

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	466	Press
		~~Mis.~~
49-50		
Dated	5. 4.	11 1864

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
5th April 1864.*

No. 49. Read the following letter from E. C. BAYLEY, Esq., Secretary to the Government of India; to J. D. SIM, Esq., Secretary to the Government of Fort Saint George, dated Fort William, the 8th March 1864, No. 1694.

Home Department.

Section 10 of Act VI of 1864, which authorizes the punishment of whipping in certain cases, either in substitution of, or in addition to, the punishments described in Section 53 of the Indian Penal Code, directs, amongst other things, that the punishment, in the case of adults, shall be inflicted with such instrument, in such mode, and on such part of the person as the Local Government shall direct. Under this provision it becomes necessary, in order to bring the Act into operation in the territories under the Government of Madras, that His Excellency the Governor in Council should issue instructions on the three points above mentioned; and I am directed to express the wish of the Governor General in Council, that the necessary instructions on these points should be framed and issued with as little delay as possible.

2. It will rest with the Government of Madras to decide whether the instrument to be used for the infliction of the punishment of whipping in the territories under his Government shall be the ratan or the cat-o-nine tails.

3. The Governor General in Council believes that, except in the Presidency of Madras, the cat-o-nine tails has not hitherto been used as an instrument for inflicting corporal punishment in any part of India. The reasons which led to the substitution of the cat-o-nine tails for the ratan in the Presidency of Madras are stated in the Preamble to Regulation 8 of 1828 of the Madras Code. This Regulation was repealed by Act XVII of 1862. The Preamble set forth that it had been found that stripes with a ratan were a very unequal mode of punishment, varying with the size of the instrument and the strength of the person using it, and occasioning serious bodily injury, far beyond the intention of the Law. The Regulation went on to enact that the use of the ratan as an instrument of punishment should be abolished; that the cat-o-nine tails should be substituted for it, and that five lashes with a cat-o-nine tails should be considered equivalent to one stroke of a ratan; and the concluding Section declared that "the cat-o-nine tails to be used should be invariably supplied from the stores of Government; that no other cat-o-nine tails should be used but such as should be so supplied; that no additional knot should be tied, no new material introduced, and no alteration made in any cat-o-nine tails in use by way of repair, or on any pretence whatever."

4. Whether the ratan or the cat-o-nine tails is ordered to be used for the infliction of corporal punishment under the Act recently passed in the territories subject to the Government of His Excellency, the Governor in Council will, no doubt, deem it right to prescribe the size of the instrument to be uniformly made use of; and in the event of the cat-o-nine tails being preferred to the ratan, the Governor General in Council would suggest for consideration whether what was matter of legislation in the concluding Section of the Madras Regulation above quoted, or a provision to the same effect, might not fitly form a part of the instructions to be issued by the Madras Government under Section 10, Act VI of 1864.

5. Act VI of 1864 has followed the Madras Regulation in fixing five lashes with the cat-o-nine tails as the equivalent of one stroke with a ratan. The Governor General in Council assumes that the cases will be very few in which it will be thought necessary or proper to award the maximum number of stripes whether with a ratan or a cat-o-nine tails, and that in the great majority of cases the number of stripes awarded will fall very short of the maximum; but as cases may occur (however rare they may be) in which, by reason of the hardened character of the offender, or of any peculiar circumstances of aggravation, the ends of justice may appear to require that the full amount of punishment authorized by the Act should be inflicted, it becomes the more necessary so to proportion the dimensions of the instrument to be used, and to regulate the mode of inflicting the punishment, that in no case shall any risk of serious or permanent bodily injury be incurred; and that, in its degree of severity, the punishment shall never be carried beyond what the Law intended.

6. The Governor General in Council also desires me to say that he considers that the precaution of having a Medical officer present at the time of the infliction of the punishment should

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be observed in every instance when practicable. The Governor General in Council has no doubt that this is what the Law intends.

7. With these remarks the Governor General in Council commits the execution of the Law to the Local Governments and the Courts and Officers subordinate to them, in the full assurance that the Law will be administered by all whose duty it will be to carry it into effect with proper moderation. The Governor General in Council will watch with deep interest the effects of the Law on the statistics of Criminal Justice; and in order that the Local Governments and the Government of India may be able to judge in some measure whether the objects contemplated in passing the recent Act are being attained, His Excellency in Council desires that an Annual Report on the working of the Act may be submitted to the Local Governments by the Courts subordinate to them, and by the several Local Governments to the Government of India, accompanied by figured Statements showing the number of cases in which the punishment of whipping has been inflicted. These Statements should contain a classification of the offences for which the punishment of whipping was awarded, and of the number of cases in which 10 stripes of a ratan or 50 stripes of a cat-o-nine tails, or less than those numbers—or in which more than 10 but not more than 20 stripes with a ratan, or more than 50 but not more than 100 stripes with a cat-o-nine tails—or in which more than 20 stripes with a ratan, or more than 100 stripes with a cat-o-nine tails—were ordered to be inflicted.

