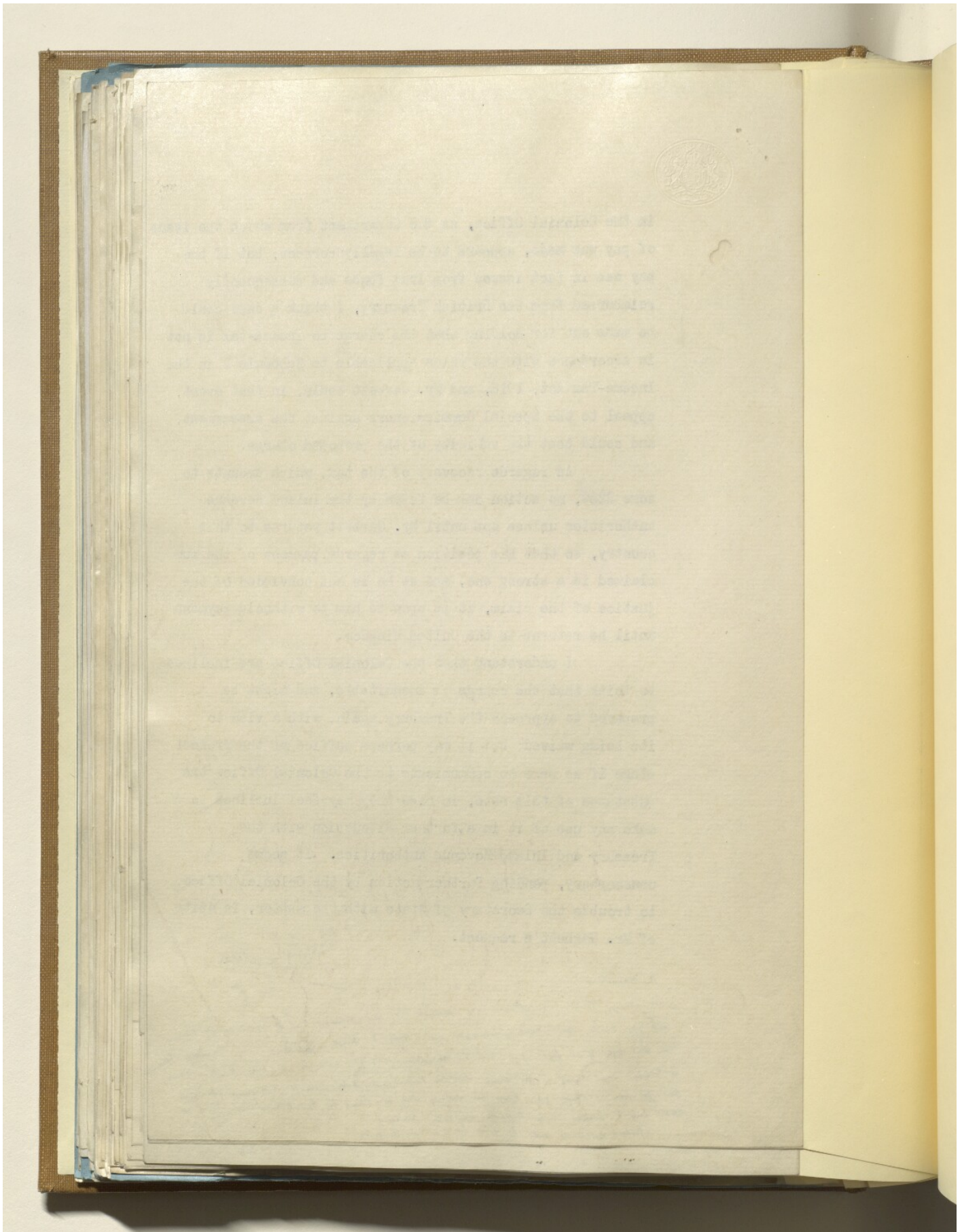
As regards recovery of the tax, which amounts to some ²⁷⁴£250, no action can be taken by the Inland Revenue authorities unless and until Mr. Garbett returns to this country, so that his position as regards payment of the sum claimed is a strong one, and as he is not convinced of the justice of the claim, it is open to him to withhold payment until he returns to the United Kingdom.

