

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1646	Press ~~Mis~~
Dated	18-10-1918	

232-234

9/6

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
18th October 1866.*

Read the following papers:—

No. 232. From the Right Reverend the Bishop of Madras, to the Right Honorable the Governor in Council, Fort Saint George; dated Ootacamund, 7th August 1866.

I have the honor to represent to your Lordship in Council that the Reverend Mr. Ottley, Chaplain of Berhampore, has reported to me that, in several instances, floggings had been administered in the Jail on the Lord's day; also, that on last good Friday, he, "in proceeding to and from divine service, observed gangs of prisoners moving about, as for their usual compulsory labors."

2. Mr. Ottley represented these circumstances to the Officer in charge of the Jail, but failed to obtain the assurance that similar proceedings would not occur again. He, therefore, hopes that Government may be pleased to issue some general order—

(1). That prisoners are not to be flogged on the Sunday, and Christmas Day; and,

(2). That the anniversary of their Redeemer's death be to them as all Sundays and Christmas Days.

3. I would respectfully add that such regulations as Mr. Ottley suggests seem to be, not only a proper recognition on the part of Government of our religious obligations, but also an intelligible mode of commending the Christian religion to the inhabitants of this land.

4. I should also be disposed to name Ascension Day, in addition to those already specified.

5. Leaving the matter, with confidence, to the consideration of your Excellency in Council, I have the honor to be, &c.

Referred to the Inspector General of Jails, for his remarks on paragraph 1.

FORT SAINT GEORGE,
23rd August 1866.

(Signed) J. D. SIM,
Secretary to Government.

No. 233. From the Inspector General of Jails, to the Chief Secretary to Government, Fort Saint George; dated Ootacamund, 27th August 1866, No. 63.

I have the honor to return the letter from the Bishop of Madras, dated 7th instant, which was forwarded to me on the 23rd idem, for remark on the first paragraph thereof, in which it is mentioned that flogging has, in several instances, been inflicted on Sundays in the Jail at Berhampore.

2. Corporal punishment may be awarded by Judicial Officers under the provisions of Act VI of 1864, either in full, or as part of a sentence. Officers in charge of Jails have also power to order convicts to be flogged for certain breaches of Jail discipline. With regard to the carrying out of sentences of flogging under the Act, I cannot see any reason why such should not be restricted to week days, except that when a man is sentenced on a Saturday evening to whipping without imprisonment, he will be kept in Jail all Sunday with the sentence hanging over him. I only mention this *quantum valeat*. If it is thought right that no such sentence

Proceedings of the Madras Government, Judicial Department,
18th October 1866.

should be inflicted on a Sunday, the Warrant or Order of the Convicting Officer ought to be so framed that the Superintendent of the Jail may not be placed in such a position that he must either carry out the sentence on a Sunday, or disobey the Warrant.

3. With regard to the infliction of corporal punishment by order of the Officer in charge of the convicts, I would also confine this to week days as a general rule, but circumstances may arise in which it might be necessary to single out a ringleader, and to flog him at once; for which reason, I would give the Superintendent, or Officer in charge, discretionary power in all emergent cases.

4. I have not been called upon to give any opinion as to the other matters contained in the Bishop's letter, but, I may observe that, although neither the Jail Rules of this Presidency or those of Bengal or Bombay sanction any exemption from labor except upon Sundays, I think that Christmas Day and Good Friday, might well be added to the list, for the sake of the Jailer, if not for that of the prisoners.

No. 234. ORDER THEREON, 18th October 1866, No. 1646.

The Governor in Council resolves to prohibit the working of convicts on Christmas Day and on Good Friday. In respect to Sundays, no order is necessary, as convicts are never sent out to work on that day.

2. The Governor in Council directs that, in future, the infliction of corporal punishment by order of Officers in charge of convicts be confined to week days, unless, under peculiar circumstances, when in cases of gross breaches of Jail discipline, the Officer in charge may deem it necessary to inflict corporal punishment immediately. In such cases the Officer in charge must exercise his discretion.

3. The Government also direct that, with the view of preventing the execution of sentences of corporal punishment passed by the Courts or Magistracy being carried out on Sundays, the several Session Judges and Officers of the Magistracy will abstain from passing sentences of whipping unaccompanied by imprisonment on Saturdays, when, with reference to distance, or other circumstances, the sentenced prisoners cannot reach the Jail or place where the sentence has to be carried out early enough on the day, to admit of the punishment being inflicted on the same day, in the manner prescribed by law.

(True Extract).

J. D. SIM,
Secretary to Government.

To the Inspector General of Jails,
„ Session Judge of
„ Magistrate of
„ Right Reverend the Bishop

Exd. J. H. Burns.

It will be proper, I consider, to prohibit the employment of convicts in the usual manner on Christmas day, Good Friday, & on Sunday; no order is necessary as convicts are never sent out to work on the Jewish Sabbath.

The course proposed by the Inspector General in para 3 of his letter, seems unnecessary; but the discretionary power referred to at the close of the para, must be retained.

The only difficulty to be disposed of, in dealing with sentences of flogging without imprisonment, is, it may be feared on Saturdays.

It is clear that an officer in charge of a Jail will not be justified in keeping in Jail until Monday, a prisoner so sentenced, who may reach the Jail on Saturday.

But such cases will be rare and the Jailor may properly instruct their magistrates to be careful in avoiding the passing of sentences of flogging only, on Saturdays, when, with reference to distance & other circumstances, the sentenced prisoner cannot reach the Jail or place where the sentence has to be executed.

early enough on the day to admit of the punishment being inflicted in the manner prescribed by law.

3/15
Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers

From the Rt Revd the Bishop
of Madras. { Resd letter 27th Aug 1866.

— Inspr General of jails — 27th —
No 63.

Order thereon 18 Oct 1866 N: 1646.

Wm
The Governor in
Council resolves to prohibit
the working of convicts on
Christmas day and on
Good Friday. In respect
to Sundays no order is
necessary as convicts are
never sent out to work
on that day.

2. The Governor in
Council

Council directs that, in future, the infliction of corporal punishment by order of officers in charge of convicts be confined to weekdays, unless, under peculiar circumstances, when in cases of gross breaches of jail discipline, the officer in charge may deem it necessary to inflict corporal punishment immediately. In such cases the officer in charge must exercise his discretion.

3. The Government also direct that, with the view of preventing the execution of sentences of corporal punishment passed by the Courts or Magistrates, being carried out on Sundays, the several Session

Session Judges and officers of the magistracy will abstain from passing sentences of whipping unaccompanied by imprisonment on Saturdays, when, with reference to distance or other circumstances, the sentenced prisoners cannot reach the jail or place where the sentence has to be carried out early enough on the day to admit of the punishment being inflicted on the same day in the manner prescribed by law.

To Insp. Genl of Jail - 1-2
- Session Judge of all Districts
- Magistrate of all Districts } desd 24/10.
To the Rt Hon. the Bishop - 3

*Received of the Treasurer
for the sum of*

289.07

1046

Indicid 1866. Department.

No. 1046.

PROCEEDINGS OF GOVERNMENT.

of 2090.

Dated 27 October 1866.

232234