8. The Statements should also distinguish the number of cases in which the punishment of whipping was the sole punishment from the number in which it was inflicted in addition to some other punishment. The effect of the punishment in deterring those once punished with whipping from again committing crime, as shown by the number of second convictions, should also be particularly adverted to in the Annual Reports.

No. 50.

ORDER THEREON, 5th April 1864, No. 463.

Under the provisions of Section 10 of Act VI of 1864, His Excellency the Governor in Council directs that the instrument to be used in this Presidency for inflicting the punishment of whipping shall, in the case of adults, be a cat-o-nine tails of the pattern in use previous to the enactment of Act XXII of 1862. Each lash shall be 24 inches in length and shall have three knots one inch apart, the lowest knot being one inch from the end of the lash. The cat-o-nine tails shall be invariably supplied from the arsenal at Fort Saint George, and no other cat-o-nine tails shall be used but such as shall be so supplied; nor shall any additional knot be tied, nor any new material introduced, nor any alteration be made in the cat-o-nine tails on any pretence whatever. Whenever a cat-o-nine tails shall be in need of repair it shall be returned to the Arsenal for the purpose. In the case of adults, the punishment of whipping is to be inflicted on the back. In the case of juvenile offenders, it is to be inflicted as provided by the Act with a light ratan on the posterior. The ratans will be procured in the local market by the Magistrates of the several Districts.

2. On the receipt of these orders, the several Magistrates will submit Indents on the Inspector General of Ordnance and Magazines for such number of cats-o-nine tails as may be required for their respective Districts, in addition to those now in store.

3. It will be observed that by Section 8 of the Act, no sentence of whipping is to be passed by any officer inferior to a Subordinate Magistrate of the 1st Class, unless he shall have been expressly empowered by the Local Government; and at present, the Governor in Council is not prepared to entrust this power to officers of a grade lower than that specified in the Act. At the several stations in the Provinces, the Magistrate of the District will depute one of his Assistants to superintend the execution of sentences of whipping passed by the Sessions Judge. At the Presidency, the duty of superintending the execution of sentences passed by the High Court will be performed by the Deputy Commissioner of Police. Whenever it may be practicable, the punishment is to be inflicted in the presence of a Medical officer, and in every case in which the punishment is inflicted in the absence of a Medical officer, a brief report of the circumstance is to be made to the Magistrate of the District.

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5th April 1864.*

4. The Honorable the Judges of the High Court will be requested to call upon the several Judges and Magistrates to furnish, at the close of the calendar year, reports on the working of the Act as directed by His Excellency the Governor General in Council in the 7th paragraph of the letter above recorded, accompanied by the requisite figured statement and by such remarks and suggestions as the Honorable the Judges may deem it proper to offer.

5. The Governor in Council relies on the several officers entrusted with the execution of the law, administering it with due moderation.

(True Extract.)

A. J. ARBUTHNOT,
Chief Secretary.

To the Inspector General of Ordnance and Magazines.

„ Magistrate of
„ Sessions Judge of
„ Honorable the Judges of the High Court.
„ Principal Inspector General, Medical Department.
„ Commissioner of Police.
„ Magistrate of Police, District.

Exd. J. Tulloch.

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2. On the receipt of these orders, the several Magistrates will submit Indents on the Inspector General of Ordnance and Magazines for such number of cats-o-nine tails as may be required for their respective Districts, in addition to those now in store.

3. It will be observed that by Section 8 of the Act, no sentence of whipping is to be passed by any officer inferior to a Subordinate Magistrate of the 1st Class, unless he shall have been expressly empowered by the Local Government; and at present, the Governor in Council is not prepared to entrust this power to officers of a grade lower than that specified in the Act. At the several stations in the Provinces, the Magistrate of the District will depute one of his Assistants to superintend the execution of sentences of whipping passed by the Sessions Judge. At the Presidency, the duty of superintending the execution of sentences passed by the High Court will be performed by the Deputy Commissioner of Police. Whenever it may be practicable, the punishment is to be inflicted in the presence of a Medical officer, and in every case in which the punishment is inflicted in the absence of a Medical officer, a brief report of the circumstance is to be made to the Magistrate of the District.

