M.R.O. 1—39,000—16-10-37.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 696 Press Mis.

36-37 A

Dated 5-5-1863 -19- .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 5th May 1863.

Read the following papers :—

No. 36. From J. ROHDE, Esq., Inspector General of Jails; to A. J. ARBUTHNOT, Esq., Chief Secretary to the Government of Fort Saint George, dated Vizagapatam on Circuit, 9th March 1863, No. 813.

23rd December 1862, No. 2114.

I have the honor in reference to the Orders of Government marginally noted, to request the attention of the Government to the subject of imprisonment as a secondary punishment for offenders in the hill country of the Northern Circars.

2. I am unable to furnish any return of value as to the mortality of these classes when confined in Jails. I have been looking through the Convict Register of this Jail; but I am not sufficiently acquainted with the localities named to distinguish, in all cases, climates from which the prisoners are received, nor can I discriminate among the classes of people included as committed from the same Talook; but on the whole I am induced to believe that when a number of hill-men are associated and committed and imprisoned together for a short period the probability is that they will not suffer from confinement; but that where individuals are sentenced for long periods and are separate from their acquaintance, their surviving their sentence is extremely improbable. In using the terms long and short sentence here, I must explain that by short sentences I mean sentences for periods not exceeding six months, and by long sentences those of two years and upwards.

3. I am not aware of the cases of these men *while in health* having ever received the attention they desire, though I have repeatedly urged attention to diet,* the ordinary Jail dietary has in all cases I believe been applied while health continues the rice dietary of the Northern Jails is no doubt gratifying even to hill-men; but I have for the last twenty years been convinced that it is by no means a wholesome diet for any class when used as the staple food and without abundance of condiments. In the two late instances of the mortality in a Chittoor (raggy and rice fed) gang transferred to Guindy, and of a Coimbatore (cholum fed) gang transferred to Trichinopoly, the disease may be attributable to this cause, while the high health and sleek looks of another gang transferred from a rice diet at Velloro to a raggy diet at Salem is evidence in recommendation of the raggy dietary. I have now with the full concurrence of the Zillah and Superintending Surgeons placed the whole of the prisoners of this Jail on a mixed diet of raggy at one meal and rice at the other. I have satisfied myself that the food is well cooked, and the Zillah Surgeon and Superintending Surgeon speak of the change as having been unattended with any inconvenience. This will to some extent obviate the objection to diet in the case of hill-prisoners.

* Mr. Carmichael informs me that the diet was changed at my suggestion, and I have called for an explanation of the return to a rice diet after he left the Court.

4. That the system of confining prisoners from the hills with men of foreign habits and using a different dialect if not a different language, tends to depress the hill-man cannot be doubted, and I have long been of opinion that the system of sending prisoners to labor beyond the prison walls has a depressing effect on hill-prisoners and Moplahs when removed from their respective countries. Dr. Mouatt, who has long assured me that his experience was in favor of confinement to the prison walls, on sanitary grounds, has in his last report shown beyond all doubt that the mortality of prisoners, so confined, is much less than when out-door labor is exacted.

5. In regard to climate I have no doubt that the mortality among hill-men may be greatly reduced by having a Jail set apart for their use, and common sense would induce the selection of a locality, the climate of which assimilates to that from which the prisoners are sent: an extreme hill climate would probably prove as prejudicial to those from the lower vallies as it is known to be to men from the plains, while a mean climate would, as experience has shown, suit all classes of what are commonly classed as "hill-men," but who in truth are often incorrectly so designated.

6. That the location of a Jail should be where our interest is paramount, and to which prisoners might at all times be forwarded with security under an ordinary escort is also essential.

7. When at Madras, Kimedy occurred to me as a central situation and a place which, though in a Zemindary, had long been subject to our immediate control. Nursapatam though less central has, however, much to recommend it, it; is the head-quarters of the Principal Assistant, it has a climate decidedly congenial to "hill-men" our influence is there paramount and long established; it is easily accessible; it has a climate both in itself and in its approaches which admits of Europeans visiting it and residing in it, if necessary at all times, and which is a mean climate to hill-men.

8. Both Captain Owen and Mr. Longley recommend Nursapatam in preference to Jeypoor for a Jail for hill-prisoners. I have not yet received Mr. Carmichael's reply but hope to see him on my return from Ganjam.