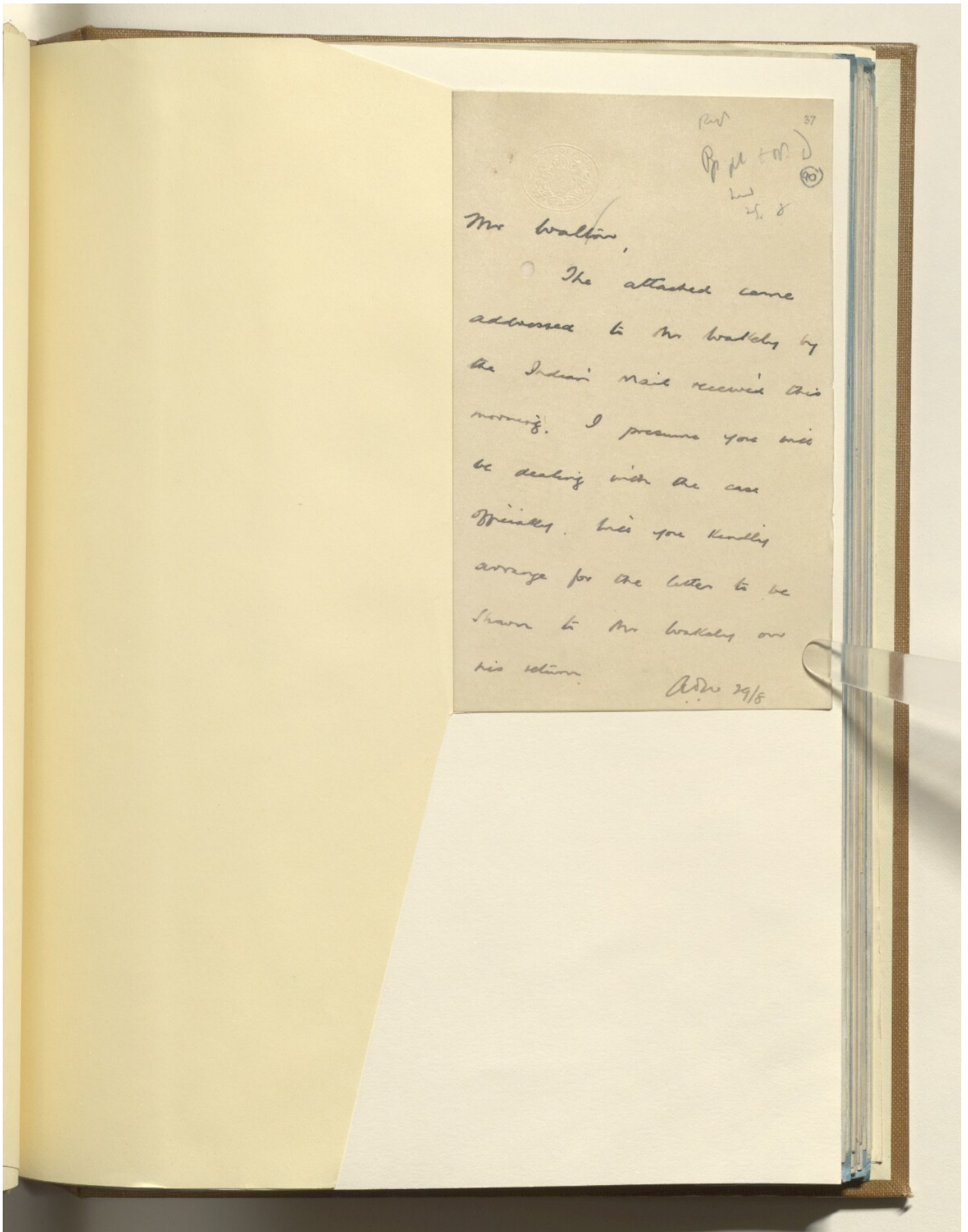
I understand that the Colonial Office are inclined to think that the charge is inequitable, and might be prepared to approach the Treasury again, with a view to its being waived; but it may perhaps suffice at the present stage if we were to communicate to the Colonial Office ^{d/o.} the substance of this note, in case they may feel inclined to make any use of it in a further discussion with the Treasury and Inland Revenue authorities. It seems unnecessary, pending further action by the Colonial Office, to trouble the Secretary of State with the matter, in spite of Mr. Garbett's request.

J. B. Marshall
1.11.32

W. Donaldson

When Mr. Garbett accepted the appointment it was supposed that ^{to pay} he would be a charge on Iraq funds & therefore presumably not liable to British income tax. The Treasury suggested in their letter of 16 Sept. 1930 that the Government should be a charge on Iraq funds. There is therefore some doubt as to his claim that he should not suffer from the retrospective decision that as from 1 April 1921 half his salary should be borne by British revenues. This is open to some legal loophole which you mention. Perhaps you would write to B. & Co. End 3. p. 22



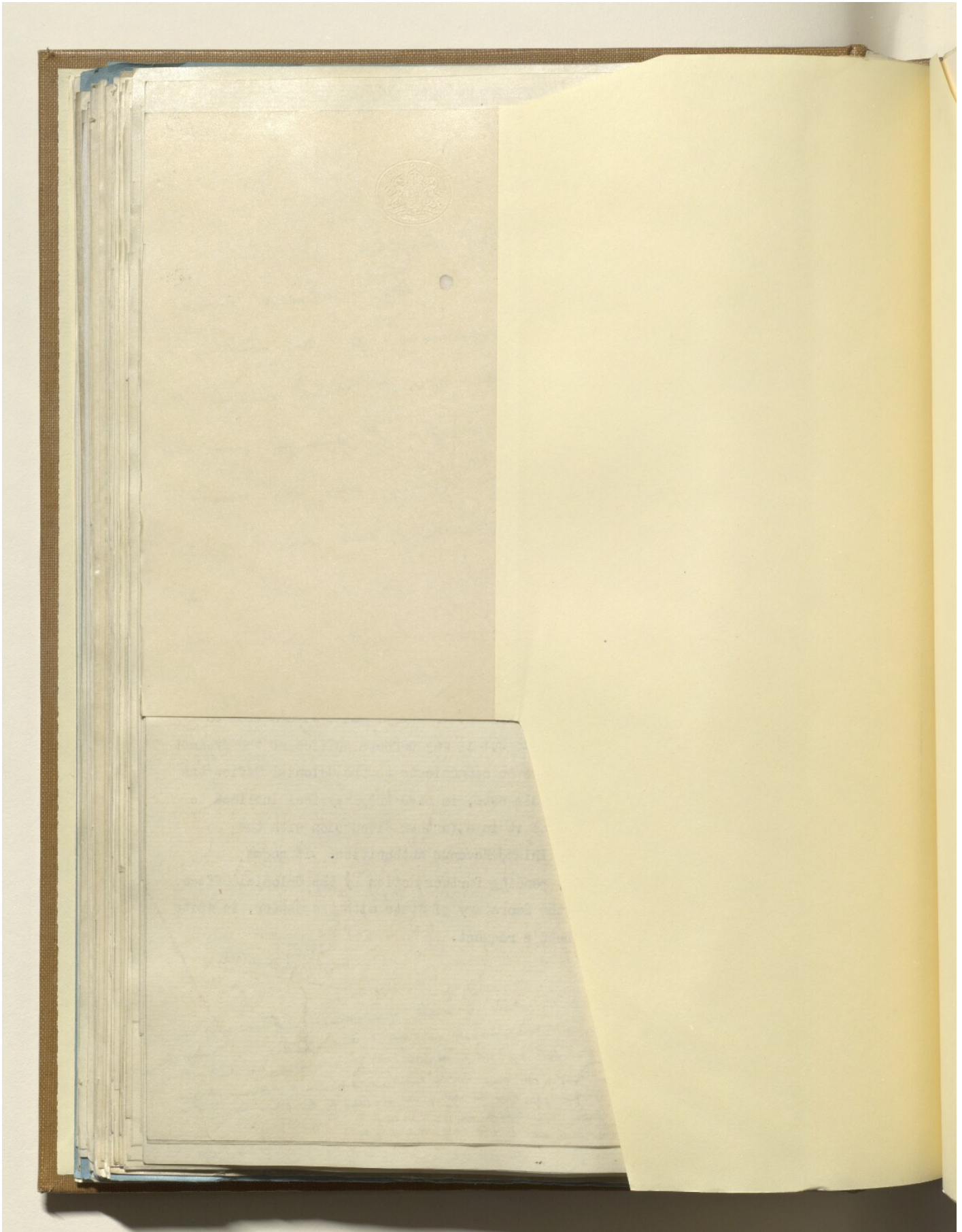


Mr Walsby,

The attached came addressed to Mr Walsby by the Indian Mail received this morning. I presume you will be dealing with the case officially. Will you kindly arrange for the letter to be shown to Mr Walsby on his return.

