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Tamil Nadu Archives
Government of Tamil Nadu
Judicial Department

G.O. No. 1699.
Date 22.8.1878

J. 29/3

1699
GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

22nd August 1878, No. 1693.

Whipping Act.

Read the following paper :—

No. 119. *From C. BERNARD, Esq., Officiating Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to Government, dated Simla, 6th August 1878, No. 996.*

I am directed to acknowledge your letter, No. 806, dated the 17th April last, submitting for consideration a communication from the Madras High Court in regard to the expediency of amending certain provisions of Act VI of 1864, an Act to authorize the punishment of whipping in certain cases.

2. The concurrent dicta of three High Courts have established that whipping, as an additional punishment, can be inflicted only on a second (or third, &c.,) conviction for the identically same offence. And, as at present advised, the Government of India do not see sufficient ground for proposing to amend this provision of the law, so as to permit the infliction of whipping for a second offence of a kindred character. The law clearly admits of whipping being inflicted on boys for a large number of offences as a sole punishment; and also of whipping being inflicted on adult males, as a sole punishment for a first offence under several sections of the Indian Penal Code. ~~Whereas the more important provisions of the Whipping Act.~~ And, while these are clear, there is less need for adding further stringency to the part of the law, which deals with whipping as an additional punishment.

3. The second question is more difficult. But, as at present advised, the Government of India would be disposed to accept the ruling of the Bombay and Calcutta High Courts, to the effect that, in order to bring a case under Sections 3 and 4 of the Act, the second conviction must be for an offence committed *after* the offender had undergone full punishment for the first offence. For in such a case it might be inferred that the punishment previously inflicted had not exercised sufficient deterrent or reformatory effect.

4. Under all the circumstances, the Governor-General in Council does not consider that sufficient grounds exist for proposing an amendment of the Whipping Act, which on the whole works fairly well. Such a proposal would re-open a page of the Statute Book which, though necessary, is to some people painful, and upon the subject of which much sentiment exists.

No. 126. ORDER THEREON, 22nd August 1878, No. 1693.

Recorded. Copy will be furnished to the High Court, with reference to G.O., 17th April 1878.

(True Extract.)

D. F. CARMICHAEL,
Chief Secretary.

To the Honorable the Judges of the High Court.

Exd. T. O'Connor.

2/1899

No. 996

FROM

C. BERNARD, Esq.,
Offg. Secretary to the Govt. of India,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

Home Dept.
Judicial.

SIMLA, the 6 August 1878.

SIR,

I AM directed to acknowledge your letter, No. 806, dated the 17th April last, submitting for consideration a communication from the Madras High Court in regard to the expediency of amending certain provisions of Act VI of 1864, an Act to authorize the punishment of whipping in certain cases.

2. The concurrent dicta of three High Courts have established that whipping, as an additional punishment, can be inflicted only on a second (or third, &c.) conviction for the identically same offence. And, as at present advised, the Government of India do not see sufficient ground for proposing to amend this provision of the law, so as to permit the infliction of whipping for a second offence of a kindred character. The law clearly admits of whipping being inflicted on boys for a large number of offences as a sole punishment; and also of whipping being inflicted on adult males, as a sole punishment for a first offence under several sections of the Indian Penal Code. These latter are the more important provisions of the Whipping Act. And, while these are clear, there is less need for adding further stringency to the part of the law, which deals with whipping as an *additional* punishment.

3. The second question is more difficult. But, as at present advised, the Government of India would be disposed to accept the ruling of the Bombay and Calcutta High Courts, to the effect that, in order to bring a case under Sections 3 and 4 of the Act, the second conviction must be for an offence committed *after* the offender had undergone full punishment for the first offence. For in such a case it might be inferred that the punishment previously inflicted had not exercised sufficient deterrent or reformatory effect.

RECEIVED
12.12.1899

JUDICIAL

6th. 11. 1878

THE HON. MR. JUSTICE OF THE
HIGH COURT

2nd. 11. 1878

1st. 11. 1878

1st. 11. 1878

1st. 11. 1878

(2)

Under all the circumstances, the Governor General in Council does not consider that sufficient grounds exist for proposing an amendment of the Whipping Act, which on the whole works fairly well. Such a proposal would re-open a page of the Statute Book which, though necessary, is to some people painful, and upon the subject of which much sentiment exists.

I have the honour to be,

SIR,

Your most obedient Servant,

Chambers

Offg. Secretary to the Govt. of India.

4
1699

March 1871 / 1872
1871 / 1872

Am. Soc. of Naturalists

Am. Soc. of Naturalists

Am. Soc. of Naturalists
1871 / 1872

1871 / 1872

1871 / 1872

Considering that
sufficient grounds
do not exist for
proceeding in such
a manner.

Am. Soc. of Naturalists
1871 / 1872

Robt. of 11878

1699

1699

Oct. 22nd 1699

No. 119-120-

Wth Th^o Jones Oct. 22nd 1699
from the spot of land
conceding that such
-granted ground
do not exist for
proposing an
amendment of the
rule