9. It may be that corporal punishment is opposed by the prejudices of the age; but I think that the legislature in providing punishments, the object of which are to deter from crime, should prefer the course which would limit the punishment to that awarded. If for similar offences two years' imprisonment, by an equal administration of the laws, is awarded to two persons, and in the one case the Convict is exposed to the ordinary risk of life, and in the other to the certainty of premature death, it is quite clear that justice is not administered though the law is, and if the administration of the law is incompatible with administration of justice the only course open is to adapt the law to the object; exceptional legislation is provided where it has been found necessary for the repression of crime; and I would submit to the Government that exceptional laws, are necessary where the administration of the ordinary law is necessarily attended with a severity never contemplated and wholly unjustifiable. The prejudices of the age have been disregarded where severity was needed to repress crime among the Moplahs, and I see no reason why they should stand in the way when mercy demands it.

10. It may be that a prison for hill-prisoners only will lessen the mortality among hill Convicts; but I have no reason to justify hope that the mortality will ever be so reduced as to render a long sentence of imprisonment to one of this class free from consequences which we are not justified in imposing.

11. My desire is that the terms of imprisonment of hill-men should be limited, that a short term of severely penal discipline should be substituted for the long term of what is now mis-called imprisonment, and I would suggest that the Magistrate or Agent should in all cases have the power of commuting stripes for imprisonment in whole or in part, and that fines, forfeiture and corporal punishment should be resorted to, as far as possible, in the case of these men in lieu of imprisonment.

12. Since the above was written I have heard from and seen Mr. Carmichael, who gives satisfactory reasons for preferring Purvattypoor to Nursapatam as the locality for a Jail for hill-prisoners. The climate would seem to be quite as suitable if not still better adapted to the constitution of the hill tribes than Nursapatam, while the locality is in every way preferable, a reference to the Map will at once show its relative position to Jeypore and other hill Zemindaries of Vizagapatam and to the Kimedies and other hill tracts of Ganjam, with a large part of which District the communications are excellent; the want of European supervision will, Mr. Carmichael informs me, be obviated by the location of an Assistant on the spot.

No. 37. From D. F. CARMICHAEL, Esq., Acting Magistrate and Agent to the Governor in Vizagapatam; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Vizagapatam, 15th April 1863, No. 152.

In paragraph 3 of their Order, Judicial, No. 2,114, dated 23rd December 1862, the Government observe that they were not prepared to sanction a Subsidiary Jail at every Sub-Magistrate's station, and I was directed to select four or five places only.

2. Having now travelled over pretty nearly the whole of the District, I have selected seven which is a moderate number, the enormous area of the District considered. Besides, from the

abundance of timber and cheap rates of labor in Jeypore, the three for that country will be built for half the cost of one Jail elsewhere.

3. These proposed Subsidiary Jails are:—

1.	Vizagapatam, already in existence.		
2.	Nursipatam, estimate separately provided for with the Tahsildar's Kacheri as I am informed by the Board.		
3.	Vizianagrum, roughly calculated at Rupees...		1,660
4.	Palcondah...	„	1,200
5.	Gunapur of Jeypore	„	250
6.	Aurada of do.	„	250
7.	Jeypore of do.	„	250
		Total Rupees...	3,610

4. I propose that Nos. 5, 6 and 7 be built by the local Officers, without calling in the Department Public Works.

5. In paragraph 14 of their order quoted above, the Government remarked that my proposal to have a Hill Jail at Jeypore for prisoners under *all* Magisterial sentences, the limit whereof is two years, was reasonable, and that they would consider it again on receiving the revised estimates for the Subsidiary Taluq Jails.

6. With the experience of my late tour, I withdraw the proposal to locate the Hill Prison at Jeypore. I have mentioned in my report how entirely distinct the Gunapur moiety of the Jeypore country is from the Jeypore moiety, and with what dread those of Gunapur contemplate a journey to Jeypore.

7. But there is a place at the foot of the ghauts and itself in the Hill tracts of Vizagapatam, which seems admirably suited for the proposed Hill Prison. This is Parvatipur. At this frontier town, as I stated in my general report, I propose to locate the Senior Assistant and one of the Military Superintendents of Police. Both Jeyporeans and people of Gunapur freely resort to it for purposes of traffic. Good ground is available, and the Inspector General of Prisons, whom I have had opportunities of consulting during his prolonged halt at this place, approves of the project; remarking that the prison would from its central situation be available for Hillmen from the Kimedy Taluqs of Ganjam. (He states that he has himself addressed Government, No. 848, dated 9th March).

8. Under these circumstances, I trust that Government will sanction the preparation of the necessary estimates, and will give orders for the execution of the work during the ensuing official year. The mortality of Hillmen at the Coast Jail is, as I have already brought to notice, truly deplorable.

No. 37 A. ORDER THEREON, 5th May 1863, No. 696.

