M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 418 Press Mis.

172-173

Dated 21 — 3 — 19 1876

4/5

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
21st March 1866.

No. 172. Read the following letter from the Session Judge of Calicut, to the Chief Secretary to Government, Fort Saint George; dated Calicut, 15th February 1866, No. 14.

With reference to the Proceedings of Government, dated 5th April 1864, setting forth certain instructions regarding the introduction of the "Whipping Act", I have the honor to solicit the opinion of Government upon what I consider a very important point. I refer the matter to prevent useless correspondence, and for future guidance.

2. It came to my knowledge, from returns to my warrants, that the Magistrate of the District, to whose address warrants for whipping were sent by the Session Judge, was in the practice of entrusting the execution of these sentences to the Town Sub-Magistrate of Calicut, and was satisfied to return the warrant, stating that "the foregoing sentence of whipping was duly carried out by the Town Sub-Magistrate." I was of opinion, with reference to the aforesaid Proceedings of Government, that it was the express intention of Government that the sentences of whipping passed by the Session Judges should, in *all cases*, be carried out under the immediate superintendence of the *Magistrate*, or one of his *European Subordinates*, and that, if possible, a Medical *Officer* should be present. I, accordingly, sent an extract to the Magistrate, requesting him to depute one of his European Subordinate to superintend the sentences of whipping passed by the Session Court, and I stated that I conceived the delegation of this very important duty to a Native subordinate was "highly irregular", and afforded no sure guarantee that these sentences were duly and scrupulously carried out.

3. In reply, the Magistrate states that he "will comply with this request, as I desire it, as he is now in a position to depute an European Assistant, to superintend whipping sentences; but, as this would not have been possible a little time ago, and may be so again, he would request a re-consideration of my proceedings, declaring superintendence by a Native Magistrate "highly irregular."

4. I am not prepared to re-consider my Proceedings, as I feel *fully convinced* that it was never the intention of Government to authorize the Magistracy to depute this important duty to a Native Officer, but that it should at all times be carried out in the presence, and under the superintendence of either the Magistrate or one of his European Assistants.

5. I have, therefore, the honor, humbly to solicit an authoritative order on the subject, for my future guidance, on this very important point.

No. 173. ORDER THEREON, 21st March 1866, No. 418.

It is the desire of the Governor in Council, as stated in the Proceedings of Government, under date the 5th April 1864, that sentences of whipping should, whenever it may be practicable, be executed in the presence of one of the European Of-

of any Officer authorized to

ficers of the Magistracy; but this is not required by the provisions of Act VI of 1864, under section 10 of which the punishment may be inflicted in the presence of any Officer authorized to exercise any of the powers of a Magistrate.

2. It cannot, therefore, he said, that the delegation of the duty to a Native Officer of the Magistracy is irregular.

(True Extract).

Chief Secretary.

To the Civil and Session Judge of Calicut.
„ Magistrate of Malabar.

Exd. J. H. Burns.

Judicial Department.

EDINGS of the MADRAS GOVERNMENT.

Read the following letter from Civil & Sess: Judge of Calicut / Recd 15 February 1866 No 141 /

Order 21st March 1866 No 418.

It is the desire of the Governor in Council as stated in the Proceedings of Government under date the 5th April 1864, that sentences of Whipping should, whenever it may be practicable, be executed in the presence of one of the European Officers of the Magistracy, but this is not required by the provisions of Act VI of 1864, but Section X of which the punishment may be inflicted in the presence of any Officer authorized to

to exercise any of the powers
of a Magistrate.
2 —— It cannot therefore
be said that the delegation
of the duty to a Native of-
ficer of the Magistracy
is irregular.

Civ. & Sess. Judge of Chalisgaon } Cap 324/3
Magistrate of Dhulia }

Judicial 1866. Department.

No. 418.

PROCEEDINGS OF GOVERNMENT.

Dated 21 March 1866.

Press No. 2755, C. M.—14-11-65—500.

172. 173.