Proceedings of the Madras Government, Judicial Department,
18th November 1863.

Read again the following papers:—

Proceedings of Government, 23rd January 1863, No. 96.
Do. 23rd March ,, ,, 670.
Do. 1st September ,, ,, 1410.

Read also the following papers:—

No. 107. From J. W. S. WYLLIE, Esq., Under Secretary to the Government of India; to the Secretary to the Government of Fort Saint George, dated Fort William, the 14th September 1863, No. 5814.

Home Department.

I am directed again to call attention to this Office letter, No. 7310, dated the 20th December 1862, and to request that a reply thereto may be forwarded as early as practicable.

No. 108. From W. ROBINSON, Esq., Inspector General of Mofussil Police; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Madras, 28th January 1863, No. 221.

General Department.

I have the honor to acknowledge Order of Government, No. 96, Judicial Department, dated 23rd January 1863, requiring an opinion as to the expediency of employing corporal punishment as a legal penalty in certain offences.

2. I beg to express the most decided opinion in favor of employing flogging as a part of the penalty, or in substitution of other punishment, for certain offences. And I would most earnestly recommend that its use, so beneficial in every respect, may at once be revived.

3. Corporal punishment is that form of punishment which most certainly deters from the commission or repetition of crime, as it is that which is most intelligible to all the criminal classes of this country. It is the cheapest and most efficient.

4. The Jails of this country are not much feared by the classes who engage in offences against property. They perhaps afford some amenities of life unknown to such men in their own huts. The irksomeness of discipline and restraint is scarcely realized in anticipation by apathetic natures, and fear of punishment is lessened. From corporal punishment, on the other hand, these cowardly natures shrink with absolute certainty and crime is given up.

5. I witnessed in a singular degree, the deterring effect of corporal punishment while I was Magistrate of Malabar some years ago. Crimes of violence, stabbing, robbery, dacoity and theft were very rife. The Judges, Messrs. Cook and Holloway, to meet these exigencies, added a flogging to every sentence passed for such offences; and in six months the efficiency of the administration of justice was proved. Crime of the character almost ceased; and both the Native Magistracy and the public attributed the change to the same cause, *viz.*, that conviction before the Courts certainly involved a severe flogging. A daring Mopla robber or burglar would venture on any crime when imprisonment only was before him. He would not brave even a much shorter sentence of imprisonment when there was the absolute certainty of a severe flogging to commence it with.

6. Corporal punishment is the cheapest punishment that can be inflicted and most effectual reformer. Give severe corporal punishment as part of the penalty and the period of imprison-

ment may with great advantage be much curtailed. The Convict will thus cost the public far less and be returned earlier to the labor market and his starving family; with every likelihood of not again exposing himself to corporal punishment by relapse into crime.

7. I meet with but one opinion amongst our most efficient Magistrates and Police Officers, *viz.*, that the use of flogging must be revived as a form of punishment: All regret its omission from the Indian Penal Code, and observe or anticipate evil consequences from its abolition. In this view I most fully concur.

8. I need scarcely remind the Government that there are at this moment hundreds of convicted thieves, both in the large Jails and in the subsidiary places of correction, who, as the law stood before, would have received three to five dozen stripes and have been sent home again, without charge to the public and with a far better chance of reformation and with less contamination than is now the case, associated as they must now become with other criminals in Jail.

9. I have had twenty years' experience as Magistrate and Police Officer. I have used corporal punishment myself and carefully observed the effect of it as used by Courts and Magistrates. But I cannot recall one single instance or fact which could be urged as a practical objection to this form of punishment. I can recall hundreds in attestation of its advantages.

10. To be effectual, provision must be made that corporal punishment may be severe; may be as much as a man can bear without permanent evil consequences. Discretion being left with the Court of apportioning the quantity with reference to the case and circumstances of the individual. The presence of a Medical Officer during the infliction of corporal punishment always assures against accident and danger. Not less than one hundred stripes should, I think, be fixed as the *maximum*. The *maximum* has hitherto been, in this Presidency, far higher, without any disadvantageous result or untoward accident.

11. The Cat-o-nine-tails is the safest implement of punishment and most equal in its effects.

12. I do not advocate flogging as a punishment for forgery, perjury and the like offences. The persons guilty of these crimes are generally of a class who are sufficiently punished by rigorous imprisonment.

13. It should be applied to the crimes of lust and crimes against property as specified in the draft Bills alluded to in these Proceedings.

14. I consider corporal punishment is specially suitable for offences classed by the Indian Penal Code under the head of voluntarily causing grievous hurt. Nothing so surely checks the use of the knife, branding-iron (to females), poison and the like as the penalty of a flogging.

No. 109. From C. F. CHAMIER, Esq., Registrar of the High Court of Judicature at Madras, Appellate side; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, dated Madras, 2nd November 1863, No. 114.

1. With reference to the Orders of Government, dated the 23rd January last, I am directed by the High Court to forward the reports of the Session Judges and Magistrates whose opinions were called for as to the expediency of retaining flogging as a punishment in certain cases.

2. These Officers appear generally to approve of the principle of the Bill; and the Judges of the High Court also add their recommendation in its favor in its present modified form.

3. I am at the same time directed to forward the statement called for in the Proceedings of Government, dated 1st May last, showing the number of Convicts sentenced in each month of the past year to imprisonment for offence which, up to the introduction of the Indian Penal Code, were punishable by flogging.

Statement showing the number of Convicts sentenced in 1862, *to imprisonment in all Districts for offenbes which up to the introduction of the Indian Penal Code, were punishable by flogging.*

Months.	Number of Convicts.	Remarks.
January	373	Exclusive of the Zillahs of Cuddapah and Masulipatam, the returns from which have not been received.
February	372	
March	502	
April	552	
May	489	
June	420	
July	696	
August	720	
September	651	
October	658	
November	538	
December	613	
Total...	6584	

(Signed) C. F. CHAMIER,
Registrar.

From P. GRANT, Esq., Magistrate of Coimbatore; to C. F. CHAMIER, Esq., Registrar to the High Court of Judicature, dated Coimbatore, 29th January 1863, No. 17.

I have received Government Proceedings, Judicial Department, and their order thereon, dated 23rd January 1863, No. 96, calling for my opinion "as to the expediency of retaining flogging "as a punishment, and with respect to the offences to which the punishment if it be retained "should be made applicable."

2. I am decidedly of opinion that flogging should be continued.

3. In the Bill which was introduced into the Council of the Governor General, on the 26th February 1862, the offences for the punishment of which flogging was proposed, are 26 in number. A person committing any one of those offences, should, I think, be liable to be flogged.

4. It would also have a most beneficial effect on the administration of justice, if parties prevaricating before a Criminal Court, were rendered liable to have inflicted on them two dozen lashes. This step would tend more than is generally imagined to put down that class of society, which lives by the wages received for giving false evidence. Its members are to be found in the vicinity of every Civil and Criminal Court in the country, and a law passed, for their summary punishment by flogging would be hailed by the native community, I feel confident, as a blessing. The law would be in accordance with the feelings of the natives, who cannot understand why our Courts should be so tender in dealing with false witnesses—the scum of society. The power of flogging summarily any one prevaricating before a Court is one remedy for the repression of such conduct. The other remedy is the limitation of the power of appeal. I can speak from long and continued experience that much of the evidence, in bad cases given before our Courts, is adduced and shaped simply with a view to appeal to a higher court, which must be guided very much, if not altogether by the evidence on the record. Limit appeals, and render persons prevaricating liable to two dozen lashes summarily, and the change in the administration of justice will be much in favor of the respectable portion of society. Arguments, and strong ones too, may be adduced against what has been advanced above, but still the subject is recommended for the consideration of Government.

From R. CHATFIELD, Esq., Session Judge of Mangalore; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Mangalore, 29th January 1863, No. 4.

1. I have the honor, in reply to the Order of Government under date the 23rd instant, to state my opinion regarding "flogging as a punishment, and the offences to which it should be made applicable."

2. I have always thought the omission of flogging as a punishment from the Penal Code a great mistake, and that the reasoning which led the philanthropic framers to exclude it was not the result of practical but theoretical observation, and far too refined for the latitude of India, however applicable it might be to other countries where education and morality are more advanced or more highly estimated. To the majority of the criminal population of India, the temporary confinement in our Jails is a farce or very slight punishment, and as the means of classification are extremely defective they cannot but prove schools of vicious contamination to boys or young men who, once initiated into their ways and mysteries, view them with indifference, if they do not return to them with pleasure. There are whole classes of people in this, as in every other country, to whom fear and physical pain are the only corrective or restraining agencies, and why these natural phenomena are not to be applied in governing and punishing those who acknowlege their pre-eminence, I have never been able to comprehend. We allow flogging in our public schools, in the Army and Navy, over boys and men infinitely more civilized and sensitive than the hardened and ignorant criminals who crowd our Jails, without the remotest idea of shame, but an intense aversion to corporal punishment. Why then should the public, without absolute necessity, be at the cost of supporting men who are never benefited by its liberality, and can alone be restrained or intimidated by the inexpensive process of a summary flogging?

3. If possible boys or young men should never be committed to Jail, but the Magistrate authorized to whip them in loving moderation at the beginning and end of their Taluk confinement.

Flogging should be allowed in all cases of robbery, theft, indecent insults, or assaults, drunken affrays and disputes.

The Cat-o-nine-tails is a fairer and safer instrument of punishment for men than the cane which should only be used to boys under 15, when it is desirable to administer a little wholesome correction for childish offences.

From G. LEE MORRIS, Esq., Acting Magistrate of Tanjore; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Fort Saint George, dated Vallam, 4th February 1863, No. 38.

With reference to the Orders of Government, dated 23rd January 1863, No. 96, Judicial Department, I have the honor to furnish the report therein called for, and to state that I am of opinion that it is expedient to retain flogging as a punishment.

2. There are a number of persons in this country to whom rigorous imprisonment is no punishment whatever: the Prison-fare being superior to, and the labour lighter than, what is their lot when at liberty. If criminals are to be deterred from crime by fear of punishment, the punishment should, at all events, be such as is likely to create fear. It is ridiculous to expect that men will abstain from evil courses because they are sent to a Jail where they are better off than in their own houses.

3. In various conversations which I have had with my own Subordinates and respectable Natives on this subject since the introduction of the Penal Code, I have heard but one opinion, and it is that flogging must be allowed if our Prisons are not to be over-run with offenders. I concur in this opinion, and do not think that a man of the lower classes in this country becomes more depraved in consequence of being flogged; on the contrary, I am sure that an old offender having once felt how painful a Cat-o-nine-tails is when thoroughly well laid on, becomes more careful as to his future conduct, and a better member of society outwardly at all events.

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4. The offences specified in the Bills mentioned in the Extract from the Proceedings of the Right Honorable the Governor General of India in Council, under date the 20th December 1862, No. 7310, appear to me to be well chosen, and I would retain them all.

From A. WEDDERBURN, Esq., Magistrate of Cuddapah; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Cuddapah, 9th February 1863, No. 64.

With reference to the Judicial Proceedings of the Madras Government, and their Order of 23rd January 1863, No. 96, requesting my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be made applicable, I have the honor to state that I do not consider that any punishment has an effectual influence in the case of hardened offenders, whose profession is crime. Flogging could only be applicable to them as an enhancement of punishment, but I believe it will be found that transportation is the only effectual means of disposing of the professional class, who commit the crimes most subversive of public peace and safety. I allude to gang and highway robbery.

2. The punishment of flogging however might be employed as a substitute for imprisonment for less heinous offences—theft, cattle-stealing, mischief—which appeared to be *on the increase* in any District, and a few strokes of a cane would, in most instances, be preferable to imprisonment, in the case of juvenile delinquents convicted of theft, if such cases appeared to be numerous, and on the increase, which is not likely, in an agricultural population.

3. When the character has been completely hardened and brutalized, no punishment nor discipline capable of being carried out under present Jail economy, is effectual, either for reformation, or as a deterrant, the violent robber after punishment and release, resumes his former course; ineffectual flogging would be a mistake, as well as objectionable on other grounds.

