

CONFIDENTIAL.

[G.
11
100-250-96.]

Judicial (189 6) Department.

ORDINARY *Mis*.

G.O., No. 1680.

Confidential No. 137

DATED 24-10-96

[Despatch Abstract.]

*Burning of Moplah fanatics
killed in outbreaks.*

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Con	116	25-8	96				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Judicial (1896) Department.

CURRENT No. 4416

From

Govt. of India.

Home Dept.

No. 539.

Dated 29 Sept

Received 7 October } 1896

Registered 7

Enclosures

Spare copies.

SUBJECT.

Re burning of bodies of
Moplahs killed in outbreak.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT No. 4416
No. 539

From

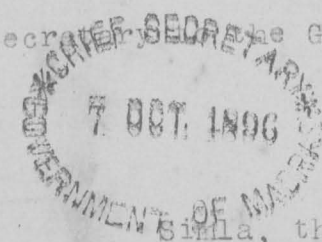
H. J. S. Cotton, Esq., C.S.I.,
Offg. Secy. to the Govt. of India.

To

The Chief Secretary, Government of Madras.

Home Department.

(Police)



Sir, the 29th September 1896.

Sir,

I am directed to acknowledge the receipt of your letter No. 1379 Judicial, dated the 25th August 1896, stating that the Government of Madras are adverse to making any change in the existing law in that Presidency in regard to the burning of the bodies of Moplah fanatics killed in the act of attacking, or resisting their apprehension by, the troops or the Police.

2. In reply I am to say that the Government of India do not advocate any change in the existing law, inasmuch as section 5 of Act XX of 1859 allows a discretion both to the Court and the Magistrate to order that the bodies shall either be burned or be buried within the precincts of a Jail, and their action could be guided by instructions from the Government of Madras. The Government of India are not unwilling to leave to local officers due discretion to decide whether the circumstances of any particular case justify the bodies of Moplahs being burned. All that is desired is that it should be intimated to officers that the burning of bodies is regarded by the Governor General in Council as a form of punishment, which officers of our Government should not resort to without real necessity. In the present case it may be that the Magistrate was justified in following the previous custom, but in regard to the future I am again to suggest, for the consideration of His Excellency the Governor or in Council, the propriety of issuing orders restricting the continuance of the practice.

The Govt. of India have no choice in the matter unless they are prepared to alter the law of 1859. The discretion is left to the Magistrate.

Note. The objection of this form of words shows that the Govt. are not concerned with the law, but that there are only instructions.

3. I am to add, with reference to your letter No. 792,
dated the 30th April 1896, forwarding Mr. Winterbotham's pre-
liminary Report, that the full report as to the causes of the
Moplah outbreak has not yet been submitted to the Government
of India, and I am to express a hope that it may be forwarded
on an early date.

I have the honour to be,

Sir,

Your most obedient Servant,

M. M. M.

Offg. Secy. to the Govt. of India.

C 10/10

[G. 25 A.]
1,000-21-3-96.

Burning of fanatic Rappah bodies

TWO DEPARTMENT.

C. No. 4416

(proceeds)

Kim & Co.

FOR ORDERS.

This is a little hard on the D^y Magistrate of Malabar & those on him the responsibility of deciding in these cases whether or not to burn the bodies of Rappahs killed in attacking the Govt. officers or in resisting the apprehension. But I don't see what else can be done. Even if the law did not impose this responsibility on him, the necessities of the case would put the question in its nature one which must be decided by someone on the spot & which cannot be referred further to an order of superior authority. I thought that the effect of the order which it is proposed to issue would be that the Dist. Magistrate of the future would hesitate to follow the custom of the past in regard to the burning of the bodies of Rappahs. I should object to its issue & I should propose to take the Govt. of India that we could not undertake to issue any order which might be read as interfering with the discretion vested in the Magistrate; and if the S. of I. would not give way I would appeal to the S. of I. for I believe that in regard to this matter it would be a complete mistake and one likely to lead to most injurious consequences, to deviate from the custom of the past. I think, however, that the Dist. Magistrate is not likely to show undue deference to the views of the S. of I. especially if the order issued to him is as I propose. I will

