M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1019 Press
64-65 Mis.

Dated 29—7—1839

Not to be folded or roughly handled

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F

Proceedings of the Madras Government, Judicial Department, from 23rd to 29th July 1859.

No. 64. Read the following letter from R. B. CHAPMAN, Esq., Under Secretary to the Government of India, to the Secretary to Government of Fort St. George, dated Fort William, 5th July 1859, No. 1336.

HOME DEPARTMENT.

I am directed by His Excellency the Governor-General in Council to forward for the information of His Excellency the Governor in Council, the accompanying copy of a correspondence* with the Government of Bengal, relative to a certain class of estates confiscated under Act XXV of 1857.

*From Government of Bengal, No. 3303, dated the 25th May, and 1 enclosure.
To Government of Bengal, No. 1331 of this date.

No. 65. ORDER THEREON, 29th July 1859, No. 1019.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No.

FROM

W. GREY, ESQUIRE,
Secy. to the Govt. of India,

To

A. R. YOUNG, ESQUIRE,
Secy. to the Govt. of Bengal.

SIR,

Dated Council Chamber, the 5th July 1859.

HOME DEPT. I AM directed to acknowledge the receipt of your letter No. 3362, dated the 25th of May, submitting for the consideration and orders of the Governor General in Council a letter from the Commissioner of Patna, relating to the case of Kishen Pershad, a Zemindar of Shahabad, whose estates were confiscated in July last under Act XXV. of 1857.

2. The Commissioner reports that this Zemindar came in under the Amnesty in December and received pardon, and he is therefore of opinion that the case comes under the 7th paragraph of the orders of the Supreme Government, noted in the margin, by which the Lieutenant Governor was requested favorably to reconsider the sentence of confiscation passed in such cases, provided that the defendants were not included among certain specified classes of offenders, or that, generally, any material grounds of extenuation could be adduced.

Letter from the Secretary with the Governor General to the Government of Bengal, dated Allahabad, the 8th November 1858, No. 519.

3. The Lieutenant Governor, in regard to the present case, does not doubt that it comes under the orders above referred to, but His Honor questions the expediency in such cases of a free restoration of the property forfeited, and considers that it would have a better permanent effect to exact a moderate, but not a merely nominal fine as the condition of restoration.

4. In reply I am instructed to state, that in issuing the order in question the Government no doubt contemplated that, in cases falling under its provisions, the penalty of forfeiture should not ordinarily be enforced. The wording of the order leaves however a large discretion to the local Governments, and it contains nothing prohibitory of the course suggested by the Lieutenant Governor, which provides for the modification of the sentence of confiscation, instead of its complete reversal. Such a course will not be inconsistent with the order, the spirit of which does not demand an unconditional restoration of the property, except perhaps in cases in which any really material and special grounds of extenuation for the behaviour of the Zemindar may be found to exist.

5. It is doubtful whether the Government can, by any strictly legal proceeding, impose a fine in commutation of a forfeiture of property under any of the Acts passed in 1857; for should a fine be imposed in commutation of the forfeiture, some legal process would become necessary for the recovery of the amount,

unless the release of the property was made distinctly conditional on the payment of the fine. This difficulty, however, I am desired to say, may easily be got over. The owner of the property may be allowed to redeem his property by the payment, within a given period, of a sum of money, the amount, as well as the time allowed, to be fixed by the local Government, and to this course, I am directed to say, the Governor General in Council sees no objection. It is likewise of course open to the Government to restore a portion only of the confiscated property, in any case in which entire restoration may appear too liberal a measure, and when such a mode of proceeding can be followed without practical inconvenience.

I have the honor to be,
SIR,
Your most obedient servant,

Secy. to the Govt. of India.

Exd.—M. A. Mendes.

No. 1336

FROM

R. B. CHAPMAN, ESQUIRE,
Under Secy. to the Govt. of India,

To

The Secretary to Govt. of Fort St. George

SIR,

Dated Fort William, the 5th July 1859.

HOME DEPT. I AM directed by His Excellency the Governor General in Council to forward for the information of His Excellency the Govr. in Council the accompanying copy of a correspondence* with the Government of Bengal, relative to a certain class of estates confiscated under Act XXV. of 1857.

* From Government of Bengal, No. 3362, dated the 25th May, and 1 enclosure.
To Government of Bengal, No. 1351, of this date.

I have the honor to be,
SIR,
Your most obedient servant,

R. B. Chapman

Under Secy. to the Govt. of India.

Exd.—M. A. Mendes.

Postage Stamps cut off Bad Copy

Pers. of Govt. 29 July
Judicial 1859 Depte.

From
The Under Secy. to the
Govt. of India.
Home Dep.

No. 2 July 1859.

Judicial
No. 1196.
Recd. 1.

Transmitting Copy
of Correspondence with
the Govt. of Bengal,
relative to a certain
Class of Estates com-
prised under Act
XXX of 1858. —

No. 1067
To be recorded.
29/7/59

61/355

23 Aug 64 485