4. Of course, the whole question at issue, turns on the point whether flogging is effectual, or not—and the returns from Jails of re-convicted persons, who had been flogged, would be of service; a comparison would have to be instituted between the same sort of criminals who had been simply imprisoned, and those who had been flogged, also who had been re-convicted of similar crimes. Officers in charge of Jails would be the best authorities on the subject. On the whole, I am of opinion that no sort of punishment, capable of being carried out, except transportation, will put down professional crime of the graver class; but that flogging might be introduced as a substitute for imprisonment, in the first case for juvenile offenders, in the second case as a means of checking any minor crime which appeared to gain ground in any District.

5. Too short a time has elapsed since the introduction of the new Penal Code to form any reliable opinion of its effects in the matter of the cessation of corporal punishment, in reference to grave crime. As regards the worst offenders, whose long sentences cannot have expired; and for minor offenders, the punishment of flogging does not seem required, except under special circumstances. Indeed the question would fall to be decided by the experience of previous legislation, as to whether flogging was an effectual punishment, and this might be best ascertained from a General Jail Return for the Presidency—say for 20 years, previous to 1862—so far as I am aware there does not appear to be an immediate call for fresh legislation on the subject.

From J. H. BLAIR, Esq., Acting Session Judge of Cuddalore; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Cuddalore, 9th February 1863, No. 3.

With reference to the Order of Government, under date January 23rd, 1863, No. 96, I have the honor to state, that having been absent from India since 1859, and having only just taken charge of this Court, I do not feel competent to give any opinion on the subject therein referred to, but as the Session Judge of Cuddalore is here at present, I requested him to state his opinion, a copy of which is herewith submitted.

From GEORGE ELLIS, Esq., Civil and Session Judge of Cuddalore; to J. H. BLAIR, Esq., Acting Civil and Session Judge of Cuddalore, dated Cuddalore, 9th February 1863.

In reply to your letter of the 7th instant, and with reference to the Proceedings of Government of the 23rd ultimo, I have the honor to state that in my opinion it is expedient that flogging as a punishment should be retained, and that it should be made applicable to the offences punishable under Sections 292, 295, 376, 379, 428, 429 of the Penal Code.

From D. F. CARMICHAEL, Esq., Acting Magistrate, Vizagapatam; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Camp Rayagadda of Jaypore, 3rd February 1863, No. 27.

By an Order of Government, 23rd January, ultimo, No. 96, I have been directed, with other Officers, to forward through the High Court my "opinion as to the expediency of retaining flog-"ging as a punishment, and with respect to the offences to which the punishment, if it be "retained, should be made applicable."

2. I am of opinion that Act I of 1853, which provided for the corporal punishment, in the way of school discipline, of young boys convicted of petty larcenies, might, with great propriety, be revived. This Act fell before the Code of Criminal Procedure, but the remedy provided by that Code, *viz.*, (Section 433) *reformatories* for youthful offenders seems likely to be delayed for some years, and meanwhile these lads are put into ward with a gang of accomplished criminals.

I am of further opinion that flogging should be retained for mutinous and insubordinate conduct in Jail. In such cases it is the only appropriate punishment.

3. With these two exceptions, I would entirely abrogate it. In the first place it is a cruel punishment, and the Natives of India—I speak of the masses—are cruel enough already. Witness the revelations of the Torture Report, and the constant instances which occur of the most savage and barbarous discipline exercised by parents on their children; husbands on their wives. We should educate them in a contrary direction.

In the next place, while such punishment would break the heart of any man of a decent social position, it would not deter generally those who live by crime, or the atrocity of whose conduct in any particular case betrays their radical corruption; unless indeed flogging is to be carried on like knouting. For men of these classes, both in their own case and as an example to others similarly disposed, there is nothing like a sentence of transportation; and by the application of Section 59 of the Penal Code, there is not a single heinous offence, whether it be against property or against the State; whether it affects the human body or the interests of public justice, which is not punishable in this way—for a term of which the *minimum* is seven years.

4. I am confident that by working this Section, the greatest possible terror falls on the entire criminal population of a Zillah. Imprisonment in India of double the length is nothing to it. The Convict is at least among his own people, hears his own language, has opportunities of seeing occasionally his own relatives and of receiving from them, for what Jail Guard is above a bribe in such cases, some little luxuries to solace his captivity.

But if sentenced to transportation, he droops at once; and on leaving the Court, the Judge is surrounded by a crowd of the prisoner's relatives, who literally howl for mercy, and never leave off doing so, either at the gate of the Judge's compound or as he passes on his way to and from the Sessions House, until such time as the Steamer comes in sight, and the Convict is shipped to his destination.

5. It has been well remarked by one who knows thoroughly the Natives of India, that it is impossible for us to realize the dread and horror they entertain of a sentence of transportation.

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The beautiful passage in Jeremiah, "Weep ye not for the dead, neither bemoan him; but weep sore for him that goeth away, for he shall return no more, nor see his native country," expresses the inner oriental feeling on the subject.

From C. R. PELLY, Esq., Acting Session Judge of Masulipatam; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Masulipatam, 9th February 1863, No. 15.

In conformity with the order contained in the Proceedings of the Government of Madras, dated 23rd January 1863, No. 96, I have the honor to state that in my opinion retaining corporal punishment as a legal penalty is only expedient with respect to juvenile offenders. Since the introduction of the Penal Code, flogging has wholly ceased, except in connection with Jail discipline, and the past year shows no increase of crimes in this Zillah as compared with the preceding one. I incline to the opinion, though quite aware that there is much to be said on the other side of the question, that flogging when connected with imprisonment, accompanied by hard labor as was formerly the case, did not act as a prevention to crime to any greater extent than the imprisonment, irrespective of it, has done: in the majority of cases, the recollection of the corporal punishment had become almost wholly effaced or so weakened as to have little effect before the term of imprisonment expired; while, in those instances in which the punishment consisted not so much in the mere pain itself as in the more lasting feeling of degradation, I believe its only effect was to render the criminal reckless and harden him. To this of course it may be objected that this punishment was never imperative and that care and the exercise of a sound discretion would prevent its infliction in such cases. This might be correct if it was possible to ascertain the prisoner's antecedents in each case; when any information however as regards character is furnished, (as a rule the side held up is the bad one,) it is not to be supposed that the prosecution will attempt to show previous good conduct, and the idea of doing this for themselves appears to me scarcely even to suggest itself either to the prisoners or their Vakeels. Even in the case of Jail discipline where I have been better able to observe the effects of corporal punishment, I have come to the conclusion that it is only to a certain extent efficacious: it no doubt answers sufficiently well for minor breaches of discipline; in more serious cases however in which determined criminals have taken part, I have at times found it useless, but in no single instance has solitary confinement failed to bring the refractory to order and to leave a lasting impression: this the new Penal Code authorizes, and I think it will prove more efficacious than the flogging provided for by the Regulations now repealed. In the case of juvenile offenders, whipping, it appears to me, will be found suitable, provided it be a good sound whipping and not such punishment as is provided for in Act I of 1853, after undergoing which I have, when an Assistant Magistrate, seen boys take their departure not merely in a state of indifference, but I may say astonishment at its exceeding mildness as compared with what they anticipated and what it might be they would have received at the hands of the parents for a trivial fault. To be useful, it must be such as will make an impression; when inflicted however it ought in my opinion to be the only penalty for the offence; if imprisonment be added, I question that it will prove more efficacious than in the case of adults. Apart from the pain which as a rule boys do care for and remember, whipping by itself has this great advantage, that it saves them from the contamination of a Jail with the best arrangement that can be made, constituted as our Jails now are; all that can be effected is to keep the juvenile offenders separate from the adult; instruction or improvement is out of the question, and I believe as a rule no juvenile offender leaves the Jail the better from his imprisonment; confinement is not to them what it is to men either as regards irksomeness or privations; the boys themselves communicate to each other their respective experiences, and though the worst boy may possibly leave without having acquired any fresh information, he is pretty certain to have been tolerably communicative to his companions, and there can be little question that such communication would not improve them.

* * As to the expediency of retaining flogging as a punishment.

In the year 1861,..3354.
" 1862,..2410.

2. If retained I would recommend its being made applicable to offences under Sections 354 (assault to outrage modesty), 356 (assault in the attempt to commit theft from the person), 372, 373 (prostitution of minors), 376 (rape), 377 (unnatural offences), 379 to 382 (theft), 392 to 402 (robbery and dacoity), 426 to 440 (mischief), and 447 to 462 (criminal trespass).

And with respect to the offences to which the punishment, if it be retained, should be made applicable.

From L. C. INNES, Esq., Sessions Judge, Rajahmundry; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Rajahmundry, 10th February 1863, No. 5.

1. Adverting to the Proceedings of the Government of the 23rd ultimo, I have the honor to forward my opinion in regard to the expediency of retaining flogging as a punishment, and the offences to which, if retained, it should be made applicable.

2. The increase in the past year of the crimes punishable formerly either altogether, or in part, by flogging, may arise from a variety of causes, as the increased efficiency of the Police in the detection and prosecution of crime; an increased criminal tendency; the suspension of flogging and also perhaps from the clearer definitions of such crimes under the Penal Code, whereby the prosecution of them is rendered more feasible; and it is not possible to arrive at the proportion in which the suspension of flogging as a deterring agent may have operated.

3. It is not probable however that it has had any sensible effect, as the bulk of the criminal population can hardly yet be aware of the authoritative suspension of flogging as a punishment.

4. I can only therefore base my opinion upon former experience of the advantages and disadvantages of flogging.

5. Its chief objection is that it is degrading, and by removing self-respect, is likely to have a deteriorating effect upon the character of the subject of punishment. The chief advantage of it is that it is exemplary.

6. It is certainly also a strong deterrant from a repetition of crime in the case of very young offenders, and in that of the great majority of adults subjected to it.

7. I would not retain the punishment of flogging when it was likely that loss of self-respect would follow to such an extent as to degrade the character.

8. Boys of tender age would not suffer permanent loss of self-respect from the infliction of it, and adult males, who are habituated to crime, or who commit crimes of a kind implying an abandonment of all self-respect, would not have any self-respect to lose.

9. The punishment should, I think, only be inflicted in the case of offences against property and offences affecting the human body.

10. I would apply it in the case of crimes which were of frequent occurrence, *viz.*—

1. Theft.
2. House-breaking.
3. Robbery and dacoity.
4. Receiving of stolen property.
5. Cheating.
6. Mischief.
7. Voluntarily causing grievous hurt not on grave and sudden provocation, Sections 325, 326 and
8. Rape.

11. Flogging to be exemplary must be well known to follow the crime, and I do not therefore think it desirable to apply it except in the case of crimes which recur frequently.

12. The Order of Government does not require that any opinion should be given as to the amount of punishment to be inflicted.

13. I venture however to offer my opinion that it would be better to keep within the maximum prescribed by the law till lately in force.

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14. I think in the case of the 7th in the list of crimes above referred to, flogging should only be inflicted for a second offence. "In House-breaking," the 2nd on the list, I would include lurking, house-trespass and kindred offences.

From A. PURVIS, Esq., Magistrate of Godavery District; to C. F. CHAMIER, Esq., Registrar to the High Court of Judicature, Madras, dated Draksharam, 14th February 1863, No. 63.

I have the honor, with reference to the Order of Government of the 23rd ultimo, No. 96, to submit my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences for which the punishment, if retained, should be inflicted.

2. I am decidedly in favor of retaining, or rather re-introducing flogging as a part of the punishment to which persons convicted of certain offences shall be declared liable.

3. The offences for which the Officer passing sentence should, I think, be empowered, if he see fit, to award the punishment in question, are—

Theft.
Robbery and Dacoity.
Dishonestly receiving stolen property knowingly.
Mischief.
Voluntarily causing grievous hurt, and
Rape.

4. I would also suggest that the powers given by Act I of 1853, now repealed, for the summary punishment of youthful offenders should be restored at least till the reformatories contemplated in Section 433 of the Code of Criminal Procedure are established. I am inclined to think that the limit given to the amount of punishment which might be inflicted under the Act referred to, might be extended with advantage.

5. No sentence passed by a Sub-Magistrate of the 2nd Class involving corporal punishment, should it be determined to give this power to such Officers, ought, for the present at all events, to be carried out till confirmed by a Magistrate exercising full powers.

From R. R. COTTON, Esq., Session Judge, Madura; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Madura, 16th February 1863, No. 55.

I have the honor to submit through the High Court, my letter to the Chief Secretary to Government, containing my opinion on retaining flogging as a punishment, called for by the Order of Government, No. 96, dated 23rd January last.

