

EAST AFRICA PROT  
GENERAL

C.  
49

2054

Handwritten initials

CORPORAL PUNISHMENT

1913

14th February

Last previous Paper:

Gov 36679/1912

Refers to Home Office letter of 26th June 1906. The prison Commr suggests use of a light cane or reed instead of the birch which is not suitable for E.A.P. States as to number of cases of breaches of Prison Discipline punished by corporal punishment during the last two years.

Sept

Mr. Bottomley.

In the letter from this department to the Home Office, dated January 15<sup>th</sup> 1913, regarding the return of flogging in the East Africa Protectorate for the half year ended June 30, 1912, it was pointed out that in all cases in which, during that period, sentences of flogging had been imposed on adult convicts, the instrument of punishment was the "cat". It was observed that the general tendency in the various colonies in recent years had been to discourage the use of the cat.

36679/1912

Next subsequent Paper:

Gov 21512

Copy sent to... 229. 10/18. 1913

in favour of the birch, and so matter, and  
it was made of the Home Secretary with  
prevailing practice in this country, and  
that it was desirable that any instructions  
should be issued on the subject to the Governor  
of the East Africa Protectorate.

The Home Office in reply have referred us  
to their letter of June 26<sup>th</sup>, 1906, on the  
subject of corporal punishment, and have  
given us a brief description on the use  
of the birch and its unsuitability, from  
climatic considerations, to universal  
<sup>adoption</sup>  
adoption in East Africa. They indicate,  
however, that it may be possible to discover  
a suitable substitute for the birch, of a pattern  
presented by the Governor, regulation being  
made as to the number of strokes to be imposed  
and the position of the culprit anatomy in  
which the punishment is to be inflicted,  
after consultation with the Chief Medical  
Officer.

The letter of June 1906, to which the Home  
Office refers us, covers recommendations on the

16036/1906

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method of inflicting corporal punishment  
this country, and the instrument used

Excluding those cases where sentences of whipping  
are passed on juvenile offenders, and offences  
against prison discipline, the cases in  
which corporal punishment is inflicted in  
England appear to be very few viz:-

1) Under the Vagrancy Act, 1824 in the case of

• persons convicted of being incorrigible  
rogues.

2) Under the Treason Act 1820 - attempts to

deceive or injure the Sovereign.

3) Under the Garroting Act, 1863

4) Under the Criminal Law Amendment Act, 1912

In the East Africa Protectorate the number of  
offences for which flogging is imposed is  
large and varied. This is, perhaps, inevitable  
in a community where the standard of  
civilization is not of a high order and  
effective deterrents are necessary, but a  
measure of the salutary return of flogging is

and as I think that in imposing a sentence  
of such a description of punishment is not  
always shown the wisdom in some cases  
reflecting the obduracy of the particular  
magistrate rather than the reality of the  
offense. ? venality

While it is not difficult to justify the  
imposition of sentences of flogging in cases  
of malicious injury to persons and property,  
outrages, unauthorised offences, or it seems  
difficult to understand the necessity for  
such sentences in cases for being  
drunk and disorderly, committing  
nuisance, absenting oneself without  
leave from one's employer  
promises (really only a breach of contract!)  
theft of two pomegranates. Yet these  
latter offenses, just as 'rape & attempts  
to derail engines' have been punished  
with flogging in the East.

~~.....~~

These offences, in the absence of any  
expectation, seem of such a general  
character that it might be desirable to  
inquire from the Governor whether there

A | were any special reasons necessitating the  
irregularities of law in the particular cases?  
Send copies of correspondence with the Home Office  
to the Gov. for his observation.

W.S.

W.S. Transcription

14. 7. 13

A. I'm afraid this will bring us back to  
the old point that imprisonment has  
no terrors for the native of Tropical  
Africa.

I would simply say that there is too  
much cat. and that a milder system  
must be used - pointing to H.O. letter  
regarding the bush - except in grave  
offences.

