M.R. O. 1—80,000—15-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 453 Press ~~Mis.~~

140-141

Dated 18.3.1862 ~~19~~

5/5

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
18th March 1862.

No. 140. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras; to the Honorable T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 27th February 1862, No. 116.

Dated 24th February 1862, No. 394, Judicial Department.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin.

2. I have submitted the same for the consideration of the Advocate General, and now forward a copy of his opinion.

COPY OPINION.

I am not aware of any Act authorizing such a course as that about which Government now enquire, nor of any instance in which any such course has ever been taken here, or in England or Ireland; and without a specific enactment to *authorize*, and *also* to *limit* such a proceeding, it is open in point of principle to this rather serious objection. Where is the reverting to end? If the third sentence may be abandoned, and the previous one of transportation reverted to, why may not that also be afterwards abandoned, and the original sentence of death be reverted to?

In my opinion it would not be legal now to revert to the sentence of transportation, that having once been changed to Penal Servitude, under Section 5 of Act XXIV of 1855, by a Warrant from the President and Members of Council.

(Signed) T. SYDNEY SMYTH,
Advocate General.

Madras, 27th February 1862.

(True Copy.)

(Signed) JOHN MILLER,
Acting Government Solicitor.

No. 141. ORDER THEREON, 18th March 1862, No. 453.

Recorded.—Orders have been issued for the removal of Martin Murphy to the European Jail at Ootacamund at the same time with the European Convicts received from Calcutta.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

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To

the Right Honourable Sir W. T. Denison K.C.B

Governor of Fort St. George

Madras.

The humble petition of Martin Murphy a Prisoner in H.M. Penitentiary Madras respectfully sheweth that:-

Your Petitioner was a Private in the 2nd Madras European Light Infantry, and was tried by the Supreme Court of Judicature Madras in the year 1855 on a charge of the intended murder of one Patrick Neil a Private of the same Regiment and was sentenced to Transportation for

Life. Your Petitioner begs most humbly to bring to your Excellency's notice that the original sentence was not carried into effect, but His Excellency Lord Harris by a minute of Council changed it to Penal Servitude for Life, which punishment Petitioner has now undergone for nearly seven

17 years. Your Petitioner begs most earnestly to appeal to your Excellency's merciful consideration, in the hope that your Excellency may be disposed to deal leniently with him.—

Your Petitioner's health is now fast breaking and there is every reason to suppose that a continuance of Imprisonment will materially injure it, though should your Excellency be pleased now to look favourably on your Petitioner, he will be able to earn an honest living for himself.

Your Petitioner has hitherto borne an unexceptionable character to which the Commissioner of Police and Mr. Owen the Superintendent of the Penitentiary can testify

testify if appealed to, and now humbly prays that Your Excellency will be pleased to grant him a conditional pardon, or should not this be feasible, he prays that his Original Sentence may be adhered to and that he may be sent to Australia on probation; in conclusion

Petitioner prays that Your Excellency will bear in mind the lengthened and trying nature of the Imprisonment he has already undergone in an unhealthy climate, and for this act of mercy and benevolence Your Petitioner as in duty bound will ever pray.

Martin Murphy.

Penitentiary
Madras
6th February 1862

Petition — Certain Persons desiring to be sworn of the Grand Jury to serve at the Supreme Court & Circuit Court about to be held in the Counties of Lincoln & Calendon

Secretary's Office

I
Letters of Sentence
Simply sentencing
to be hung, which
does afterwards Com-
-mutted to Trans-
-portation for life,
and again to Im-
-prisonment for
life. Bro 18th March/62
Oct 453

6 24/62.

It would be as well to send
this man to West Australia
forwards as this would
to return him here after
for example made by the
Governor

See Separate
Govt Opinion
on this Petition
& file with it