No. 110. From R. R. COTTON, Esq., Session Judge of Madura; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Madura, 16th February 1863, No. 54.

1. With reference to the Order of Government, No. 96, dated 23rd January 1863, I have the honor to submit my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be applicable.

2. Under the existing very imperfect system of Jail discipline, I consider that flogging, as a punishment, is essentially requisite.

3. The object of punishment being to deter others from the commission of crimes, it is necessary that the punishment should be one that is dreaded; and from my experience, I have no hesitation in saying, that flogging is the punishment most dreaded, next to transportation, by Natives; the disgrace of being publicly whipped, I am convinced acts on the higher classes, as a strong detergent for some offences, such as perjury and forgery; while by every class, the punishment has a reality about it, which is not felt to be the case, when merely imprisonment is awarded; for whatever may be the influence or wealth of the convicted person; whatever the laxity of discipline in the Jail, it is impossible he can escape the flogging and justice, and the public likewise, are therefore in a measure satisfied, when they *see* that the bitterest portion of the punishment awarded, has been inflicted. I know too from my own experience that in many cases, where parties I have sentenced to imprisonment and stripes, conscious of merited punishment, would never have thought of appealing, but in hopes of having the stripes remitted.

2. If retained I would recommend its being made applicable to offences under Sections 354 (assault to outrage modesty), 356 (assault in the attempt to commit theft from the person), 372, 373 (prostitution of minors), 376 (rape), 377 (unnatural offences), 379 to 382 (theft), 392 to 402 (robbery and dacoity), 426 to 440 (mischief), and 447 to 462 (criminal trespass).

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1. Adverting to the Proceedings of the Government of the 23rd ultimo, I have the honor to forward my opinion in regard to the expediency of retaining flogging as a punishment, and the offences to which, if retained, it should be made applicable.

2. The increase in the past year of the crimes punishable formerly either altogether, or in part, by flogging, may arise from a variety of causes, as the increased efficiency of the Police in the detection and prosecution of crime; an increased criminal tendency; the suspension of flogging and also perhaps from the clearer definitions of such crimes under the Penal Code, whereby the prosecution of them is rendered more feasible; and it is not possible to arrive at the proportion in which the suspension of flogging as a deterring agent may have operated.

3. It is not probable however that it has had any sensible effect, as the bulk of the criminal population can hardly yet be aware of the authoritative suspension of flogging as a punishment.

4. I can only therefore base my opinion upon former experience of the advantages and disadvantages of flogging.

5. Its chief objection is that it is degrading, and by removing self-respect, is likely to have a deteriorating effect upon the character of the subject of punishment. The chief advantage of it is that it is exemplary.

6. It is certainly also a strong deterrant from a repetition of crime in the case of very young offenders, and in that of the great majority of adults subjected to it.

7. I would not retain the punishment of flogging when it was likely that loss of self-respect would follow to such an extent as to degrade the character.

8. Boys of tender age would not suffer permanent loss of self-respect from the infliction of it, and adult males, who are habituated to crime, or who commit crimes of a kind implying an abandonment of all self-respect, would not have any self-respect to lose.

9. The punishment should, I think, only be inflicted in the case of offences against property and offences affecting the human body.

10. I would apply it in the case of crimes which were of frequent occurrence, *viz.*—

1. Theft.
2. House-breaking.
3. Robbery and dacoity.
4. Receiving of stolen property.
5. Cheating.
6. Mischief.
7. Voluntarily causing grievous hurt not on grave and sudden provocation, Sections 325, 326 and
8. Rape.

11. Flogging to be exemplary must be well known to follow the crime, and I do not therefore think it desirable to apply it except in the case of crimes which recur frequently.

12. The Order of Government does not require that any opinion should be given as to the amount of punishment to be inflicted.

13. I venture however to offer my opinion that it would be better to keep within the maximum prescribed by the law till lately in force.

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14. I think in the case of the 7th in the list of crimes above referred to, flogging should only be inflicted for a second offence. "In House-breaking," the 2nd on the list, I would include lurking, house-trespass and kindred offences.

From A. PURVIS, Esq., Magistrate of Godavery District; to C. F. CHAMIER, Esq., Registrar to the High Court of Judicature, Madras, dated Draksharam, 14th February 1863, No. 63.

I have the honor, with reference to the Order of Government of the 23rd ultimo, No. 96, to submit my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences for which the punishment, if retained, should be inflicted.

2. I am decidedly in favor of retaining, or rather re-introducing flogging as a part of the punishment to which persons convicted of certain offences shall be declared liable.

3. The offences for which the Officer passing sentence should, I think, be empowered, if he see fit, to award the punishment in question, are—

Theft.
Robbery and Dacoity.
Dishonestly receiving stolen property knowingly.
Mischief.
Voluntarily causing grievous hurt, and
Rape.

4. I would also suggest that the powers given by Act I of 1853, now repealed, for the summary punishment of youthful offenders should be restored at least till the reformatories contemplated in Section 433 of the Code of Criminal Procedure are established. I am inclined to think that the limit given to the amount of punishment which might be inflicted under the Act referred to, might be extended with advantage.

5. No sentence passed by a Sub-Magistrate of the 2nd Class involving corporal punishment, should it be determined to give this power to such Officers, ought, for the present at all events, to be carried out till confirmed by a Magistrate exercising full powers.

From R. R. COTTON, Esq., Session Judge, Madura; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Madura, 16th February 1863, No. 55.

I have the honor to submit through the High Court, my letter to the Chief Secretary to Government, containing my opinion on retaining flogging as a punishment, called for by the Order of Government, No. 96, dated 23rd January last.

No. 110. From R. R. COTTON, Esq., Session Judge of Madura; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Madura, 16th February 1863, No. 54.

1. With reference to the Order of Government, No. 96, dated 23rd January 1863, I have the honor to submit my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be applicable.

2. Under the existing very imperfect system of Jail discipline, I consider that flogging, as a punishment, is essentially requisite.

3. The object of punishment being to deter others from the commission of crimes, it is necessary that the punishment should be one that is dreaded; and from my experience, I have no hesitation in saying, that flogging is the punishment most dreaded, next to transportation, by Natives; the disgrace of being publicly whipped, I am convinced acts on the higher classes, as a strong detergent for some offences, such as perjury and forgery; while by every class, the punishment has a reality about it, which is not felt to be the case, when merely imprisonment is awarded; for whatever may be the influence or wealth of the convicted person; whatever the laxity of discipline in the Jail, it is impossible he can escape the flogging and justice, and the public likewise, are therefore in a measure satisfied, when they *see* that the bitterest portion of the punishment awarded, has been inflicted. I know too from my own experience that in many cases, where parties I have sentenced to imprisonment and stripes, conscious of merited punishment, would never have thought of appealing, but in hopes of having the stripes remitted.

2. If retained I would recommend its being made applicable to offences under Sections 354 (assault to outrage modesty), 356 (assault in the attempt to commit theft from the person), 372, 373 (prostitution of minors), 376 (rape), 377 (unnatural offences), 379 to 382 (theft), 392 to 402 (robbery and dacoity), 426 to 440 (mischief), and 447 to 462 (criminal trespass).

And with respect to the offences to which the punishment, if it be retained, should be made applicable.

From L. C. INNES, Esq., Sessions Judge, Rajahmundry; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Rajahmundry, 10th February 1863, No. 5.

1. Adverting to the Proceedings of the Government of the 23rd ultimo, I have the honor to forward my opinion in regard to the expediency of retaining flogging as a punishment, and the offences to which, if retained, it should be made applicable.

2. The increase in the past year of the crimes punishable formerly either altogether, or in part, by flogging, may arise from a variety of causes, as the increased efficiency of the Police in the detection and prosecution of crime; an increased criminal tendency; the suspension of flogging and also perhaps from the clearer definitions of such crimes under the Penal Code, whereby the prosecution of them is rendered more feasible; and it is not possible to arrive at the proportion in which the suspension of flogging as a deterring agent may have operated.

3. It is not probable however that it has had any sensible effect, as the bulk of the criminal population can hardly yet be aware of the authoritative suspension of flogging as a punishment.

4. I can only therefore base my opinion upon former experience of the advantages and disadvantages of flogging.

5. Its chief objection is that it is degrading, and by removing self-respect, is likely to have a deteriorating effect upon the character of the subject of punishment. The chief advantage of it is that it is exemplary.

6. It is certainly also a strong deterrant from a repetition of crime in the case of very young offenders, and in that of the great majority of adults subjected to it.

7. I would not retain the punishment of flogging when it was likely that loss of self-respect would follow to such an extent as to degrade the character.

8. Boys of tender age would not suffer permanent loss of self-respect from the infliction of it, and adult males, who are habituated to crime, or who commit crimes of a kind implying an abandonment of all self-respect, would not have any self-respect to lose.

9. The punishment should, I think, only be inflicted in the case of offences against property and offences affecting the human body.

10. I would apply it in the case of crimes which were of frequent occurrence, *viz.*—

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12. The Order of Government does not require that any opinion should be given as to the amount of punishment to be inflicted.

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From A. PURVIS, Esq., Magistrate of Godavery District; to C. F. CHAMIER, Esq., Registrar to the High Court of Judicature, Madras, dated Draksharam, 14th February 1863, No. 63.

I have the honor, with reference to the Order of Government of the 23rd ultimo, No. 96, to submit my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences for which the punishment, if retained, should be inflicted.

2. I am decidedly in favor of retaining, or rather re-introducing flogging as a part of the punishment to which persons convicted of certain offences shall be declared liable.

3. The offences for which the Officer passing sentence should, I think, be empowered, if he see fit, to award the punishment in question, are—

Theft.
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Dishonestly receiving stolen property knowingly.
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Voluntarily causing grievous hurt, and
Rape.

4. I would also suggest that the powers given by Act I of 1853, now repealed, for the summary punishment of youthful offenders should be restored at least till the reformatories contemplated in Section 433 of the Code of Criminal Procedure are established. I am inclined to think that the limit given to the amount of punishment which might be inflicted under the Act referred to, might be extended with advantage.

5. No sentence passed by a Sub-Magistrate of the 2nd Class involving corporal punishment, should it be determined to give this power to such Officers, ought, for the present at all events, to be carried out till confirmed by a Magistrate exercising full powers.

From R. R. COTTON, Esq., Session Judge, Madura; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Madura, 16th February 1863, No. 55.

I have the honor to submit through the High Court, my letter to the Chief Secretary to Government, containing my opinion on retaining flogging as a punishment, called for by the Order of Government, No. 96, dated 23rd January last.

No. 110. From R. R. COTTON, Esq., Session Judge of Madura; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Madura, 16th February 1863, No. 54.

1. With reference to the Order of Government, No. 96, dated 23rd January 1863, I have the honor to submit my opinion as to the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be applicable.

2. Under the existing very imperfect system of Jail discipline, I consider that flogging, as a punishment, is essentially requisite.

3. The object of punishment being to deter others from the commission of crimes, it is necessary that the punishment should be one that is dreaded; and from my experience, I have no hesitation in saying, that flogging is the punishment most dreaded, next to transportation, by Natives; the disgrace of being publicly whipped, I am convinced acts on the higher classes, as a strong detergent for some offences, such as perjury and forgery; while by every class, the punishment has a reality about it, which is not felt to be the case, when merely imprisonment is awarded; for whatever may be the influence or wealth of the convicted person; whatever the laxity of discipline in the Jail, it is impossible he can escape the flogging and justice, and the public likewise, are therefore in a measure satisfied, when they *see* that the bitterest portion of the punishment awarded, has been inflicted. I know too from my own experience that in many cases, where parties I have sentenced to imprisonment and stripes, conscious of merited punishment, would never have thought of appealing, but in hopes of having the stripes remitted.

4. I do not say that at some future period, it may not be possible to do away with corporal punishment; but I am satisfied that the time has not yet arrived.

5. The punishment has been called debasing and cruel, but how far it is the first, depends upon civilization, and the character of the people; and as to cruelty, the Natives do not seem to know what cruelty is—witness the manner in which they treat one another and their children, to say nothing of the brute beasts. It may be very shocking to a sensitive mind, to see a man taken down from the triangle, after having received stripes; but every one who has had experience in such cases, knows that the prisoner after a detention in Hospital, of from three to six days to have his back dressed, is sent out to work, physically none the worse for his flogging; with no small experience in these matters, I can affirm, that I have never known or heard from others, of any injury to health having been caused by flogging, and in two or three instances only have I known it necessary to stop punishment, before the full number of stripes had been inflicted.