The Governor in Council approves the proposal of the Acting Agent, which has the concurrence of the Inspector General of Jails, that a Subsidiary Jail for the imprisonment of prisoners from the Hill tracts of Jeypore and the south of the Ganjam District be erected at Parvatipur. Orders will be issued in the Department of Public Works for the preparation of the necessary plans and estimates, in communication with the Inspector General of Jails.

2. Sanction is also given for the erection of Subsidiary Jails in Viziangram and Palconda at an expense of Rupees 1,660 and 1,200 respectively, and at Gunapur, Aurada and Jeypore in the Jeypore country at an outlay not exceeding Rupees 250 in each case. It will be determined in the Department Public Works from what source the necessary funds may be provided, but, as suggested by Mr. Carmichael, the execution of the three last mentioned works may be entrusted to the local Officers.

Proceedings of the Madras Government, Judicial Department, 5th May 1863.

3. Mr. Rohde's suggestions as to the expediency of applying the punishment of flogging in the case of Hillmen convicted of crimes, will be considered in connexion with the general question of re-introducing the punishment of flogging which is now under consideration.

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

Exd. T. McMootry.

Proceedings of the Madras Government, Public Works Department, 2nd December 1863.

No. 38. Read the following letter from Captain O. W. S. CHAMBERS, R. E., Superintending Engineer, 1st Division, to Colonel C. A. ORR, R. E., Secretary to Government, Department Public Works, dated Waltair, 15th November 1863, No. 1,674 :—

SIR,

1. I beg to submit for entry in the Budget of 1864-65, an Estimate amounting to 11,000 Rupees for the construction of a Jail at Parvatipore in the Vizagapatam District, for the safe custody of prisoners from the hill tracts attached to the Collectorate.

1 Plan.
1 Estimate.
1 Specification.

2. Government directed that the necessary Plans and Estimates should be prepared in communication with the Inspector General of Jails: this has been done; in fact the Plan has been furnished by Mr. Rohde, but the fair copy, for want of time, has not been forwarded to him for countersignature.

No. 1,295 of 19th May.

3. The rates of the masonry of the building have been somewhat raised, as Parvatipore is an out-of-the-way locality, and work people will have to be brought to it; those of the wood-work reduced, as Sâl timber is procurable at the foot of the hills, where Parvatipore lies, at very reasonable prices.

Referred to the Judicial Department.

(Signed) C. A. ORR, Colonel, R. E.,
Secretary to Government, D.P.W.

Chepauk,
24th November 1863.

Approved.

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

Fort Saint George,
26th November 1863.

No. 39. ORDER THEREON, 2nd December 1863, No. 3,542.
Communicated to the Superintending Engineer, 1st Division, for information and guidance.

(True Extract.)
(Signed) CHARLES A. ORR, Colonel, R. E.,
Secretary to Government.

To the Superintending Engineer, 1st Division.
" Accountant General.
" Controller and Auditor of Public Works Accounts.

Exd. S. T. Augustin.

Judicial Department. 41.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Letter
From the Superintendt of Jails - Store Keeper 9th March 1813.
No 548.
the Acting Magistrate
& Agent to the Governor
Pulicat & Pettah — — — 15th April 1813.
No 152

Order thereon 5th ~~April~~ May 1813 No 696

The Governor in
Council approves the proposal
of the Acting Agent which
has the concurrence of the
Inspector General of Jails, that
a Subsidiary Jail for the
imprisonment of prisoners
from the Hill Tracts of
Jeypore and the South of
the Ganjam District be
erected at Parvatipur-
[illegible] Order
[illegible]

Orders will be given on the Department of Public Works for the preparation of the necessary plans and Estimates, in communication with the Inspector General of Jails.

B-C

2. As to the expediency of applying the punishment of flogging in the case of adult men convicted of crimes, will be considered in connection with the general question of retaining among the punishments of flogging which is now under consideration

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2. Sanction is also given for the erection of subsidiary Jails in Pozzuoli, Procida at an expense of £1.000 a piece collectively and at Sarno, Ariano & Sessa in the Terra di Lavoro at an outlay not exceeding £200 in each case. It will be determined in the D.C.T. from what source the necessary funds may be provided, and, as suggested by Mr. Carnicelli the Execution of the three last mentioned works may be entrusted to the local Officers. without

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In the Chief Inspector of Jails.

Original & Duplicate

Public Works

Judicial 186[illegible]. Department.

No. 696.

PROCEEDINGS OF GOVERNMENT,

Dated 5 Feby 186[illegible]

3/[illegible]37[illegible]

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