Adm 29/8

37
Pp 14 + 15
29.8





Punjab Civil Secretariat, Simla East,
11th August 1932.

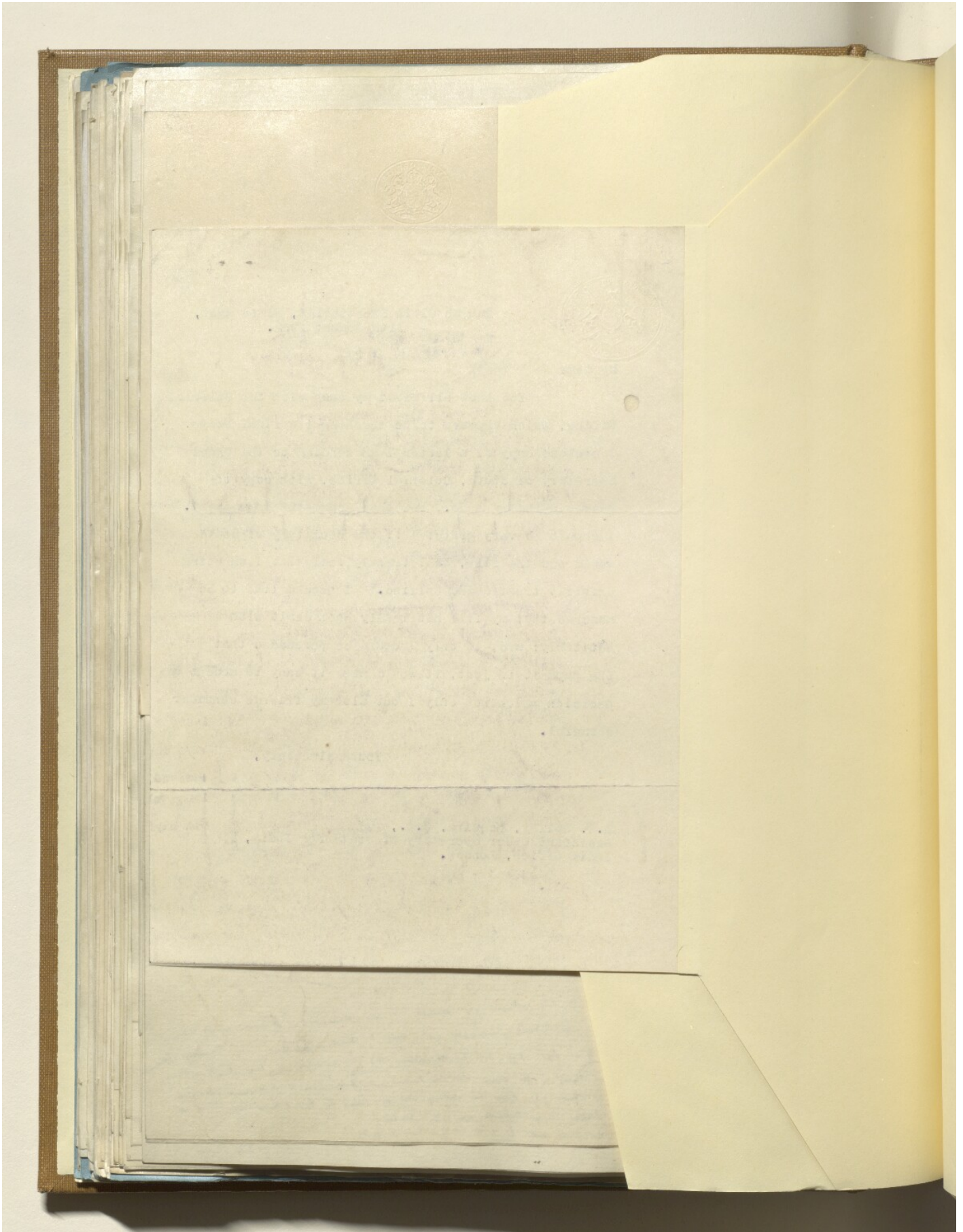
My dear *Wakley*

You know all about my case with the Colonial Office, which appears to be reaching its final stage. I enclose copy of a letter I am sending to the Under Secretary of State, Colonial Office, with copy to Messrs Grindlay & Co., for the Income-tax Department. I should be very grateful if the Secretary of State would see the file, as I frankly feel that I am being unfairly treated and bullied. I should like to be assured that my file has really been dealt with equitably: and, if only I could be persuaded that the payment is just, it would make it easy to accept the decision which not only I but also my friends consider shameful.

Yours sincerely,

C. C. Garbett

L.D. Wakley, Esquire, C.B.,
Assistant Under Secretary of State for India,
India Office, London.





Grant Lodge, Simla East,
11th August 1932.

39

92

To
The Under Secretary of State,
Colonial Office, London.