6. I consider that the old Regulations and Circular Orders of the Foujdaree, as regards flogging, with one exception, were good, and might with great advantage be retained; the exception I allude to, is Section XXXIII, Regulation IX of 1816, which empowered a Magistrate in petty cases of theft, to inflict 90 lashes, *without reference to any authority*; whereas under his extended powers, he could not inflict one without reference to the appellate jurisdiction, neither indeed could the Criminal or Session Judge.

7. As regards the effect of the suspension of corporal punishment, since the introduction of the Penal Code, I believe the crowded state of nearly all, if not all the Jails in the Presidency, during the past year, has been occasioned in a great measure by it; firstly, by a number of prisoners being sent to Jail, for short periods of imprisonment who would not have been so, had flogging been retained; and secondly, that since corporal punishment has been done away with, many have committed offences, to whom simple imprisonment in Jail has no terrors.

8. In fact nothing can be worse than our present system of Jails. It is very well to legislate,* that prisoners of different classes should be kept separate; but such is utterly impracticable in the generality of our Jails. The unfortunate Village Moonsiff, who having reported the matter of a theft in his Village to the Police, failed *to write a report to the Sub-Magistrate*, is sentenced by the Deputy Magistrate to six months' rigorous imprisonment, fettered, herded and worked with felons of the deepest die; a Police Constable for neglect of duty, the same; boys who for dishonesty should have been whipped and sent back to their homes, are committed to Jail for two, three and four months, to associate with the worst characters; while the men convicted of the most heinous and aggravated crimes, are as regards food, shelter and clothing, better off than free men of the same class. What is rigorous imprisonment to them? they go out daily on the roads to work, see and communicate with their relations and friends just as they please, and actually the work they do, is less than half that of a cooly.

* Section XXIX, Regulation X of 1816.

9. I know of a convicted forger, now working on the roads, who is carrying on one or more suits in the Courts, he has money and finds no difficulty in doing so, through agents whom he communicates with while out at work on the roads; and I have been credibly informed, that another notorious forger, whom I convicted at Rajahmundry, and sentenced to seven years' hard labor, on being removed to Guntoor Jail, obtained while in Jail the Abkaree Contract of the District!! I have known of men sentenced to hard labor for fourteen years, employed as Hospital Writers and Cooks, through the recommendation of the Native Dresser, who of course they well paid; and when I protested against such an evasion of their sentence, and sent the men to work, the Zillah Surgeon objected, saying he could not be held responsible for the sick, if these men who made the congees and broths were removed; with such a system, and till Convicts are worked within walls, and deprived of all communication with their relations and friends, flogging is absolutely necessary to prevent crime.

10. The power given to the Session Courts under Section 59 of the Penal Code, will no doubt, if properly taken advantage of, have a good effect in suppressing crime; an old offender will run the risk of seven years' imprisonment in Jail, where he can see and communicate with his family at will, but he does not like transportation, for independent of the dread he has of crossing the water, he knows he is effectually cut off from all communication with his friends, and *accomplices*, and that his private property, as well as secreted plunder, may be lost in his absence.

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11. The offences for which I would inflict corporal punishment are those enumerated in the subjoined Sections of the Penal Code.

12. The first five, have reference to perjury; this is a most prevalent crime, and sapping as it does the foundation of all justice, it is absolutely necessary that it should be put down, and this it can only be, I believe, by corporal punishment. I used to have the stripes inflicted in the Court premises at the busiest time of day; the practice however was condemned by the Sudder Court as undignified, it may have been so, but the effect on the assembled crowd of suitors, prosecutors and witnesses was unmistakeable; they saw before them the effect of giving false evidence, and they thought twice before they would run the risk of *such* punishment.

13. In Civil cases, I would only inflict stripes for perjury *in support of forgery*, and in criminal cases only where the accused is liable on conviction to stripes.

14. The next Sections refer to the manufacture, importation, and distribution of counterfeit coin, and stamps. The next to rape and unnatural offences, the next to theft; and I am satisfied, that corporal punishment for this offence, if retained, will have a most beneficial effect. In many cases, justice will be fully satisfied by the infliction of stripes alone, and the offender not only saved the contamination of the Jail, but the Government the expense of keeping him there and this remark is also applicable to some cases of extortion.

15. The next Sections refer to house-breaking, robbery of the living and dead, and to receivers of stolen property, who have always been placed in the same footing with the actual perpetrators of the primary offence.

16. The next Sections refer to forgery, a crime akin to perjury, and which requires to be dealt with similarly.

17. The last Section refers to inciting to mutiny, an offence that I consider should be treated as summarily, and punished as severely and publicly as possible.

18. As regards the instrument to be used, I consider the cat-o-nine-tails to be safer than the rattan, and if properly wielded sufficiently severe. I would however advocate that juveniles should be punished only with rattan as laid down in Act I of 1853, the stripes to be inflicted on the breach instead of the back.

Memorandum.—Corporal punishment recommended for the offences specified in the following Sections of the Penal Code:—

Chapter XI, Sections 193, 194, 195, 199, 200.
Chapter XII, Sections 232, 233, 234, 235, 236, 237, 238, 239, 240, 255, 256, 257, 260.
Chapter XVI, Sections 376, 377.
Chapter XVII, Sections 379, 380, 381, 382, 388, 389, 392, 393, 394, 395, 396, 397, 398, 404, 408, 411, 412, 413, 457.
Chapter XVIII. Sections 466, 467, 468, 471, 472, 473, 474, 375, 476.
Chapter XXII, Sections 505.

(Signed) R. R. COTTON,
Session Judge.

From R. B. SWINTON, Esq., Acting Session Judge of Tanjore; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Tanjore, 25th February 1863, No. 211.

1. I have the honor to request you to submit to the attention of the Judges of the High Court, with the view of an alteration in the law, the bad effects of the total abolition of corporal punishment in one point of view; there are in this small Jail here, five boys from the ages of ten to sixteen, sentenced to simple imprisonment for periods of from three months to nine months

for theft and house-breaking, in this Jail especially, *and practically in all Jails*, such boys must mix with the grown-up prisoners and go out worse than they came in, the imprisonment itself being far less punishment to them than to men.

2. Act I of 1853 which allowed of the corporal punishment of males of tender years, has been repealed, and the general laws for corporal punishment have been abolished.

From G. A. BALLARD, Esq., Magistrate of Malabar; to C. F. CHAMIER, Esq., Registrar of the High Court, Madras, dated Calicut, 6th March 1863, No. 810.

In accordance with Government Order, dated 23rd January last, No. 96, I have the honor to express my opinion.

1st. That it is expedient to retain flogging as a discretionery punishment in certain offences, and 2nd, that the "Bill to provide for the punishment of flogging in certain cases" judiciously selects the offences to which it should be made applicable.

Vide Supplement, Fort Saint George Gazette, page 22, dated 25th January 1861.

2. I do not think that reliable arguments for or against flogging can be drawn from the criminal returns of the past year; the great change from the old law to the new, and the substitution of the new Police for the old (completed in this District only in the last year,) lead us to look for more than ordinary variation in the criminal statistics, and the different headings now adopted increase the difficulty of accurate comparison of details. I may however observe that in both the Zillahs forming this District, the returns of cases of theft, in which flogging used to be administered more frequently than in any others, show a considerable increase.

No. 111. From G. S. FORBES, Esq., Magistrate of Ganjam; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Chetterpoor, 3rd March 1863, No. 11.

I have the honor to acknowledge receipt of Government Order, No. 96, dated 23rd January 1863, calling for the expression of an opinion on the effects which have resulted from the omission of the punishment of flogging among the penalties provided in the Penal Code and the expediency of reviving it in certain cases.

The great increase in the number of crimes of all classes brought to justice under the joint operation of the new Penal Law and the new Constabulary, and as a direct consequence of more stringent laws and a more complete machinery for working them has been such as to render it impossible to trace the operation of less powerful causes, on our Criminal returns. Such at least is my experience of the past year. I am consequently unable to point to any definite results from the disuse of corporal punishment.

The Inspector General of Jails however with whom I have conversed on the subject, authorizes me to give it as his experience that the number of juvenile offenders in confinement for petty thefts has been of late on the increase.

Independently of any definite experience gathered from the past year however, there are sufficient grounds for regarding flogging as a wise and salutary punishment for offenders of a certain class.

Obviously juvenile offenders guilty of petty offences can be thus most properly dealt with. I think it may even be said that considering how mischievous an influence is exercised on the character of a child by association with older culprits of every grade; flogging or brief solitary confinement are the only punishments which it is right to award.

There are of course heinous crimes committed occasionally by very youthful criminals who evince "a wicked discretion" beyond their years which marks them as fit subjects for the rigour of the law; but in petty offences it seems wisest to adhere to corporal punishment with boys under fifteen years.

Another class to whom this mode of punishment is specially appropriate, is that which from its habits and mode of life rather gains than loses in comfort by incarceration in the Government Jails. My Head Assistant, Captain Lane, has called my attention to the large proportion

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of a class called Dundasies to be found among the number yearly convicted of petty thefts and burglaries. These men are of the same class as the Taliars and Cavalgars of Southern India, Thieves by profession, abhorring labour and consequently very poor; imprisonment gives them the means of better food and shelter than they habitually enjoy, and consequently it has not the same terror for them as for those who lose both character and employment by being sent to Jail.

There can be nothing more salutary for them than a whipping administered in the presence of a European Officer who will insist on the stripes being genuine. Where more crimes of the more heinous character render long sentences of imprisonment appropriate, offenders of this class should receive the whipping in addition both on entering and on leaving Jail.

There are also cases in which peculiar brutality or ferocity have been exhibited in the commission of dacoity, robbery or even of common assault, when these aggravating features in the case might be justly met at the discretion of the Sessions Judge or with his approval to the recommendation of the Magistrate with the addition of bodily pains and penalties to the punishment of imprisonment.

To omit corporal chastisement from the list of punishments awarded by our Criminal law, would be to neglect one of the most obvious and wholesome resources of justice and one which has approved itself to the experience of mankind wherever human law has been administered.

Forwarded to the Honorable the Judges of the High Court for submission with their own report on this subject.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

To the Honorable the Judges of the High Court.

From CHARLES W. READE, Esq., Magistrate of South Arcot; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Villapoorum, 13th March 1863, No. 101.

By the Orders of Government, dated 23rd January 1863, No. 96, recorded on the proceedings of the Government of India, under date the 20th December 1862, No. 7310, I am desired to submit through the High Court, my opinion on the subject of flogging which ceased as a punishment with the introduction of the Penal Code, and it is sought to know the practical results of the suspension of corporal punishment during the past year.

2. I might have replied earlier to this call, but I was desirous of ascertaining the views of my subordinates, especially of those Native officials whose experience of the working of the old and new law entitled their opinions to some consideration. Besides I felt they would probably regard the question from a point of view which a European could not do. Separated so entirely as we are from the Natives of this country in all social habits and customs, there are points involved in a consideration of the question which can scarcely be understood or appreciated by European, and while on general and broad grounds, a return to the system of corporal punishment might appear advisable, still the opportunity seemed favorable for learning what the feelings of the people of the country were on a subject which so immediately affects themselves, and of the consequences of which, in the social aspect of the question, they are able to judge so much better than ourselves. Moreover, it may be supposed that those who framed the Penal Code were alive to the importance of the subject, and they could not have failed to have given to it their most serious and earnest deliberation, thus their judgment so unmistakeably adverse to corporal punishment, as evidenced by the total omission of it in the Penal Code, ought not I think to be lightly thought of, and the considerations which possibly influenced the opinion of men like the Law Commissioners specially entrusted with so grave a work as the compilation of a Criminal Code for the whole of India, ought clearly to be taken into account before the

result of their deliberate convictions as instanced by the Code is over-ruled and set aside, and I am inclined to the belief that the influences brought to bear on their minds had reference mainly to the social aspect of the question, and that corporal punishment, however apparently to be advocated from most points of view, was represented and was felt to entail an amount of ignominy and disgrace, the ill consequences of which on Native society were held by the Commissioners to far outweigh all counter-considerations favorable to the retention of flogging which at that time was a legal punishment; I therefore considered that it was as well to ascertain, as far as I could, what were the real sentiments of respectable and experienced Natives at the present period, in order to see whether those sentiments had undergone any change, and whether the objections to the punishment which opposed themselves some thirty years ago had now the same force and weight. It is, I think undoubted, that on most subjects Native prejudices and Native modes of thought have undergone a very great change in the last few years and have given way to the influence of education and to that progressive moral and intellectual advancement which has marked the intervening period, and my experience convinces me that many who formerly may have deprecated flogging, viewed socially, are no longer opposed to it as a legal punishment; but on the contrary that they would gladly see the system revived under proper restrictions.

