

## MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|          |       |       |
|----------|-------|-------|
| G.O. No. | 725   | Press |
|          |       | Mis.  |
| 170-171  |       |       |
| Dated    | 17-5- | 1964  |

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,  
17th May 1864.*

No. 170. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated 5th May 1864, No. 230.

Referring to so much of the Proceedings of Government noted in the margin, as relates to the power of Government to grant licenses to European prisoners on condition of their removal from the Continent of India, I have the honor to report that I have conferred with the Advocate General thereon, and I now forward a copy of his opinion.

**COPY—OPINION.**

In my opinion the course alluded to in the Order of Government, dated 26th April 1864, No. 591, Judicial Department, cannot safely be adopted.

2. It might be so, under Section 54 of the Criminal Procedure Code, if these were Mofussil cases of Native convicts; but they appear to be all cases of British subjects, most of them too Military convicts under sentences of Courts Martial. To such cases the Code of Criminal Procedure cannot apply, as all British subjects (not being soldiers) must be tried by the High Court, within whose jurisdiction that Code does not apply. Act XXIV of 1855, moreover, as its 13th Section expressly provides, has no application to sentences passed under the Mutiny Act, 28th July 1849, for the East India Company's European forces or any subsequent Mutiny Act. Moreover, by Section 9 of this Act only the Governor General in Council can grant licenses to European or American convicts; and I certainly concur with His Excellency the Governor in Council, that there is no power to attach to any such license the condition that the convict shall quit India.

(Signed) T. S. SMYTH,  
Advocate General.

(True Copy.) (Signed) J. R. BOYSON,  
Government Solicitor.

4th May 1864.

ORDER THEREON, 17th May 1864, No. 725.

No. 171.

The Governor in Council directs that the opinion of the Advocate General be communicated to the Inspector General of Jails.

2. Under the circumstances, the Governor in Council is of opinion that the best course will be for the Inspector General of Jails to endeavour to arrange with each convict when the expiration of his sentence approaches, for his leaving to one of the Colonies, the Government providing him with his passage, and with a small sum of money to meet his expenses on his first arrival at the Colony. The arrangement which the Inspector General of Jails may propose to make in each case, should be reported for the previous orders of Government.

(True Extract.)

Chief Secretary.

To the Inspector General of Jails.

Exd. J. Tulloch.

Pro. 273-274  
26.4.64

20  
Judicial Department,

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following  
letter from the Government  
Solicitor.

(Here enter 5<sup>th</sup> May 1864, No 230)

Order thereon 17<sup>th</sup> May 1864 No 725.

The Governor in Council  
directs that the opinion of the  
Attorney General be communicated  
to the Inspector General of Jails.

2. Under the circumstances,  
the Governor in Council is of  
opinion that the best course  
will be for the Inspector General  
of Jails to endeavour to arrange  
with each convict when the  
expiration of his sentence  
approaches, for his <sup>leaving</sup> ~~proceeding~~  
<sup>exp. time</sup> ~~to one of the~~ colonies, the  
Government providing him  
with his passage, and with  
a small sum of money to  
meet his expenses on his first  
arrival at the colony. The ar-  
rangement which the Inspector  
General of Jails may propose  
to make in each case, should  
be reported for the previous orders  
of Government.

Mr  
R  
JP

21/5  
Inspector Genl of Jails. No 21/5

Judicial 1864. Department.

No 725

PROCEEDINGS of GOVERNMENT.

Dated 14 May 1864

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