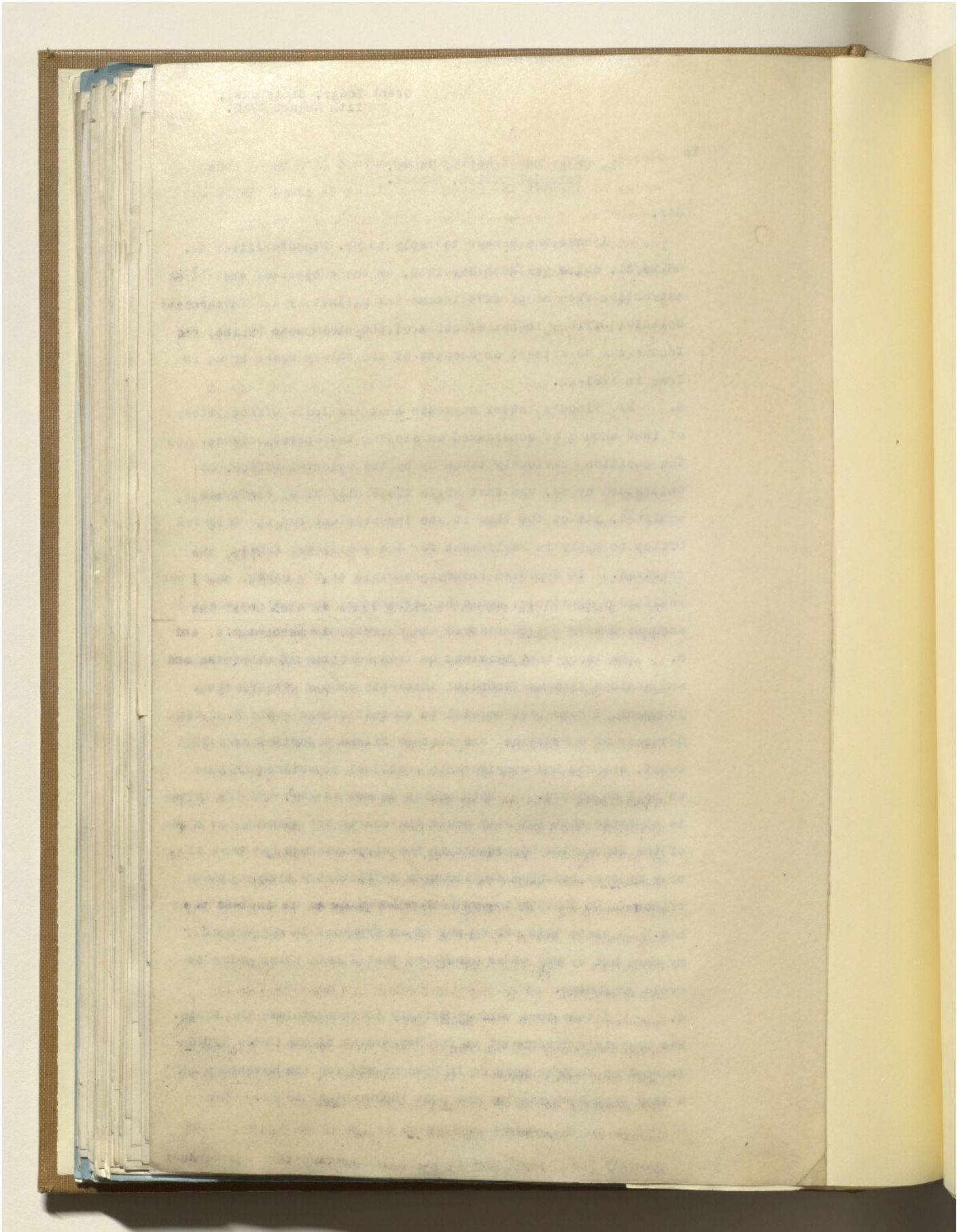
Sir,

I have the honour to reply to Mr. Flood's letter No. 88224/31, dated the 30th May 1932, on the subject of the extraction from me of £274 income tax ultimately due from the Colonial Office, in satisfaction of the claim made by the Income-tax Department on account of the salary drawn by me in Iraq in 1921-22.

2. Mr. Flood's letter suggests that the India Office letter of 1929 should be considered as closing the correspondence. The position previously taken up by the Colonial Office, as understood by me, was that while the equity of my claim was admitted, yet at the time it was inconvenient for the Colonial Office to apply to Parliament for the additional funds required. It appeared incomprehensible that a claim, which was admittedly equitable, would be permanently shelved, and on this account I have not considered the correspondence closed.

3. Realising that my views on this question might be biased and anxious that my financial interests should not affect my judgment. I have been careful to consult others - one H.A. the Governor of a Province: and another friend a Justice of a High Court, who has had considerable practical experience at home as well as abroad. Both advise me not to pay, and the latter is emphatic that not only would the courts not enforce the claim of the Income-tax Department in the circumstances but that if only my case had been studied by a sufficiently highly placed official, it would not have been allowed to go on as long as it has. I state this not by way of an argument in support of my case but by way of an assurance that I have taken pains to avoid prejudice.

4. I therefore venture briefly to recapitulate the facts. His Majesty's Government in the Department of the India Office induced me to take service in Mesopotamia for its advantage at a time when such service was most inconvenient to me. His