3. In this District there are under me 17 Sub-Magistrates of the 2nd Class and 3 Deputy Magistrates exercising the powers of a Sub-Magistrate of the 1st Class, and after canvassing the opinions of these several Officers, the result is given in the subjoined statement showing the caste of each Officer and the offences for which he would advocate corporal punishment. It will be seen that only 4 of the 2nd Class Sub-Magistrates dissent, one of these being an East Indian. They are of opinion that corporal punishment is unnecessary, and that the law, as it stands, is sufficiently effective for the repression and punishment of crime. Mr. Diqùe, the Sub-Magistrate of Cullacoorchy, expresses himself as follows:—"The law now I consider "is sufficiently severe, without superadding to it the degradation of the lash. The object of "punishment is, I take to be repressive; and if the present law, severe as it is, fail of that "effect, I do not think the lash will tend to the end in view."

4. Of the Deputy Magistrates under me exercising the powers of a Sub-Magistrate of the 1st Class, one is a Mahomedan, an Officer of considerable experience and a very able Magistrate and competent to exercise the highest powers; he strongly advocates a resort to corporal punishment, and some of his reasons deserve attention. Mahomed Esuff Sahib writes, "I have now "been in the Magisterial Department for the last twenty years and have had ample opportunity "of observing its working. Its efficiency in deterring offenders from the commission of crimes "has ever been found sharp and decisive. In a country like this, where the bulk of the popula-"tion, especially the lower orders, are still merged in ignorance, the effect of the lash is more "immediately felt than that of the tedious process of fine and imprisonment, as a part from the "smartness caused by its infliction—it entails degradation and exposure, and this the boldest "culprit is keenly alive to. Moreover, it is of real benefit to the culprit, specially a juvenile one. "If the offence is trivial, flog him well and send him away, and the chances are ten to one he "reforms. Imprison him and he comes out a consummate felon. This is not surprising. "In the absence of proper reformatories, he is huddled together with the vilest cha-"racters of the Jail, and becomes tainted and vitiated. Nor is the discipline in the Jail "much calculated to impress him with the gravity of the offence and produce that reformation "in his character and conduct which is the main object sought for in institutions of this nature. "He is well fed, well treated, and the most tender care is lavished upon him, and the result is "apparent. It offers a premium to crime, and I have known instances in which offenders have "acknowledged their object, in committing offences, was to get back into the Jail."

"Since the introduction of the Penal Code, fine or imprisonment or both has invariably "been the punishment awarded to every offence, no matter whether heinous or trivial, to the "total exclusion of the lash. This has tended not only to multiply crimes, but to inundate the

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"Jail with the dregs of the people, thereby engendering disease of every description and "entailing increased expenditure on the State. This is inevitable. On the other hand, the "imposition of these penalties in cases of a trivial nature becomes a real hardship;" and then follows a very important remark by this Officer—"You send a man to the Jail and if he happens "to be the only male member of a large family solely dependent on him for sustenance, as it "*frequently happens in this country, you punish the whole family indirectly by exposing them to "starvation and misery, and I have often heard the poor fellows exclaim, strike us on the back but "not on the belly.*"

5. The other 1st Class Sub-Magistrate is an Englishman, Mr. Wright, and this Officer objects to flogging except on juvenile offenders, and in support of Prison discipline. Mr. Wright adds—"There is, I believe, more disgrace attached to a flogging than to any other punishment; "but I doubt its efficacy as a preventive of crime. As long as there are men who will commit "offences on the chance of non-detection, so long will they be contented to run the risk of a "flogging."

6. I may observe that Mr. Wright is quite new in the office of a Magistrate, and it is probable that he is influenced less by experience than by feeling which in all of us very naturally is repugnant to corporal punishment.

7. The other Deputy Magistrate advocates flogging as a wholesome and effectual punishment, and in his opinion its infliction does not carry with it any lasting disgrace.

8. Of the Covenanted Officers subordinate to me, both Mr. Whiteside and Mr. Grose respectively, the Joint and Head Assistant Magistrate, recommend flogging. Mr. Whiteside who has had some little experience, expresses his opinion thus:—"For four months of last year I "was in charge of the Jails of Chingleput and Guindy; during the whole of that time the Jails "were in an extremely crowded state, so much so, that it was with the utmost difficulty that "accommodation could be found for the prisoners, of whom a very large proportion were men "sentenced to short terms of imprisonment; most of them would, under the old Regulations, "have been summarily flogged and released; but under the provisions of the Penal Code, they "were confined in Jail either with or without labor."

"The State was thus put to the expense of feeding, clothing and guarding a large number "of Convicts who might have been punished in an infinitely cheaper, and I believe, more efficacious manner."

"A very large portion of the offences on which convictions are now obtained, are of a "comparatively trivial nature, committed by criminals holding a very low position in the social "scale to whom the infliction of a flogging would be little or no degradation, while it would act "as a most excellent determent for the future. There is a summary style of justice in flogging "that is suited to the Natives of this country who are, I believe, much more impressed by a "ready and straightforward treatment than the longer and less simple system now in force."

"I have on several occasions noticed the admirable effect a judicious application of the lash "has in suppressing crime of the less serious descriptions. In 1859-60 I was in charge of the "Town of Nellore, which was, when I first arrived, over-run by thieves, chiefly young men of from "15 to 20 years of age, who sneaked about the bazaars and stole every thing they could lay their "hands on. As many as fifteen cases of theft were often reported to me in a day, I made flogging "the invariable punishment in every conviction of the kind, and I inflicted it publicly in front "of the Cutwall's Choultry; so excellent an effect had it in a short space of time, that at the end "of six months, I did not have two thefts reported in the town in a month."

"I am convinced that if the punishment of flogging were again legalized, the Government "would speedily find the Calendars of crime greatly reduced in many Districts, while in a pecu-"niary point of view, they would be largely the gainers in respect of diminished Jail charges "and guards for Convicts."

9. Mr. Grose, my Head Assistant, has not had much experience in the country, but this want in a great degree is made up by his ability and sound judgment, and his opinion is I think of value. In supporting a return to corporal punishment, Mr. Grose writes—"Con-"sidering my short acquaintance with the country I have felt great diffidence in volunteer-"ing a communication on the subject."

"I am however convinced that flogging is a form of punishment which ought to be at "the disposal of justice in this Presidency, and I think it should be legalized in cases of rape, "unnatural offences, theft, extortion, robbery, dacoity, house-breaking and kidnapping. Most "men who would commit such crimes as these would hold in more regard the well understood "terrors of a sound flogging than the ill-defined tedium of a comfortable Jail, and although old "offenders roughing it in their miserable homes when tempted to new offence might easily "forget the irksomeness of confinement in comparison with the comforts of good food, complete "shelter and easy work, they would find great difficulty in forgetting the sharp punishment "of the lash. It is generally argued as an objection to flogging that it is a mere lottery, for that "whilst a few strokes ill laid on would be scarcely felt by one man, the same number skilfully "inflicted on another of more delicate organization, might result in death; but it appears "to me that precisely the same argument applies to imprisonment, which varies in severity "in different Jails and which must depend very much, as far as the amount of punishment goes, "on the character, moral and physical, of the individual on whom it is inflicted. It is generally "admitted now, that criminals of the worst class are not reformed in Jails, and hence the punish-"ment inflicted on them should be calculated with a view to prevent a repetition of the crime "and deter others from committing it, rather than to show a sentimental regard for the feeling "of ruffians. For both of these purposes flogging is the most effective instrument."

"The punishment of juvenile offenders is a distinct subject; but I take this opportunity "of observing that during the past year I have felt the want of some such Act as the repealed "Act I of 1853, and I should like to see it re-enacted and perhaps a little extended. At pre-"sent punishing a young offender is the same thing as sending him to a school for crime."

10. It now only remains that I should state my own views on the subject of flogging, and I will endeavour to do so as briefly as possible. I decidedly advocate it in the words of Mr. Grose as a "form of punishment which ought to be at the disposal of justice" in this country. Without specifying the particular offences for which I think flogging should be a discretionary penalty, I would remark that my experience of the past and present system has convinced me that flogging is a very necessary punishment, that as a corrective, it is more effectual than imprisonment and equally of value as an example, and in its influence in deterring others from the commission of crime, while viewed from a social aspect, *i. e.*, in relation to the feelings of the people, I am of opinion, whatever those feelings may have been in by-gone years, that at the present time, a very large majority of those who represent Native opinion are advocates of flogging, and that the punishment abstractedly does not carry with it that disgrace and ignominy which in former days was thought to accompany its infliction, and no doubt to this consideration more than to any other, may be attributed the omission of corporal punishment from the present Criminal Code, and when considering the question from this particular point of view, I am reminded of the opinion of the Deputy Magistrate, Mahomed Esoff already quoted, where he says "you send a man to the Jail and if he happens to be the only male member of a large "family solely dependent on him for sustenance, as it frequently happens in this country, "you punish the whole family indirectly by exposing them to starvation and misery, and I have "often heard the poor fellows exclaim, strike us on the back but not on the belly."

11. I think this evidence very striking, and it meets the objections of many who would oppose flogging on social grounds and because of its supposed degrading effects. I am not of opinion that such effects do ordinarily follow corporal punishment, and in instances of the kind referred to by the Deputy Magistrate, humanity would almost dictate flogging in preference to imprisonment.

12. But while I thus strongly advocate a return to corporal punishment, and I do not believe that in reality any prejudice exists against it as formerly in the Native mind whether regarded abstractedly or socially, I still feel that the exercise of the power should be fenced with every precaution and check, so as to avoid its abuse and to ensure its judicious use. Under the old Criminal law of the Presidency, these precautions and checks were laid down and fully enforced, and it was seldom that the power of flogging could be abused. As a rule I do not think any Native Officer should be empowered to flog without the sanction of his European superior. Such power is no doubt capable of being made a terrible engine of oppression and injustice, and I scarcely know a Native functionary of any rank with whom I would entrust its unrestricted exercise, and so jealous was the old law on the subject, that the European Magistracy could not inflict stripes until such sentence was approved by the Sessions Court. I would limit the unrestricted power of flogging to the Sessions Courts and to the Magistrate and Joint Magistrate of the District. I think that no one but Officers of experience of the grade I mention should exercise it uncontrolled by higher authority. A sentence of corporal punishment by every Subordinate Officer, excepting perhaps the Joint Magistrate, should, in my opinion, be subject to the confirmation of the Magistrate of the District.

13. Now-a-days young men from England so speedily rise in official position, and promotion is so rapid, that whatever their qualifications might be in other respects, they would be wanting in that chief requisite "experience" to enable them to appreciate where flogging was and where it was not a fitting punishment.

14. There are many considerations which should determine its infliction, and there would hardly occur to the mind of any but an experienced Officer. Besides the offence itself, there is the caste of the individual, his social position in society, the effect on his future, the effect on his family, all of which should weigh in determining the propriety of inflicting stripes. I am not saying that caste or position of themselves necessarily should shelter any offenders from flogging—far from it—all I contend is that these and other circumstances ought not to be lost sight of in determining whether such punishment shall be imposed, and only an Officer who is acquainted with the peculiarities of Native mind and thought can be expected to appreciate the weight and importance due to those peculiarities, and it is possible that the fear of too lax or indiscriminate an exercise of the power, influenced the Law Commissioners when they resolved to exclude corporal punishment "in toto" from their Penal Code, and no doubt far better would it be ever to exclude it than suffer the power of its infliction to be indiscriminately and uncontrolled in the hands of all Magistrates, whether European or Native; and therefore I suggest that if the punishment be revived, its actual infliction by all the Subordinate Magistracy, except the Joint Magistrate, be subject to the approval and confirmation of the Magistrate of the District, and with this proviso, I think an adequate check will be insured against all abuse in the exercise of the power. I will close my remarks on this point with a quotation from the opinion of the Sub-Magistrate of Kalacoorchy. Mr. Dique writes—"I have no desire to speak "ill of the existing agency; but the fact must be told *coute qui coute*. It is a dangerous power, "the lash, to invest in the hands of those whose conception of authority consists only in the "show of it, without reference to the measure or justice of its exercise, the more especially "now that the power of revision is taken out of the hands of the controlling authority. A fine "or imprisonment you may reverse or mitigate on appeal; but the lash once inflicted can "never be recalled, a reprimand to the Officer of its needlessness is but poor satisfaction to the "sufferer."