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To the Inspector General of Ordnance and Magazines.

„ Magistrate of
„ Sessions Judge of
„ Honorable the Judges of the High Court.
„ Principal Inspector General, Medical Department.
„ Commissioner of Police.
„ Magistrate of Police, District.

Exd. J. Tulloch.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

*Read the following
letter from the Secy to the
Govt. of India, Home Depto.*

*Here enters 8th March 1864
No 1596.*

Order thereon 5 April 1864 No 466.

*Under the provisions
of Section X of Act VII of 1864,
His Excellency the Governor
in Council directs that
the instrument to be used
in this Presidency for
inflicting the punishment
of whipping shall, in the
case of adults be a cat-
o-nine tails of the pattern
in use previous to the
enactment of Act XVIII of
1862. Each lash shall*

be

be 24 inches in length and shall have three knots one inch apart, the lowest knot being one inch from the end of the back. The Cat o-nine tails shall be invariably supplied from the Arsenal at Fort St. George and no other Cat o-nine tails shall be used but such as shall be so supplied; nor shall any additional knot be tied, nor any new material introduced, nor any alteration be made in the Cat o-nine tails on any pretence whatever. Whenever a Cat o-nine tails shall be in need of repair it shall be returned to the Arsenal for the purpose. In the case of adults the punishment of whipping is to be inflicted on the back between the shoulders. In the case of juvenile

or will I think - I don't know whether there is room enough between the shoulder blades - it might be enough to say on the back

will that be enough - or should it be on the palm that is now in - is it not most respects?

on either at 8 inches or 10 inches

juvenile offenders, it is to be inflicted as provided by the Act with a light rattan and on the ^{front of the} ~~palm of the hand~~. The rattans will be procured in the local market by the Magistrates of the several Districts. They are to be of an uniform length of 48 inches, and not exceeding half an inch in diameter.

2. On the receipt of these orders the several Magistrates will submit Indents on the Inspector General of Ordnance and Magazines for such number of Cat o-nine tails as may be required for their respective Districts in addition to those now in store.

3. It will be observed that by Section VIII of the Act, no sentence of whipping is to be passed by any Officer inferior to a Subordinate Magistrate of the 1st Class, unless

unless he shall have been
expressly empowered by the
local Government, and at
present, the Governor in
Council is not prepared to
entrust this power to Officers
of a grade lower than
that specified. At the
several stations in the
Province the Magistrate
of the District will depute
one of his assistants to
superintend the execution
of sentences of whipping
passed by the Sessions Judge.

At the Presidency the duty
of superintending the execution of sentences
will be performed ~~on the~~ ^{in the} ~~case of sentences~~ ^{passed by the}
~~High Court~~ by the Deputy
Commissioner of Police.
Whenever it may be practica-
ble, the punishment is to
be inflicted in the presence
of a Medical Officer, and
in every case in which
the punishment is inflicted.

in the absence of a Medical
Officer, a brief report of the
circumstance is to be made
to the Magistrate of the
District.

The Honorable the
Judges of the High Court
will be requested to call upon
the several Judges and
Magistrates to furnish at
the close of the ^{calendar} year, reports
on the working of the Act
as directed by His Excellency
the Governor General in Council
in the 7th para of the letter
above recorded, accompanied
by the requisite figured state-
ments & by such remarks
and suggestions as the Honble
the Judges may deem it
proper to offer.

The Governor in Council
relies on the several Officers
entrusted with the execution
of the law, administering it
with due moderation.

To the Inspector Genl. of Prisons & Magistrates 600

To all Magistrates 600

• Sessions Judges 600

• The Honorable Judges of the High Court 600

• Dist. Insp. Genl. Ind. Dep. 600

• Commissioner of Police 600

• Magistrate of the Town 600

• Copy to Royal College 600

• Copy to the reference 600

• C.O. No 1442 of 18 Decr 1871

28
desp 17/10

24/1/1901

Justicial 1864. Department.

No. 466

PROCEEDINGS OF GOVERNMENT.

4.15.1901
299
299

Dated 5th Dec 1884

815 949
818 1020
1790.1073

Prima 220/05
Reply 12 June
124 05 - 2056164

1232
104/65

in testimony to be used in
this proceeding for inflicting
the punishment of whipping
state, in the case of a child
be a 1860-man fact of
the pattern in use previous
to the enactment of Act
XXI of 1862.

Council