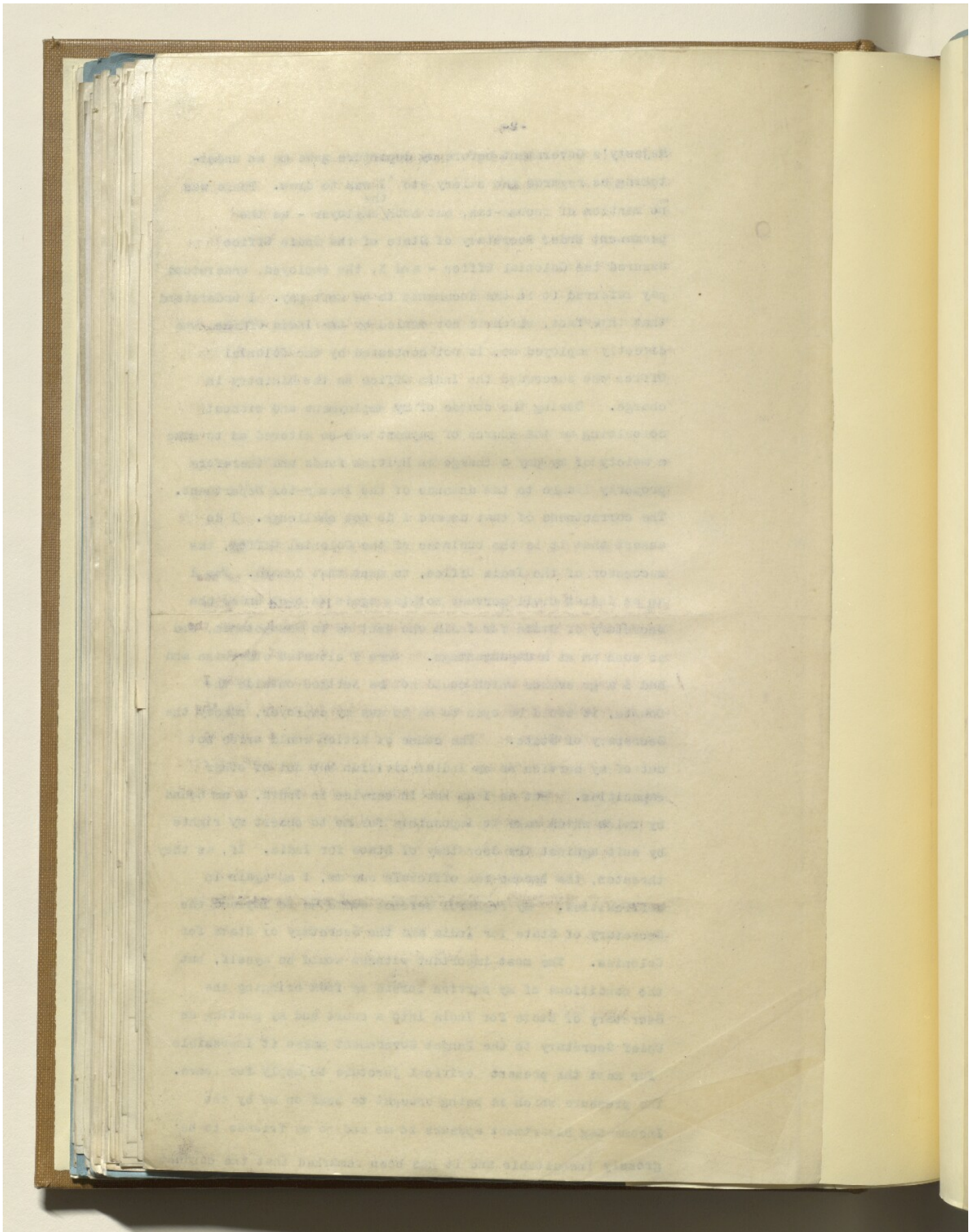


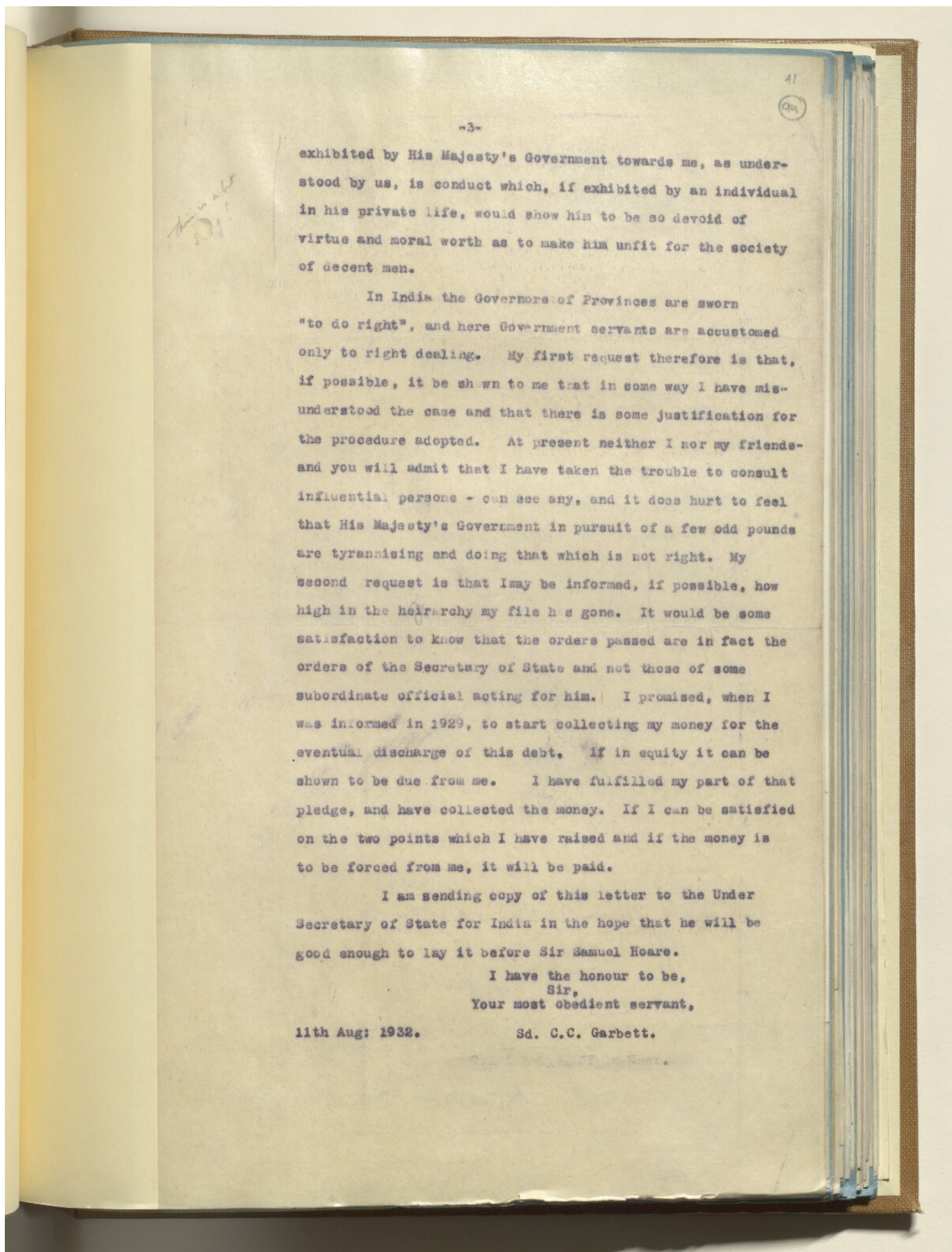


40
93

-2-

Majesty's Government before my departure gave me an undertaking as regards the salary etc. I was to draw. There was no mention of income-tax, but both ^{the} employer - as the permanent Under Secretary of State of the India Office assured the Colonial Office - and I, the employed, understood pay referred to in the documents to be net pay. I understand that this fact, which is not denied by the India Office, who directly employed me, is not contested by the Colonial Office who succeeded the India Office as the Ministry in charge. During the course of my employment and without consulting me the source of payment was so altered as to make a moiety of my pay a charge on British funds and therefore properly liable to the demands of the Income-tax Department. The correctness of that demand I do not challenge. I do assert that it is the business of the Colonial Office, the successor of the India Office, to meet that demand. Now I am an Indian Civil servant working again as such under the Secretary of State for India who sent me to Mesopotamia, and as such am at a disadvantage. Were I situated otherwise and had I a grievance which could not be settled outside the Courts, it would be open to me to sue my employer, namely the Secretary of State. The cause of action would arise not out of my service as an Indian civilian but out of other capacities. But as I am now in service in India, I am bound by rules which make it impossible for me to assert my rights by suit against the Secretary of State for India. If, as they threaten, the Income-tax officials sue me, I am again in difficulties. My rightful defence would be to implead the Secretary of State for India and the Secretary of State for Colonies. The most important witness would be myself, but the conditions of my service forbid me from bringing the Secretary of State for India into a court and my posting as Chief Secretary to the Punjab Government makes it impossible for me at the present critical juncture to apply for leave. The pressure which is being brought to bear on me by the Income-tax Department appears to me and to my friends to be grossly inequitable and it has been remarked that the conduct