15. I can recollect the time when, as a young man, I was opposed to flogging, and I still feel a dislike to resort to it; but after twenty-five years' experience, I am able to testify to its efficacy as a punishment, and of the comparatively little dread entertained of incarceration under our existing Jail system, and therefore I do feel that a return to flogging is really called for, and that it will greatly check the commission of crime to the benefit of society and to the relief of our Jails which at present are over-crowded with criminals at a very heavy cost to the State, so that from whatever point of view the question be considered, I seriously think that the power to flog should be revived, subject to the restrictions and precautions which I have above pointed out.

Statement showing the Caste of each Officer and the offences for which he would advocate corporal punishment.

Taluq.	Name and Caste of the Officer.		Sections of the Indian Penal Code recommended for flogging.
Cuddalore	Govinda Row, 28 years' service.	Brahmin....	115, 118, 119, 126, 127, 128, 130, 132, 148, 193, 194, 195, 211, 212, 216, 225, 226, 231, 232, 233, 234, 244, 245, 246, 247, 255, 257, 261, 263, 267, 304, 307, 308, 311, 313, 314, 315, 326, 328, 356, 363, 364, 365, 369, 379, 380, 381, 382, 392, 393, 894, 395, 396, 397, 398, 399, 400, 401, 402, 412, 413, 414, 428, 429, 435, 436, 438, 448, 449, 450, 451, 453, 454, 455, 456, 457, 458, 459, 460, 467, 468, 472, 473, 475, 476, 477, and 511.
Chellumbrum...	AppasawmyMudaly, 19 years' service.	Vellala.....	376, 377, 379, 380, 381, 282, 394, 395, 435 and 436.
Virdachellum...	Vencata Soobier, 21 years' service.	Brahmin ...	226, 379, 380, 381, 382, 386, 387, 388, 389, 392, 393, 394, 395, 397, 398, 399, 400, 401, 402, 449, 450, 453, 454, 455, 456, 457, 458, 459, 460 and 465.
Tindevanum ...	Narrainsawmy Naik, 33 years' service.	Cavaray ...	379, 380, 381, 382, 392, 394, 395, 453, 454, 456 and 457.
Tirunamalay ...	Devanaiga Naik, 17 years' service.	Do. ...	379, 380, 381, 382, 369, 376, 377, 392, 393, 394, 395, 397, 398, 453, 454, 455, 457, 458, 459, 460 and 461.
Villapoorum. ...	CoopooRow, 27 years' service.	Brahmin ...	379, 380, 381, 382, 392, 393, 395, 397, 398, 399, 400, 401, 402, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462.
Yelavanasoor ...	Vencata Row, 30 years' service.	Do. ...	193, 231, 312, 325, 326, 363, 369, 376, 377, 379, 380, 381, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 420, 426, 428, 429, 436, 453, 454, 455, 456, 457, 458, 459, 497.
	Sub-Magistrates.		
Old Town Cuddalore.	Mr. Vanderlowen, 28½ years' service.	EastIndian.	231, 232, 239, 214, 215, 379, 392, 411, 457.
Trivady..... ...	Sambamurty, 17 years' service.	Brahmin....	231, 232, 255, 260, 262, 264, 265, 313, 314, 369, 376, 377, 379, 380, 382, 386, 392, 393, 394, 395, 397, 398, 403, 436, 438, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 465, 466, 467, 468, 469, 471, 472, 473, 474, 475, 476, 477, 493, 498.
Manargoody....	Ramachendra Row, 7 years' service.	Do. ...	From 110 to 120; from 121 to 130; from 131 to 110; from 144 to 158; from 193 to 201, 205; from 211 to 214; from 224 to 227; from 231 to 263; from 281 to 289; from 302 to 311; from 323 to 338; from 363 to 373, 376, 377; from 312 to 318; from 379 to 382; from 384 to 389; from 392 to 404; from 406 to 409; from 411 to 414; from 449 to 462; from 466 to 469; from 472 to 477; from 493 to 498, 506, 507 and 511.
Chengy...	Vencata Chelliah, 13 years' service.	Do. ...	379, 380, 381, 382, 392, 453, 454, 456 and 457.
Trecullore	Syed Goolam Kader, 7 years' service.	Mussalman.	376, 379, 380, 381, 382, 392, 393, 394, 395, 396, 399, 400, 401, 402, 411, 412, 413, 411.
Vanoor...	Goolam Hyder, 11 years.	Do. ...	140, 143, 144, 145, 147, 151, 170, 171, 336, 379.

Statement showing the Caste of each Officer, &c.—(Continued.)

Taluq.	Name and caste of the Officer.		Sections of the Indian Penal Code recommended for flogging.
Tahsildar of Cullacoorchy.	Mr. Dique, 19 years' service.	EastIndian.	These four Officers object to flogging and consider a revival of corporal punishment unnecessary.
Tittagoody... ...	Chengulroy Naik, 19½ years' service.	Cavaray ...	
Porto Novo. ...	Sesha Chella Naick, 25½ years' service.	Do. ...	
Chengun.	Ayapillay, 9½ years' service.	Christian...	

From W. T. BLAIR, Esq., Acting Session Judge of Chittoor; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Chittoor, 25th March 1863.

1. With reference to the Order of Government, dated the 23rd January 1863, No. 96, I have the honor to state that in my opinion it would be desirable to retain flogging as a punishment to the extent and with respect to the offences to which it was proposed to make it applicable by the Bill which was introduced into the Governor General's Council on the 26th February of last year.

2. The only alterations I would propose in the provisions of the said Bill are the following:—To the offences enumerated in Section 2, I would add that of escape from custody when committed by a prisoner confined in a Zillah or branch Jail. I would also empower a Magistrate with full powers to pass on an offender a sentence of flogging *in addition* to any punishment to which he was liable under the provisions of the Penal Code.

From G. LEE MORRIS, Esq., Acting Magistrate of Tanjore; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Point Calimere, 18th May 1863, No. 135.

1. With reference to your Deputy's letter of the 15th instant, I have the honor to inform you that the number of persons in the Zillahs of Tanjore and Negapatam sentenced by *the Magistracy* in the year 1862, to imprisonment for offences, which, up to the introduction of the Indian Penal Code, were punishable by flogging, were as noted in the margin.

Tanjore,	171
Negapatam,	131
	302

2. As stated in paragraph 2 of my letter of the 15th instant, it will take some little time to collect the information required for each month, as also that which refers to the Courts, I therefore send this letter to avoid delay, and will forward a Statement in the required form on receipt of the requisite information from my Sub-Magistrates.

No. 111 A. ORDER THEREON, 18th November 1863, No. 1776.

In the Proceedings of the Right Honorable the Governor General of India in Council, under date the 20th December last, No. 7310, the several Governments and Administrations were requested to furnish the Government of India with a full report on the practical working of the Penal Code, so far as the suspension of corporal punishment may have had any bearing thereon, and with an expression of their present opinion, as confirmed or modified by the experience of the past year, regarding the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be made applicable; and in the subsequent Proceedings of the Honorable the President in Council, under date the 23rd March last, No. 1946, the several Governments were instructed to furnish, with their report, a statistical return showing, in a tabular form, the number of Convicts sentenced in each month of the past year to imprisonment for offences which, up to the introduction of of the Penal Code, were punishable by flogging.

2. The Resolution of the 20th December was sent to the Honorable the Judges of the High Court, to the Inspector General of Police, and to the Session Judges and Magistrates named in the margin, with a request that they would furnish Government with their opinions on the subject. The Sessions Judges and Magistrates were instructed to forward their reports through the High Court. On the receipt of the Proceedings of the 23rd March, the Honorable the Judges of the High Court were requested to furnish the statistical return therein called for.

Sessions Judge of Rajahmundry.
Do. Masulipatam.
Do. Chittor.
Do. Mangalore.
Do. Cuddalore.
Do. Madura.
Magistrate of Ganjam.
Do. Vizagapatam.
Do. Godavery.
Do. Cuddapah.
Do. South Arcot.
Do. Tanjore.
Do. Coimbatore.
Do. Malabar.

3. The Governor in Council has now before him the replies of the several Officers who were consulted. That of the High Court, forwarding the answers of the Sessions Judges and Magistrates, and a statement of the number of Convicts sentenced in 1862 to imprisonment for offences which, up to the introduction of the Penal Code, were punishable by flogging, only reached him on the 3rd instant. The statement is incomplete, not including the Zillahs of Cuddapah and Masulipatam. The opinion of the High Court is given in a few words; and the Judges have not recorded their views on any of the important considerations connected with the subject, which are, more or less, fully discussed in the letters of the District Officers. The Honorable the Judges will be requested to supply this omission; but, in the meanwhile, as the report of this Government has been more than once called for, the papers which have been received will be at once submitted for the consideration of the Government of India.

4. None of the District Officers who have been consulted, are able to offer any very definite opinion, based upon the experience of the period which has elapsed since the introduction of the Penal Code, as to the practical effect of the suspension of corporal punishment on the working of that Code. The over-crowded state of the Jails, which, in this Presidency and in other parts of India, as would appear from Colonel Bruce's letter of the 29th November last, is a serious and increasing difficulty, is probably attributable in part to the greater efficiency of the new Police, as compared with the agency which preceded it; and it is impossible to estimate with any degree of certainty how far the suspension of flogging may have contributed to increase the number of Convicts in Jail; but when it is seen that in seventeen Zillahs no less than 6581 persons were sentenced in 1862 to imprisonment for offences which were formerly punishable with stripes, it is difficult not to connect the over-crowding of our Jails with the suspension of that punishment. In one of the papers, it is stated that there has been a marked increase in the number of juvenile Convicts; and in one District (Malabar), the Magistrate attributes the increase in the number of cases of theft to the suspension of corporal punishment. The Inspector General of Police, writing of the same District, of which he was formerly Magistrate, adverts to the striking effect of corporal punishment in preventing crimes of violence, stabbing, robbery, dacoity and theft, which, at the time to which he refers, were rife in that District.

Letter from the Agent in Ganjam.

5. Of the Officers to whom the Proceedings of the Supreme Government have been referred, the Sessions Judges of Chittoor, Cuddalore, Mangalore and Madura, and the Magistrates of Ganjam, the Godavery, South Arcot, Malabar, Tanjore and Coimbatore are decidedly in favor of the re-introduction of flogging. The Inspector General of Police is of the same opinion. He considers that "corporal punishment is that form of punishment which most certainly "deters from the commission or repetition of crime, as it is that which is most intelligible to "the criminal classes of the country. It is the cheapest and most efficient." And he urges that it should be re-introduced with as little delay as possible.

6. The Judges of the High Court are in favor of the Bill in its modified form, alluding, it is presumed, to the second of the two Bills referred to in the Proceedings of the 20th December, *viz.*, the "Bill to authorize the punishment of whipping in certain cases."

Proceedings of the Madras Government, Judicial Department,
18th November 1863.

7. The Magistrates of Vizagapatam and Cuddapah (Messrs. Carmichael and Wedderburn) and the late Acting Sessions Judge of Masulipatam (Mr. C. R. Pelly); all of them intelligent Officers, whose opinions are deserving of every consideration, are opposed to the punishment of flogging, except in the case of juvenile offenders. The Magistrate of Cuddapah, however, though he doubts its efficacy as a preventive of crime in the case of hardened offenders, would adopt it as a means of checking any minor crime which appeared to gain ground in any District. Both this Officer and the Magistrate of Vizagapatam urge the much greater efficacy of sentences of transportation which, under Section 59 of the Penal Code, can now be awarded for any heinous offence.

