M.R.O. 1—77,006—8-6-37.

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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 16 Press / Mis.

23-23

Dated 7-1- 1870.

11/12

22-23

Not to be folded or roughly handled

No. 22. Read the following letter from R. B. CHAPMAN, Esq., Officiating Secretary to the Government of India, Financial Department, to the Hon. R. S. ELLIS, C.B., Chief Secretary to Government, Fort St. George, dated Simla, 7th October 1869, No. 3906 :—

I am directed to acknowledge the receipt of your No. 382, dated 25th August, to which the Governor-General in Council has given full consideration.

2. I am desired now to inform you that, in the opinion of the Government of India, the right of appeal to the Secretary of State from an order of a Local Government in no way prevents an appeal to the Government of India or diminishes the authority of the Supreme Government to deal with any executive order by a Subordinate Government as it thinks fit.

3. It is, of course, very improbable that the Government of India would interfere with such an order as that out of which this correspondence has arisen, but the Governor-General in Council has no doubt whatever that the right of revision to any extent that he may think proper rests with him.

No. 23. ORDER THEREON, 7th January 1870, No. 16.

To be recorded.

(True Extract.)

R. S. ELLIS,
Chief Secretary.

Exd. J. H. Burns.

Inv. 5422 for notes

I should like to see a precis containing those points of the Bill of Parliament still in force which bear upon the relations of the Govt of India & the Govts of Bombay & Bombay.

A. A.

The precis called for in the above note-has come home, in Mr Ashburnham's absence. I have read it and am in clined to think that the Govt of India are perfectly right in what they state in their letter dated the 7th ultimo No 3906. I think that the matter had better be dropped

It is presumed that their letter asserting the right of the Govt of India to remit any execution order of the local Govt may be recalled. If, however, this ruling should be acted up to, and become generally known, it will cause an immense number of appeals from the orders of Govt

W. S. Smith for Secy to Govt Bombay

W. A.

Presidencies of Madras,
Bombay & Bencoolen, so
far and in so much as
that it shall not be
lawful for any president
in Council of Madras, Bombay
and Bencoolen for the time
being to make any order
for commencing hostilities
or declaring or making war
against any Indian princes
or powers, or for negotiating
or concluding any treaty
of peace or other treaty with
any such Indian princes
or powers without the con-
-sent of the said Governor
General and Council first
had and obtained" - except
in imminent necessity or
in case of direct orders received
from the United Company.

Sec. 40. The Governor Genl. in
Council at Fort William
shall have and be invested
by virtue of this act with

33. Geo. III c 52.

full power and authority
to superintend, control and
direct the several Govern-
-ments and Presidencies
of Fort St. George & Bombay
and all other Govts. erected
or to be erected by the said
United Company within
the limits of their exclusive
trade, in all such points
as shall relate to any
negotiations or transac-
-tions with the country powers
or states, or levying war
or making peace, or to
the collection or applica-
-tion of the revenues of the
said acquisitions and
territories in India or to
the civil or military Govt.
of the said Presidencies
acquisitions or territories
or any of them.

Sec: 41. "And in order to
prevent the embarrassment
& difficulty which may

otherwise

Statute Law governing the relations between the Supreme Government and the Govts. of Madras & Bombay

The following are the statutory provisions on the subject indexed as not expressly repealed in Mr. Whitley Stokes' supplement to the Law relating to India and the East India Company (fifth edition). That supplement is brought down to 1867. The enactments are here arranged chronologically.

13 Geo III c 53.
(Commonly called the Regulating Act - the first which essentially interfered with the Govt of India)

Sec. 9. "The said Governor General and Council of Fort William, or the major part of them should have and they are hereby authorized to have the power of superintending and controlling the Government and management of the

Presidencies

otherwise arise from any doubt whether the orders or instruction of the said Governor Gneral in Council of Fort William relate to other points than those aforesaid, be it further enacted that notwithstanding any doubt which may be entertained by the said Presidencies or Governments to whom such orders or instructions shall be given respecting the power of the Governor General in Council to give such orders, yet the said Presidencies or Governments shall be bound to obey such orders and directions of the said Governor Genl. in Council in all cases whatever." - except when contrary orders not known to the Governor General shall have been received from home.

In

Sec: 43. Abstract - Governments of Fort Saint George or Bombay not to declare war &c. but by order from Fort William or the Directors &c.