-3-

exhibited by His Majesty's Government towards me, as understood by us, is conduct which, if exhibited by an individual in his private life, would show him to be so devoid of virtue and moral worth as to make him unfit for the society of decent men.

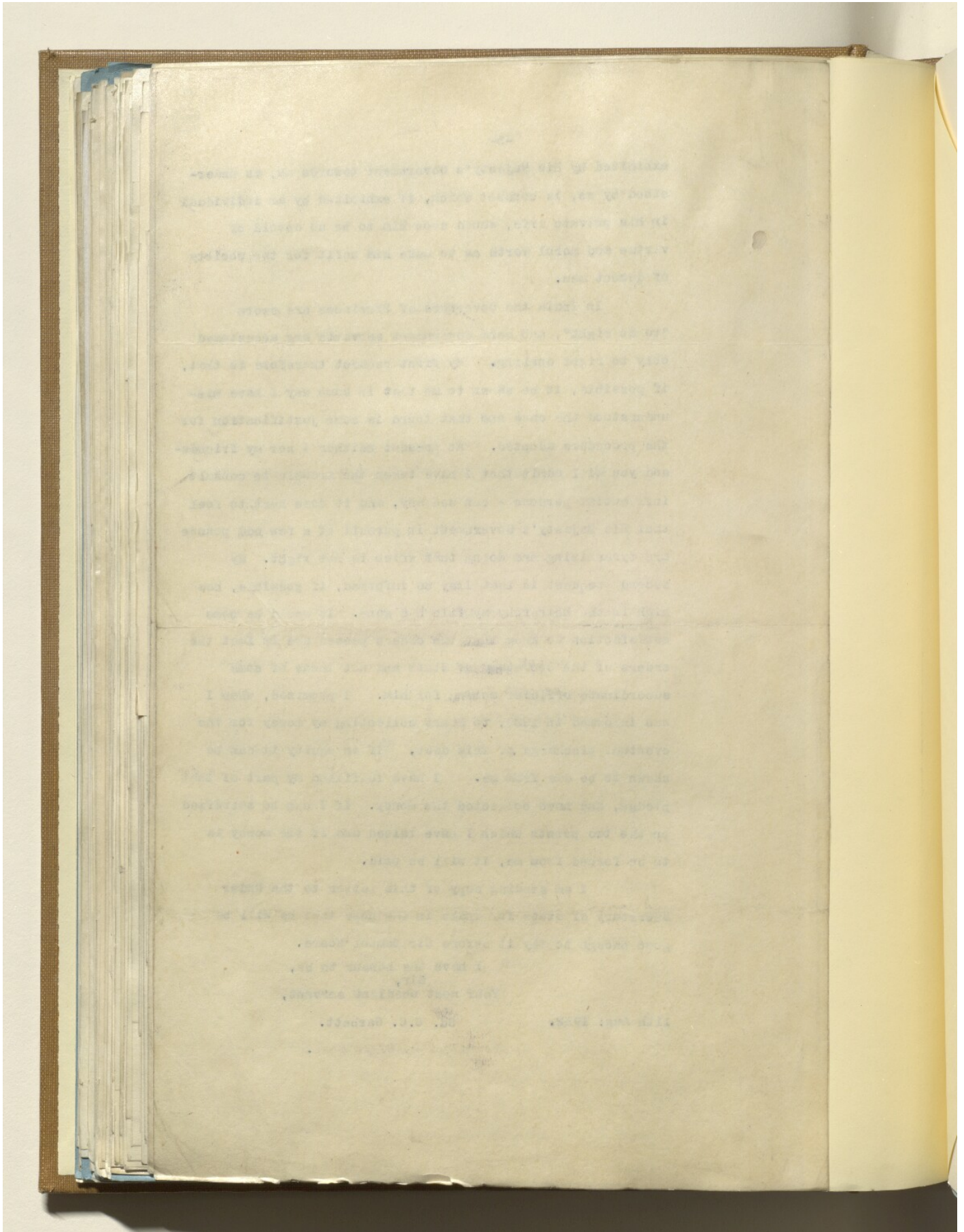
In India the Governors of Provinces are sworn "to do right", and here Government servants are accustomed only to right dealing. My first request therefore is that, if possible, it be shown to me that in some way I have misunderstood the case and that there is some justification for the procedure adopted. At present neither I nor my friends - and you will admit that I have taken the trouble to consult influential persons - can see any, and it does hurt to feel that His Majesty's Government in pursuit of a few odd pounds are tyrannising and doing that which is not right. My second request is that I may be informed, if possible, how high in the hierarchy my file has gone. It would be some satisfaction to know that the orders passed are in fact the orders of the Secretary of State and not those of some subordinate official acting for him. I promised, when I was informed in 1929, to start collecting my money for the eventual discharge of this debt. If in equity it can be shown to be due from me. I have fulfilled my part of that pledge, and have collected the money. If I can be satisfied on the two points which I have raised and if the money is to be forced from me, it will be paid.