8. The Governor in Council is decidedly in favor of the enactment of the Bill introduced by Mr. Beadon on the 26th February 1862. In His Excellency's opinion, it is unquestionable that by the great bulk of the criminal classes of the population, a sentence of corporal punishment is far more dreaded than a sentence of imprisonment, and that its omission from the Penal Code is a serious evil.

9. The Governor in Council would authorize corporal punishment for the several offences specified in Mr. Beadon's Bill. The Inspector General of Police questions the expediency of inflicting it in cases of forgery, perjury and the like offences, on the ground that the persons guilty of these crimes are sufficiently punished by rigorous imprisonment. Adverting, however, to the great prevalence of these crimes in India, His Excellency the Governor in Council is unable to concur with Mr. Robinson on this point. The prevalence of the crime is a proof that the fear of imprisonment is not a sufficient preventive, and the persons referred to are precisely those on whom the fear of corporal punishment would operate most effectively.

10. The Governor in Council would be disposed to add to Section VII of the Bill a proviso, that sentences of corporal punishment passed by any Officer inferior to a Subordinate Magistrate of the 1st Class, shall not be carried into effect until approved by the Magistrate of the District. He resolves, however, to call the special attention of the Honorable the Judges of the High Court to this Section, and to request that they will furnish the Government with a full exposition of their views as to the powers which should be entrusted to the several grades of Officers of the Magistracy in passing sentences of corporal punishment.

11. The Government agree with the Inspector General of Police that the maximum number of stripes might be raised to 100.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 111 B. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 18th November 1863, No. 1777.

In the Proceedings of the Right Honorable the Governor General of India in Council, under date the 20th December last, No. 7310, the several Governments and Administrations were requested to furnish the Government of India with a full report on the practical working of the Penal Code, so far as the suspension of corporal punishment may have had any bearing thereon, and with an expression of their present opinion, as confirmed or modified by the experience of the past year, regarding the expediency of retaining flogging as a punishment, and with respect to the offences to which the punishment, if it be retained, should be made applicable; and in the subsequent Proceedings of the Honorable the President in Council, under date the 23rd March last, No. 1946, the several Governments were instructed to furnish, with their report, a statistical return showing, in a tabular form, the number of Convicts sentenced in each month of the past year to imprisonment for offences which, up to the introduction of the Penal Code, were punishable by flogging.

2. The Resolution of the 20th December was sent to the Honorable the Judges of the High Court, to the Inspector General of Police, and to the Sessions Judges and Magistrates named in the margin, with a request that they would furnish Government with their opinions on the subject. The Sessions Judges and Magistrates were instructed to forward their reports through the High Court. On the receipt of the Proceedings of the 23rd March, the Honorable the Judges of the High Court were requested to furnish the statistical return therein called for.

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Do. Tanjore.
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3. The Governor in Council has now before him the replies of the several Officers who were consulted. That of the High Court, forwarding the answers of the Sessions Judges and Magistrates and a statement of the number of Convicts sentenced in 1862 to imprisonment for offences which, up to the introduction of the Penal Code, were punishable by flogging, only reached him on the 3rd instant The statement is incomplete, not including the Zillahs of Cuddapah and Masulipatam. The opinion of the High Court is given in a few words; and the Judges have not recorded their views on any of the important considerations connected with the subject, which are more or less fully discussed in the letters of the District Officers. The Honorable the Judges will be requested to supply this omission; but in the meanwhile, as the report of this Government has been more than once called for, I am directed to submit the papers which have been received, for the consideration of the Government of India, with the following remarks.

4. It will be seen that none of the District Officers who have been consulted, are able to offer any very definite opinion, based upon the experience of the period which has elapsed since the introduction of the Penal Code, as to the practical effect of the suspension of corporal punishment on the working of that Code. The over-crowded state of the Jails, which, in this Presidency and in other parts of India as would appear from Colonel Bruce's letter of the 29th November last, is a serious and increasing difficulty, is probably attributable in part to the greater efficiency of the new Police, as compared with the agency which preceded it; and it is impossible to estimate with any degree of certainty how far the suspension of flogging may have contributed to increase the number of Convicts in Jail; but when it is seen that in seventeen Zillahs no less than 6581 persons were sentenced in 1862 to imprisonment for offences which were formerly punishable with stripes, it is difficult not to connect the over-crowding of our Jails with the suspension of that punishment. In one of the papers* now submitted, it is stated that there has been a marked increase in the number of juvenile Convicts; and in one District (Malabar), the Magistrate attributes the increase in the number of cases of theft to the suspension of corporal punishment. The Inspector General of Police, writing of the same District, of which he was formerly Magistrate, adverts to the singular effect of corporal punishment in preventing crimes of violence, stabbing, robbery, dacoity and theft, which, at the time to which he refers, were rife in that District.

*Letter from the Agent in Ganjam.

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6. The Judges of the High Court are in favor of the Bill in its modified form, alluding, it is presumed, to the second of the two Bills referred to in the Proceedings of the 20th December, *viz.*, the "Bill to authorize the punishment of whipping in certain cases."

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7. The Magistrates of Vizagapatam and Cuddapah (Messrs. Carmichael and Wedderburn) and the late Acting Sessions Judge of Masulipatam (Mr. C. R. Pelly); all of them intelligent Officers, whose opinions are deserving of every consideration, are opposed to the punishment of flogging, except in the case of juvenile offenders. The Magistrate of Cuddapah, however, though he doubts its efficacy as a preventive of crime in the case of hardened offenders, would adopt it as a means of checking any minor crime which appeared to gain ground in any District. Both this Officer and the Magistrate of Vizagapatam urge the much greater efficacy of sentences of transportation, which, under Section 59 of the Penal Code, can now be awarded for any heinous offence.

8. The Governor in Council is decidedly in favor of the enactment of the Bill introduced by Mr. Beadon on the 26th February last. In his opinion, it is unquestionable that by the great bulk of the criminal classes of the population, a sentence of corporal punishment is far more dreaded than a sentence of imprisonment, and that its omission from the Penal Code is a serious evil.

9. The Governor in Council would authorize corporal punishment for the several offences specified in Mr. Beadon's Bill. The Inspector General of Police questions the expediency of inflicting it in cases of forgery, perjury and the like offences, on the ground that the persons guilty of these crimes are sufficiently punished by rigorous imprisonment. Adverting, however, to the great prevalence of these crimes in India, His Excellency the Governor in Council is unable to concur with Mr. Robinson on this point. The prevalence of the crime is a proof that the fear of imprisonment is not a sufficient preventive, and the persons referred to are precisely those on whom the fear of corporal punishment would operate most effectively.

10. The Governor in Council would be disposed to add to Section VII of the Bill a proviso, that sentences of corporal punishment passed by any Officer inferior to a Subordinate Magistrate of the 1st Class, shall not be carried into effect until approved by the Magistrate of the District. He proposes, however, to call the special attention of the Honorable the Judges of the High Court to this Section, and to request that they will furnish the Government with a full exposition of their views as to the powers which should be entrusted to the several grades of Officers of the Magistracy in passing sentences of corporal punishment:

11. The Government agree with the Inspector General of Police that the maximum number of stripes might be raised to 100.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

xd. T. McMootry.

Ganjam District

No. 11 Magistrate's Office Chi

Aska, dated 3d March 63

From,

G. S. Forbes Esqre

Magistrate of Ganjam

To,

A. J. Arbuthnot Esqre

Chief Secretary to Govt

Madras.

Sir,

I have the honor to acknow-
ledge receipt of Government order—
No 6 dated 6th January 1863 calling
for the expression of an opinion on
the effects which have resulted from
the omission of the punishment of
flogging among the penalties provided
in the Penal Code and the expediency
of reviving it in certain cases.

The great increase in the
number of Crimes of all classes brought
to justice under the joint operation of
the New Penal law and the New
Constabulary and as a direct consequence
of more stringent laws and a more

of a class called Dundasies to be found among the number yearly convicted of petty thefts and burglaries. These men are of the same class as the Italians and Cavalgars of Southern India. Thieves by profession, abhorring labour and consequently very poor, imprisonment gives them the means of better food and shelter than they habitually enjoy and consequently it has not the same terror for them as for those who have both character and employment by being sent to Jail.

There can be nothing more salutary for these than a whipping administered in the presence of a European officer who will insist on the stripes being genuine. Where more crimes of the more heinous character render long terms of imprisonment appropriate, offenders of this class should receive the whipping in addition both on

entering and on leaving Jail. 19

There are also cases in which peculiar brutality or severity have been exhibited in the commission of dacoity, robbery or even of common assault when these aggravating features in the case might be justly met at the discretion of the Sessions Judge or with his approval to the recommendation of the Magistrate with the additions of bodily pains and penalties to the punishments of imprisonment.

To omit corporal chastisement from the list of punishments awarded by our Criminal Law would be to neglect one of the most obvious and wholesome resources of justice and one which has approved itself to the experience of mankind wherever human law has been administered.

I have the honor to be
Sir,
Your most obedient Servt.

[signature]

Judl. Dept. 1863.

From
The Magistrates
of Glenyarra
To
The Attorney Gen.
to prosecute
Drowan.

Dated 3rd Drowsky 1863
Received 18th do do

No 11 No 548

Re: Druid
Norbert Thiéspinn
on the expediency of
detaining & Glossing
arrest & Bremenbrudt
Jurored on the Final
Order

Transferred

Judl. Dept. 1863. No 1170

To the Proceedings of the
Resident Magistrate at Drowan
Edmund Phibbs in Committal
under date the 20th November
Inst. No 7310, the accused
Sorensen and Assistant
Gaoler Drew to attend &
produce Druid
Norbert Thiéspinn
pursuant the Summons

By Command
Robin Mills a/ Sec.
Registrar

Judl. Dept. 1863. No 1170

Crown Solr. to Engd. 3rd Sept. No. 16 of 1864

To the Honble the Chief Justice
the Honble the Judges of the High Court of Chancery
Sydney

I am directed by the Honble the Attorney General to transmit herewith the Depositions taken before the Resident Magistrate at Drowan in the case of Druid Norbert Thiéspinn charged with the murder of Sorensen and to request that you will be pleased to direct the Registrar of the High Court of Chancery to issue a Writ of Habeas Corpus for the purpose of bringing the said Druid Norbert Thiéspinn before the Court to be dealt with according to law.

I have the honor to be
Sir
Your most obedient
humble Servant
Robin Mills
Crown Solicitor

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read again—

Proceedings of Government. (Here Enter 23d January 1863 No. 96)
—— Do —— Do —— (—— Do —— 23d March 1863 No. 630)
—— Do —— Do —— (—— Do —— 7th Septr 1863 No. 1410)

Read also the following.

Letter from the Under Secry to the Govt of India Home Dept. } (Here Enter 11th Septr 1863 No. 1581)

Letter from the Inspector General of Madras Police. } Here Enter 28 January 1863. No. 221

Letter from the Registrar of the High Court of Judicature, at Madras } Here Enter 2d November 1863 No. 1144

Order thereon 18th November 1863. No. 1770

In the Proceedings of the Right Honorable the Governor General of India in Council under date the 20th December last, No. 7310, the several Governments and Administrations were requested to furnish the Government of India with a full report

Extract on the practical working of the Penal Code, so far as the suspension of Corporal punishment may have had any bearing thereon, and with an expression of their present opinion, as confirmed or modified by the experience of the last year, regarding the expediency of retaining or dispensing with such punishment, in addition to the punishment by fine to be retained, should be made applicable; and in the subsequent Proceedings of the Honorable the President in Council under date the 23d March last, No 1916, the several Governments were instructed to furnish with their respective, the statistical returns showing in tabular form, the number

Sessions Judge of Rajahmundry
" Masulipatam
" Chittoor
" Mangalore
" Cuddalore
" Madura
Magistrate of Ganjam
" Vizagapatam
" Godavery
" Cuddapah
" Bellary Circuit
" Tanjore
" Coimbatore
" Malabar

number of convicts sentenced in each month of the last year to imprisonment for offences which, up to the introduction of the Penal Code, were punishable by flogging.

2. The Resolution of the 20th December was sent to the Honorable the Judges of the High Court, to the Inspector General of Police, and to the Sessions Judges and Magistrates named in the margin, with a request that they would furnish Government with their opinions on the subject. The Sessions Judges and Magistrates were instructed to forward their replies through the High Court. On the receipt of the Proceedings of the 23d March, the Honorable the Judges of the High Court were requested to furnish the statistical return therein called for.