Some orders have apparently been issued on this subject to the District Magistrate. The discretion as to burning of or burying the bodies of the fanatics rests in the Magistrate, under sects. of Act XX of 1859, but it seems legal for the local Govt. to issue instructions to influence & guide that discretion. The question is what orders should be issued. India's letter, like those to the Punjab Govt. & the Govt. Genl's Agent in Baluchistan, read in G.O. 1379-I. Conf. is obscure, & all the sentences in it are not consistent. It says in one place that "The Govt. of India are not unwilling to leave to local officers due discretion to decide whether the circumstances of any particular case justify the bodies of Rappahs being burned," and in another

"in regard to the future Law again
to suggest for the consideration of the
the G. in C. the propriety of issuing
orders restricting the continuance of
the practice."

Apparently the real request of the
Govt. of India is contained in the
sentence which says "all that is
desired is that it should be intimated
to officers that the burning of bodies
is regarded by the G. G. in C. as a form
of punishment which officers of our Govt.
should not resort to without real necessity."

India did not go further than this
with the Punjab & Baluchistan which
are directly under its orders, & ^{I would} ~~could~~ not be likely to
go further with Madras which is an in-
dependent Presidency, not immediately under
the Home Dep. to the same extent.

It is submitted therefore that his
letter together with that from the Govt.
to which it is a reply should be com-
municated strictly confidentially to the Dist.
Magistrate with the remark that though the
Govt. does not desire to restrict his discretion
in the matter, it wishes him to bear in
mind that the Govt. of India considers that
he should not burn bodies unless in his
opinion it is ^{really} necessary to do so.
Copies of the Mafflula Govt. have

I don't think the proposed
order can do any harm.

JG
19/10/96

FOR ORDERS.

9-25
22.10.96

H. E. THE GOVERNOR.

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE, C.I.E.

which is vested in him by law
H.A.

I don't omit the word "really" which
tends to an undesirable interference with the
Magistrate's discretion JG

This may is I think the utmost
that can be prudently be done.
H.A.
9.10.96

not get come from the Press, but
with reference to para's. of his
current & to save delay, drafts
forwarding copies to India & the
Sec. of State are submitted for
approval.

H.A. 10.9.96

CS

Indol. DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated 2 May 1896, No. 811 - P
Again G.O., dated 25 Aug. 1896, No. 1379 - A.
Current No. 4416 of 1896, dated 29/9, from G.O. J. (Paras 1 & 2 A)
" " " 189 " " "
" " " 189 " " "

ORDER. No. 1680 of 24 Oct 96
Misc. ~~75~~

The letter from the Govt. of India, together ^{with} that from the Govt. to which it is a reply will be communicated in strictly confidential ^{cl} to the Dt., Mysore, Malabar with the remark that though this Govt. does not desire to restrict ^{the} discretion in the matter which is vested in him by law, it wishes him to bear in mind that the Govt. of India considers that he should not order the bodies ^{of Ruffian parasites killed in outcrops} to be burnt unless in his opinion ^{such a course} it is necessary to do so.

W. S. S. (7.0.)
MA 23. 10.96

Dn., Malabar

24. Police

t.

First copy sent to Press.

Returned for Signature.

Despatched.

NUMBER OF COPIES
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Letter only.
Order complete with Letter.

READ AGAIN G.O., No.
189

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In hand ..

ER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

HRS NOT FILLED UP, BRING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.

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CONFIDENTIAL.

423/7

[G. 11]
200-12-6-96.

Indt Dept 1896

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24.10.1896

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P802

Refund on 1/14/2/25

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tment.

South Canada Sossion's Case No. 15 1895

Passing orders regarding the proceedings of Messrs
Welsh & Seston Police Inspector Mr Boyer
in connection with —