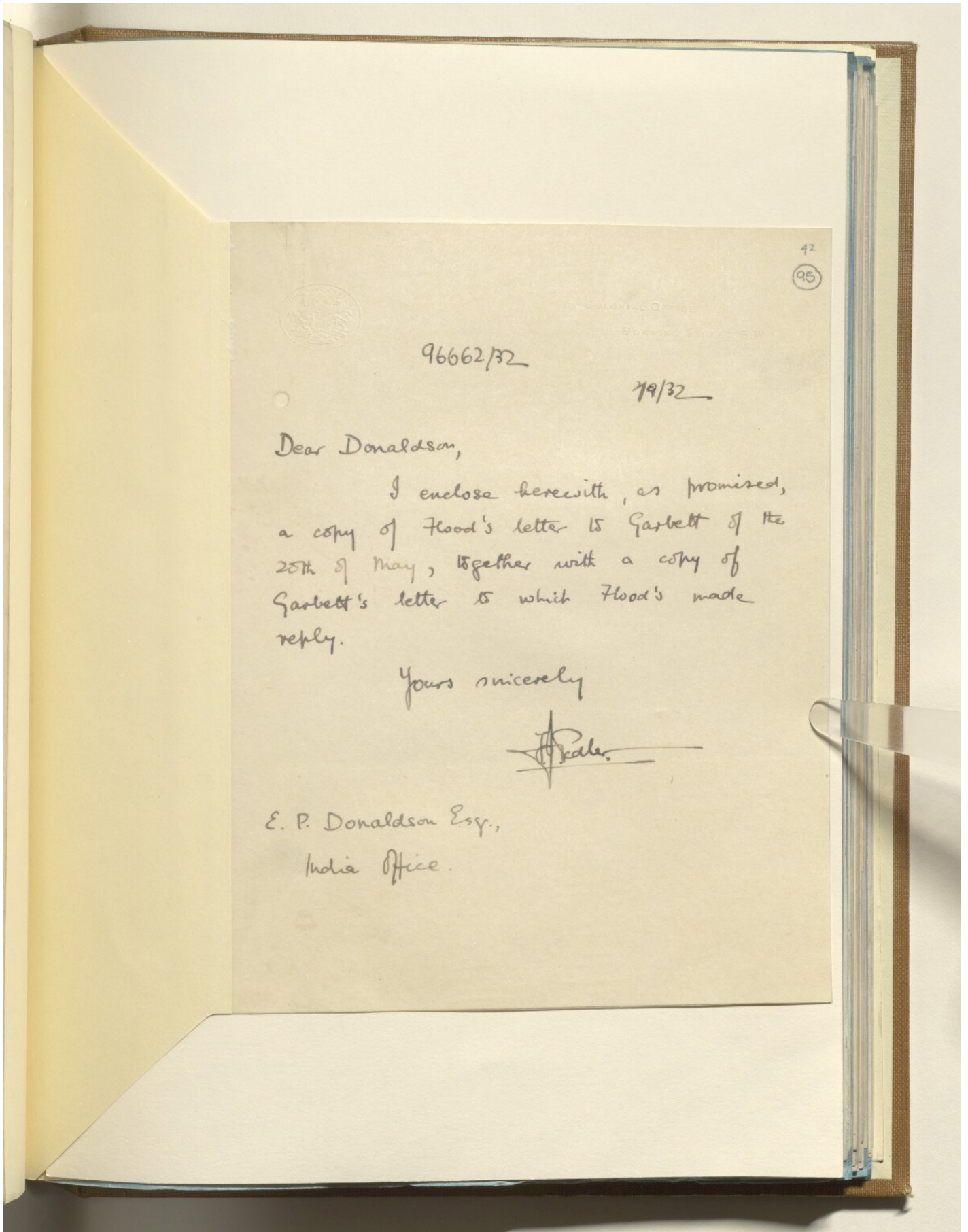
I am sending copy of this letter to the Under Secretary of State for India in the hope that he will be good enough to lay it before Sir Samuel Hoare.

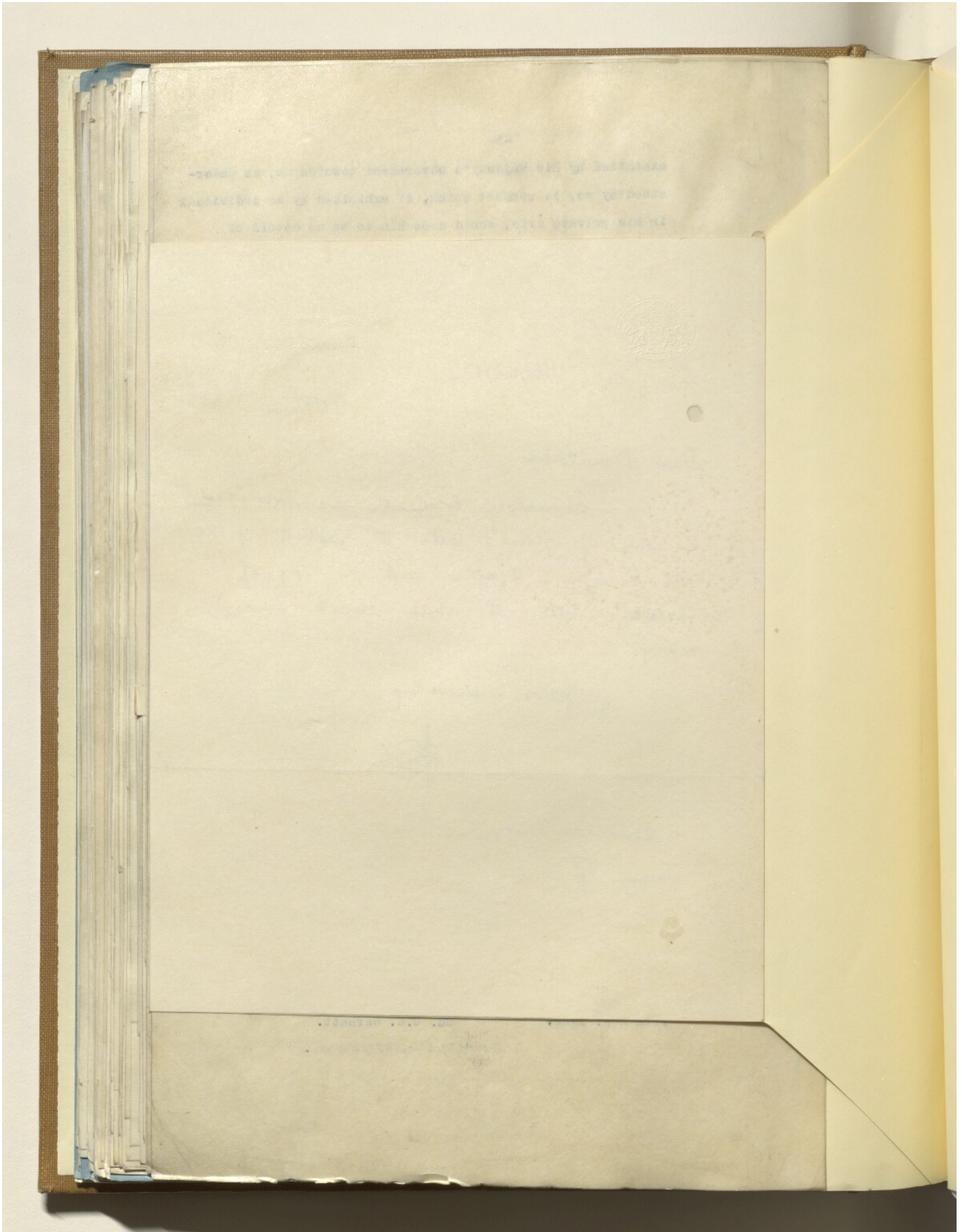
I have the honour to be,
Sir,
Your most obedient servant,

