M.R.O. 1—30,000—16-10-33.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 604 Press ~~Mis.~~

117-119

Dated 15-4-1862. ~~15~~ .

4/4

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 15th April 1862.

Read the following papers:—

No. 117. From FELIX BEDINGFELD, Esq., Colonial Secretary, Mauritius; to the Secretary to the Government of Madras, dated 25th January 1862, No. 168 A.

With reference to your letter, No. 1411 of the 19th November last, relating to a charge of bigamy against one Miller, Police Constable in this Colony, I am directed by His Excellency the Governor to inform you that no steps can well be taken in the matter by this Government until the provisions of the law, referred to in the accompanying report of the Honorable the Procureur General, have been complied with.

No. 20.

Copy of the Honorable the Procureur General's report.

The crime not having been committed in Mauritius, there is no jurisdiction in the Courts of the Colony to try for it. And the Government has not power to send the accused to India to be tried there, the provisions of the Statute 6 and 7, Vict., C. 34 as to extradition of certain offenders from one part of Her Majesty's dominions to another not having been observed. On these being complied with, the necessary steps may be taken for sending Miller to India to be tried there.

It may be observed, however, that as the Statute referred to was passed before the territories of the East India Company were transferred to Her Majesty, a question may be raised whether it applies to these territories. I am of opinion that it does; but the Court might take a different view on the question arising on a writ of *habeas corpus*.

(Signed) W. G. DICKSON,
P. and Ate. General.

12th January 1862.

Referred for the opinion of the Advocate General.

(Signed) T. PYCROFT,
Chief Secretary.

FORT SAINT GEORGE,
20th March 1862.

No. 118. From JOHN MILLER, Esq., Acting Government Solicitor, Madras; to the Honorable T. PYCROFT, Chief Secretary to Government, Fort Saint George, dated 24th March 1862, No. 154.

Dated 20th March 1862, and endorsed on the Mauritius Colonial Secretary's letter of the 25th of January last, No. 168A.

I have the honor to acknowledge the Order of Government noted in the margin, and the papers which accompanied it.

2. I have submitted them for the consideration of the Advocate General and herewith forward a copy of his opinion.

3. I also return the papers above noted.

COPY—OPINION.

Subject to the doubt expressed in the last paragraph of the opinion of the Honorable the Procureur General of Mauritius, the steps to be taken for the conveyance of Police Constable Miller from Mauritius to Madras, are as follows:

2. The Commissioner of Police should issue his warrant for the apprehension of John Lee Burton Miller, upon the Depositions of Letitia Miller, Joseph Glover and Mary Miller.

3. This warrant should be entrusted to an intelligent Constable, who must be despatched with it to the Mauritius, and who must be able there to make oath to the seal and signature of the Commissioner of Police. Without this, it will not be lawful for the Chief Justice or other Judge to endorse the warrant.—S. IX.

4. This Constable must also be furnished with true copies of the Depositions upon which the Commissioner of Police issues his warrant, certified under the Commissioner's hand to be true copies; and the Constable must be able to make oath that they are true copies, in order

to do which he must of course see the originals, and compare the copies with them in the regular way, first holding the originals while another person reads the copies, and then holding the copies while the originals are read.—S. IV.

5. On his arrival at the Mauritius he should communicate with the Police authorities, or the Honorable the Procureur General, who will advise him how to obtain the necessary endorsement on his warrant from the Chief Justice or some other Judge.—S. II.

6. Upon this being done, the Constable had better procure the assistance of one of the Constables or Peace Officers of the place, and apprehend Miller, and bring him before a Magistrate, who may thereupon commit him to prison until he can be sent back to Madras.—S. II and III.

7. The Governor, upon this being done, may, by a warrant under his hand and seal, order him to be delivered to the Constable sent from Madras for the purpose of being conveyed to Madras.—S. V.

8. If the prisoner is not removed from Mauritius within two months after his committal, any of the Judges there may order his discharge, unless good and sufficient cause can be shown to the contrary.—S. VI.

9. If the prisoner is not indicted within six months after his arrival here, or if he is acquitted, he may call upon the Governor here to cause him to be sent back to Mauritius free of expense and with as little delay as possible; and though the Act does not make it imperative upon the Governor, I think the intention clearly is that he should do so.—S. VII.

10. It will of course be necessary to arrange for the expenses of these proceedings.

(Signed) T. SYDNEY SMYTH,
Advocate General.

MADRAS,
22nd March 1862.

(True Copy.)

(Signed) JOHN MILLER,
Acting Government Solicitor.

No. 119. ORDER THEREON, 15th April 1862, No. 604.

Resolved that the above letter and enclosure, with the letter from the Government of the Mauritius under date the 25th January, be communicated to the Commissioner of Police in reference to his letter of the 8th October 1861. The Government, however, do not see fit to take any further steps in the matter.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. Tulloch.

Proceedings of the Madras Govt.
Read the following letters—
from the Mauritius
Govt. —— Enter 25. Jany. '62
No. 168.
the Govt. Solicitor — 24th Mar. '62
No. 154.

Order—
The Commissioner of Police is requested to state what arrangements he would propose for carrying out the course indicated by the Advocate Genl., & what would be the probable expense of them.

The Commr. of Police.

List
Council 4/4/62

Inc. of the Madras Govt
Read the following letters
From the Colonial Secretary Mauritius. Recd ult. 25th Jany
do — Advocate General — 24th Jany
under date 15th April 1862 Rec'd 26th March

Resolved that the above letter and enclosure with the letter from the Govt of Mauritius under date the 25 Jany be communicated to the Commr of Police in reference to his letter of the 8th Oct 1861 — That for the present no further steps in the matter.

Comr of Police
Dep. 15th