Sec: 44. Abstract - Governments of Fort Saint George and Bombay to send to Fort William, copies of all orders, resolutions and Acts in Council, and also advice and intelligence of all matters material, to be communicated to, or required by the Governor General.

3 and 4 Wm IV. c. 85. s. 39.

The superintendence direction and control of the whole civil and military government of all the said territories and revenues in India shall be vested in a Governor General and Councellors

Councillors to be styled the "Governor General of India in Council."

Sec. 42. All enactments, provisions, matters and things relating to the Governor General of Fort William in Bengal in Council ..... in any Act or Acts contained, so far as the same are now in force and not repealed or repugnant to the provisions of this Act shall continue and be in force and be applicable to the Governor General of India in Council.

Abstract

Sec. 59. The Governor in Council of Fort Saint George appointed under this Act to have all the right, powers, duties

duties, functions and immunities whatsoever not repugnant to this Act, which were vested by former Acts in the Governors and Members of Council; "and provided that no Governor or Governor in Council shall have the power of creating any new office or granting any salary gratuity or allowance without the previous sanction of the Governor General of India in Council

Sec. 66. The said Governor General in Council shall have and be invested by virtue of this Act with full power and authority to superintend and control the Governors and Governors in Council

Council of Fort Wil-
= liam in Bengal,
Fort Saint George,
Bombay and Agra
in all points relating
to the civil or military
administration of the
said presidencies re-
= spectively, and the
said Governors or Go-
= vernors in Council
shall be bound to
obey such orders and
instructions of the said
Governor General in
Council in all cases
whatsoever.

Sec: 68. To the same ef-
= fect as 33. Geo. III. c. 52
Sec: 44 (supra).

2. I can find nothing
express in the statutes
regarding the right of
direct correspondence
with the Home Govern-
= ment

Government which is
~~honored~~ ~~protected~~ by the
Governments of Madras
and Bombay. The only
provisions regarding cor-
= respondence with India
are injunctions to the
Supreme Government
to correspond diligently
with the Court of Directors.
(33 Geo. III. c. 52. Sec. 44) and
a provision (21 & 22 Vic. c.
106. Sec. 19) that the cor-
= respondence with India
and the business con-
= nected with it shall be
conducted by the Coun-
= cil of India, and that
"despatches from India
which if the Act had
not been passed should
have been addressed to
the Court of Directors
or their Secret Committee,
shall

shall be addressed to the Secretary of State."
The word should in this enactment might perhaps be held to cover customary right or right conferred by order of the Court of Directors. A customary right may have arisen from necessity in consequence of infrequent and tardy means of communication.

3. I have also examined the statutes of 1867-1868- and those of 1869 which have been received. They contain nothing bearing on the relations of the Supreme Govt with India.

All

Statute Laws governing the relations between the Sup. Govt. & the Govts of Travancore & Bombay

(3)

Hon'ble
W. Arbuthnot

c 28/11.
R 27/Dec 11

No: 3906

To

The Chief Secretary to the Government
of Madras.

Fenl. Departt.

Sir,

I am directed to acknowledge the receipt of your No: 382 dated 25th August, to which the Governor General in Council has given full consideration.-

2 I am directed now to inform you that in the opinion of the Government of India the right of appeal to the Secretary of State from an order of a local Government in no way prevents an appeal to the Government of India, or diminish the authority of the Supreme Government to deal with any Executive order by a Subordinate Government as it thinks fit.-

3 It is of course very improbable that the Government of India would interfere with such an order as that out of which this correspondence has arisen, but the Governor General in Council has

Ltr. to Govt. of Madras
No. 3906 dated 27th Sept. 1877.
Fenl. Departt.
To Chief Secretary to the Govt. of Madras.
Sir,
I am directed to acknowledge the receipt of your No: 382 dated 25th August, to which the Governor General in Council has given full consideration.-
2 I am directed now to inform you that in the opinion of the Government of India the right of appeal to the Secretary of State from an order of a local Government in no way prevents an appeal to the Government of India, or diminish the authority of the Supreme Government to deal with any Executive order by a Subordinate Government as it thinks fit.-
3 It is of course very improbable that the Government of India would interfere with such an order as that out of which this correspondence has arisen, but the Governor General in Council has

has no doubt whatever, that the right of revision to any extent, that he may think proper, rests with him.—

Simla
the 7th October
1869

I have the honor to be
Sir
Your most Obedt Servant

Offg Secretary to Govt. of India