11th Aug: 1932.

Sd. C.C. Garbett.









COPY.

88224/31.

DOWNING STREET.

20th May, 1932.

Sir,

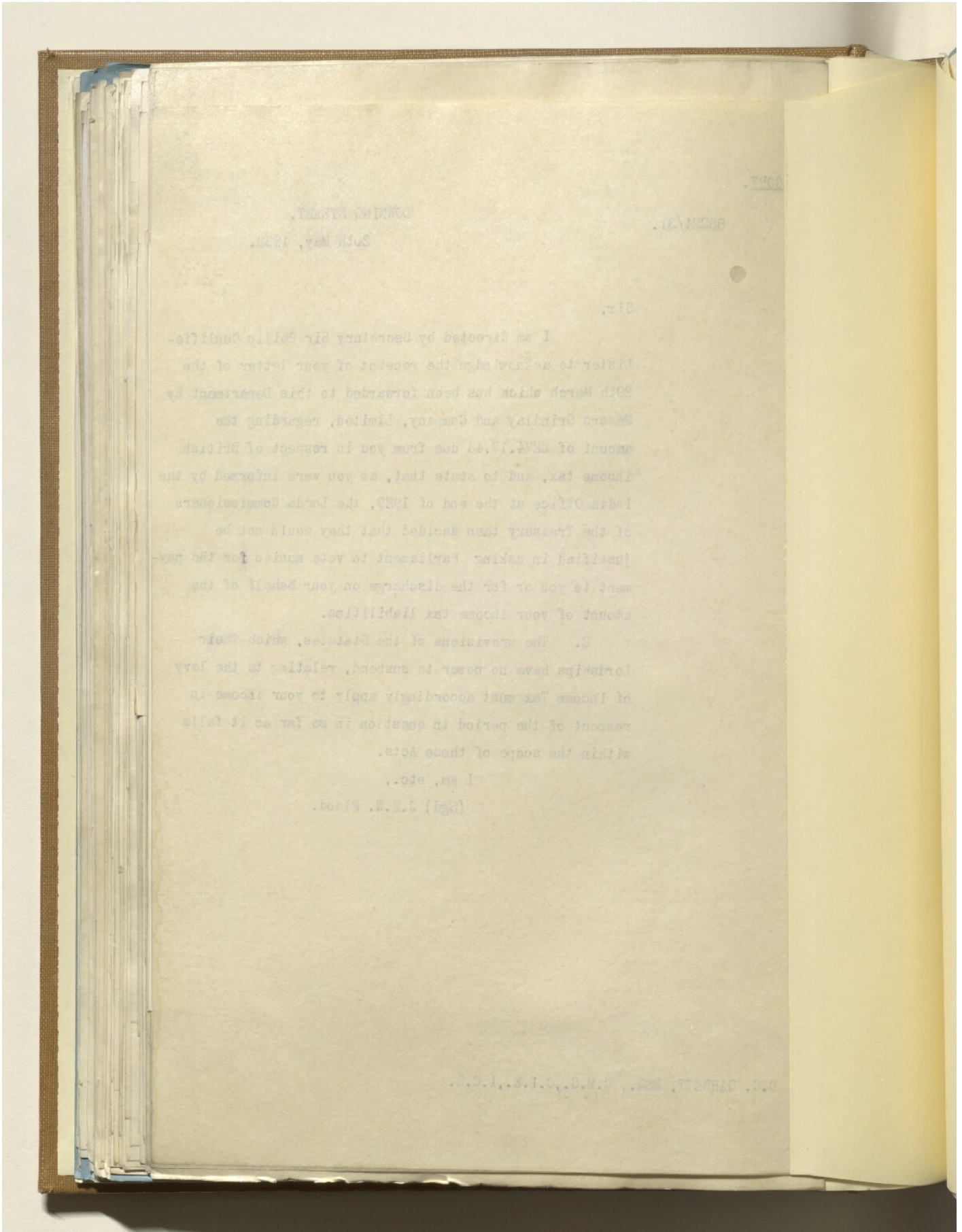
I am directed by Secretary Sir Philip Cunliffe-Lister to acknowledge the receipt of your letter of the 29th March which has been forwarded to this Department by Messrs Grindlay and Company, Limited, regarding the amount of £274.17.4d due from you in respect of British income tax, and to state that, as you were informed by the India Office at the end of 1929, the Lords Commissioners of the Treasury then decided that they would not be justified in asking Parliament to vote monies for the payment to you or for the discharge on your behalf of the amount of your income tax liabilities.

2. The provisions of the Statutes, which Their Lordships have no power to suspend, relating to the levy of Income Tax must accordingly apply to your income in respect of the period in question in so far as it falls within the scope of these Acts.

I am, etc.,

(Sgd) J.E.W. Flood.

C.C. GARBETT, ESQ., C.M.G., C.I.E., I.C.S.





COPY.

Pubjab Club, Lahore.

29.3.1932.

To

The Under Secretary of State,
Colonial Office, London.

Sir,

I am advised by the Board of Inland Revenue that they still await the payment of £274.17s.4d. due on account of income-tax from me for the years 1921-22 and 1922-23. I trust that provision has been made for payment in the current budget, and shall be glad to have your assurance to this effect.

I have, etc.,

(Sgd) C.C. Carbett.