3.

3. The Governor in Council has now before him the replies of the several Officers who were consulted. Heads of the High Court, forwarding the answers of the Sessions Judges and Magistrates, and a Statement of the number of Convicts sentenced in 1862 to imprisonment for offences which, upon the introduction of the Penal Code, were punishable by flogging or by branding him on the 3rd Instant. The Statement is incomplete, not including the Zillahs of Cuddapah and Masulipatam. The opinion of the High Court is given in a few words; and the Judges have not recorded their views on any of the important Considerations connected with the subject which are, more or less, fully discussed in the letters

letters of the District Officers. The Honorable the Judges will be requested to supply this omission; but, in the meanwhile, as the report of this Government has been more than once called for, the papers which have been received will be at once submitted for the Consideration of the Government of India.

4. None of the District Officers who have been consulted, are able to offer any very definite opinion, based upon the experience of the period which has elapsed since the introduction of the Penal Code, on the practical effect of the suspension of Corporal punishment in the working of that Code. The overcrowded state of the Jails, which, in

in this Presidency and in other parts of India, as would appear from Colonel Bruce's letter of the 29th November last, is a serious and increasing difficulty, is probably attributable in part to the greater efficiency of the new Police, as compared with the Agency which preceded it; and it is impossible to estimate with any degree of certainty how far the suspension of flogging may have contributed to increase the number of convicts in Jail: but when it is seen that in 17 Zillahs no less than 6584 persons were sentenced in 1862 to imprisonment for offences which were formerly punishable with stripes, it is difficult not to connect the overcrowding of our jails with the suspension of that punishment. In one of the

papers, it is stated that there has been a marked increase in the number of juvenile convicts; and in one District (Malabar), the Magistrate attributes the increase in the number of cases of theft to the suspension of corporal punishment. The Inspector General of Police, visiting the same District, of which he was formerly Magistrate, adverts to the ill effect of corporal punishment in preventing crimes of violence, stabbing, robbery, dacoity and theft, which, at the time to which he refers, were rife in that District.

5. Of the Officers to whom the Proceedings of the Supreme Government have been referred, the Sessions Judges of Chittoor, Cuddalore, Mangalore and Madura, and the Magistrates of Ganjam

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papers, it is stated that there has been a marked increase in the number of juvenile convicts; and in one District (Malabar), the Magistrate attributes the increase in the number of cases of theft to the suspension of corporal punishment. The Inspector General of Police, writing of the same District, of which he was formerly Magistrate, adverts to the [illegible] effect of corporal punishment in preventing crimes of violence, stabbing, robbery, dacoity and theft, which, at the time to which he refers, were rife in that district.

5. Of the Officers to whom the Proceedings of the Supreme Government have been referred, the Sessions Judges of Chittoor, Cuddalore, Mangalore and Madura, and the Magistrates of Ganjam

Ganjam, the Godavery, South Arcot, Malabar, Tanjore and Coimbatore are decidedly in favor of the reintroduction of flogging. The Inspector General of Police is of the same opinion. He considers that Corporal "punishment is that form "of punishment which "most certainly deters from "the Commission of crime, "as it is that which is "most intelligible to the "Criminal classes of the "Country. It is the cheapest "and most efficient. And "he urges that it should "be reintroduced with "as little delay as possible.

6. The Judges of the High Court are in favor of the Bill in its modified form, alluding it is presumed, to the second of the two Bills referred to in the Proceedings of the 20th December, viz. "the Bill to authorize the punishment of whipping in certain cases"

7. The Magistrates of Vizagapatam and Cuddapah (Messrs Carmichael and Wedderburn) and the late Acting Sessions Judge of Masulipatam (Mr. C. R. Pelly); all of them intelligent Officers, whose opinions are deserving of every consideration, are opposed to the punishment of flogging, except in the case of juvenile offenders. The Magistrate of Cuddapah however, though he doubts its efficacy as a preventive of crime in the case of hardened offenders, would adopt it as a means of checking any minor crime to which appeared to

against ground in any District. Both this Office and the Magistrate of Vizagapatam urge the much greater Efficacy & sentences of transportation which, under section 59 of the Penal Code, can now be awarded for any heinous offence.

9. The Governor in Council is decidedly in favor of the enactment of the Bill introduced by Mr. Beadon on the 26th February 1862. In his opinion, it is unquestionable that by the great bulk of the Criminal classes of the population, a sentence of Corporal punishment is far more dreaded than a sentence of imprisonment. And that its infliction from

the Penal Code, is a serious evil.

9. The Governor in Council would authorize Corporal punishment for the several offences specified in Mr. Beadon's Bill. The Inspector General of Police questions the expediency of inflicting it in cases of forgery, perjury and the like offences, on the ground that the persons guilty of these Crimes are sufficiently punished by rigorous imprisonment. Admitting, however, the great prevalence of these Crimes in India, His Excellency the Governor in Council is inclined to concur with Mr. Robinson on this point. The prevalence of the Crime is a proof that the fear of imprisonment is not a sufficient preventive, and the persons referred to are precisely those on whom the fear of Corporal punishment would operate

operate most effectively.

10. The Governor in Council would be disposed to add to Section VII of the Bill a proviso, that sentences of Corporal punishment passed by any Officer inferior to a Subordinate Magistrate of the 1st Class, shall not be carried into effect until approved by the Magistrate of the District. He resolves however, to call the special attention of the Honorable the Judges of the High Court to this Section, and to request that they will furnish the Government with a full Exposition of their views as to the powers which should be entrusted to the several Rules of Officers of the Magistracy in passing sentences of Corporal punishment.

11. The Government agree with the Inspector General of Police that the maximum number of stripes might be raised to 100.

To The Hon'ble the Judges of the High Court
The Inspector General of Madras Police

dup 3-19

Judl. Sr. to Encl. 3?
Septr. 2nd. 16 of 1864

Judicial 1863. Department.

No. 1776.

PROCEEDINGS of GOVERNMENT.

Dated 18th November 1863.
Fort St. 25th Dec. 1823.

On the subject of employing corporal punishment as a legal penalty in certain offences.

111 A.

to the offences to which the punishment, if it be retained, should be made applicable.

And in the subsequent Proceedings of the Honorable the President in Council under date the 23d. March last, No. 1946, the several Governments were instructed to furnish, with their report, a statistical return shewing, in tabular form, the number of convicts sentenced in each month of the past year to imprisonment for offences which, up to the introduction of the Penal Code, were punishable by flogging.

2. The Resolution of the 20th December was sent to the Honorable the Judges of the High Court, to the Inspector General of Police, and to the Sessions Judges and Magistrates named

Sessions Judge of Rajahmundry
— do — Vizagapatam
— do — Chittoor
— do — Mangalore
— do — Cuddalore
— do — Madura
Magistrate of Ganjam
— do — Vizagapatam
— do — Godavery
— do — Cuddapah
— do — South Arcot
— do — Tanjore
— do — Coimbatore

a request that they would furnish Government with their opinions on the subject.

The Sessions Judges and Magistrates were instructed to forward their reports through the High Court. On the receipt of the Proceedings of the 23d. March, the Honorable the Judges of the High Court were requested to furnish the statistical return therein called for.

3. The Governor in Council has now before him the replies of the several officers who were consulted. That of the High Court, forwarding the answers of the Sessions Judges and Magistrates and a statement of the number of convicts sentenced in 1862 to imprisonment for offences which, up to the introduction of the Penal Code,

Code, were punishable by flogging, only reached him on the 3d Instant. The statement is incomplete, not including the Zillas of Cuddapah and Masulipatam. The opinion of the High Court is given in a few words, & And the Judges have not recorded their views on any of the important considerations connected with the subject, which more or less are fully discussed in the letters of the District officers. The Honorable the Judges will be requested to supply this omission; but in the meanwhile, as the report of this Government has been more than once called for, I am directed to submit the papers which have been received, for the consideration of the

Govt

Government of India, with the following remarks.

4. It will be seen that none of the District Officers who have been consulted, are able to offer any very definite opinion, based upon the experience of the period which has elapsed since the introduction of the Penal Code, as to the practical effect of the suspension of corporal punishment on the working of that Code. The overcrowded state of the Jails, which, in this Presidency and in other parts, as would appear from Colonel Bruce's letter of the 29th November last, is a serious and increasing difficulty, is probably attributable in part to the greater efficiency of the new Police, as compared with the agency which preceded it; and it is impossible to

to Estimate with any degree of certainty how far the suspension of flogging may have contributed to increase the Number of Convicts in Jail: but when it is seen that in 17 Zillahs no less than 6584 persons were sentenced in 1862 to Imprisonment for offences which were formerly punishable with stripes, it is difficult not to connect the overcrowding of our Jails with the suspension of that punishment.

In one of the Papers now submitted, it is stated that there has been a marked increase in the number of juvenile convicts; And in one District (Malabar), the Magistrate attributes the increase in the number of cases of theft to the suspension of corporal punishment.

The Inspector General of Police, writing of the same District of which he was formerly Magistrate, adverts to the singular effect of corporal punishment in preventing crimes of violence, stabbing, robbery, dacoity and theft, which, at the time to which he refers, were rife in that District.

5. Of the officers to whom the Proceedings of the Supreme Government have been referred, the Sessions Judges of Chittoor, Cuddalore, Manjalore and Madura, and the Magistrates of Ganjam, the Godaveri, South Arcot, Malabar, Tanjore and Coimbatore are decidedly in favor of the re-introduction of flogging. The Inspector General of Police is of the same opinion. He considers that "Corporal punishment is that "form of punishment which

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"is most intelligible to the
"criminal classes of the
"country. It is the cheapest
"and most efficient"; and
he urges that it should be
reintroduced with as little
delay as possible.

6. The Judges of the High Court are in favor of the Bill in its modified form, alluding, it is presumed, to the second of the two Bills referred to in the Proceedings of the 20th December, viz. the "Bill to authorize the punishment of whipping in certain cases.

7. The Magistrates of Vizagapatam and Cuddapah (Messrs Carmichael and Pedderburn) and the late Acting Sessions Judge of Masulipatam (Mr C.R. Pelly); all of them intelligent

Officers, whose opinions are deserving of every consideration, are opposed to the punishment of flogging, except in the case of juvenile offenders. The Magistrate of Cuddapah, however, though he doubts its efficacy as a preventive of Crime in the case of hardened offenders, would adopt it as a means of checking any minor crime which appeared to gain ground in any District. Both this Officer and the Magistrate of Vizagapatam urge the much greater efficacy of sentences of transportation, which, under Section 59 of the Penal Code, can now be awarded for any heinous offence.

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the Criminal Classes of the Population a sentence of Corporal punishment is far more dreaded than a sentence of imprisonment, and that its Omission from the Penal Code is a serious Evil.

9. The Governor in Council would authorize Corporal punishment for the several offences specified in Mr. Reade's Bill. The Inspector General of Police questions the Expediency of inflicting it in cases of forgery, perjury and the like offences & the ground that the persons guilty of these Crimes are sufficiently punished by rigorous imprisonment. A Doubting, however, to the great prevalence of these Crimes in India, His Excellency the Governor in Council is unable to concur with Mr. Robinson on this point. The prevalence of the Crime is a proof that the fear of imprisonment is not a sufficient preventive, and the persons referred to are precisely those on whom the fear of Corporal punishment would operate most effectively.

10. The Governor in Council would be disposed to add to Section VII of the Bill a proviso that sentences of Corporal punishment passed by any Officer inferior to a Subordinate Magistrate of the 1st Class, shall not be carried into Effect until approved by the Magistrate of the District. He proposes however, to call the special attention of the Honorable the Judges of the High Court to this Section, and to request that they will furnish the Government with a full Exposition of their views as to the powers which

which should be entrusted to the several grades of Officers of the Magistracy in passing sentences of Corporal punishment.

4th. The Government agree with the Inspector General of Police that the maximum number of stripes might be raised to 100.

Fort St. George
18th Novr 1863

Jud.l 1863 Depart.t

No. 1776

Pro: of the Madras Government.

Dated 18th Nov.r/63.

No. 1777

To The Secretary to the Govt. of India Home Dep.t

Dated 18th Nov.r/63.

Jud.l No. to Eng.d 3d Sept.r No. 16 of 1864.

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