W.S. to your minute on 3667 as to  
the 1897 circular - I find that it has  
not gone to G.O.P. The 1902 circular  
was sent out with a batch of others  
then we took over the admin from G.O.  
in 1905.

~~W.S.~~ Dr. G. Fisher

W.S. 19 213

I agree with Mr. Dottomley - & would embody  
the second para. of this letter in our report  
25/12 T.C.M.

6/11/13  
W.S. 28/12

Any further communication on the subject of this letter should be addressed to—

THE UNDER SECRETARY OF STATE,  
HOME OFFICE,  
LONDON, E.C. 4.

and the following number quoted

123,210/6

C. O.  
4954

REC'D  
FEB 11 1913

HOME OFFICE,  
WHITEHALL.

5th February, 1913.

Sir,

*See 366/18*  
*12*  
*1906*  
In reply to your letter of the 15th ultimo on the subject of the punishment by flogging in the East Africa Protectorate, I am directed by Mr. Secretary McKenna to refer, for the information of Mr. Secretary Harcourt, to Home Office letter and enclosures of the 26th June, 1906, on the infliction of corporal punishment in this country, and to say that he is advised by the Prison Commissioners as follows:—

The birch is used in this country as a milder instrument than the 'cat' and as being better adapted to young prisoners, but the materials for making birches do not grow in East Africa, and imported birches would become unserviceable soon after they were landed as the twigs soon dry and become brittle, or if kept in a damp atmosphere become mildewed. The Commissioners think that some light cane or reed with a smooth skin, without knots or joints, which may grow in East Africa, would be found a suitable substitute for the birch provided that the pattern be prescribed by the Governor, and regulations are made limiting the number of strokes, and the part of the body on which the whipping should be given, after consultation with the Chief Medical Officer of the Protectorate.

I am to add that the number of offences against  
The Under Secretary of State,  
&c., &c., &c.,  
Colonial Office.

Prison discipline, etc., committed in English prisons during the last two years which were punished by corporal punishment under Section 5 of the Prison Act, 1898, was 53, the cat-o'-nine tails being the instrument used in 22 of these cases and the birch in 31.

I am,

Sir,

Your obedient Servant,

J. B. Symonds

140  
4952  
SAD  
General

C.D.  
R. 5 MAR  
6

Ans'd 21512

SAD  
General  
HO/4954/1913  
X

DRAFT. F. A. P. No. 71

Prison & Convict Dept. by C. A. G.

MINUTE.

- Mr. Staveley 1. 3. 13
- Mr. Bottomley 1 3/4 Macraughan 1/1
- Mr. Reid 3 (Army)
- Sir G. Fildes
- Sir H. Just.
- Sir J. Anderson
- Lord Emmott.
- Mr. Harcourt.

In consideration

6 March 1913.

with reference to your despatch of 7th of October 17th 1912, I have the honor to inform you that I have had under consideration the two schemes of floggings advocated by order of the Courts of the Protectorate on convicted persons, and by the Military Justice in the case of persons who have committed offences against prison discipline both half year and three years 1913.



2. ~~It~~ I am glad to observe  
that there has been a considerable  
decrease in the number of cases  
in which it has been found

corposal  
necessary to impose ~~the~~  
penal <sup>polls</sup> ~~however~~  
however, I ~~cannot~~ ~~think~~

cat o' nine tails is invariably used  
in carrying out sentences of flogging in the Protectorate,  
~~and the cat is used in the~~

of I am of opinion  
~~that the use of the~~

large, and that it would be

desirable to introduce some

with respect  
milder ~~mode~~ of punishment

for general use, save in ~~great~~

cases of the gravest offences.

~~cases in which it would be~~

not to employ the more

recalcitrant to impose a light

penal ~~punishment~~

penalty. I shall be glad if

you will take the necessary

steps to give effect to my

wishes on this point.

3. In this connection I have

to inform you that the Prison

Commissioners have been

Committee on the subject of the  
application of corporal punishment  
have reported that the birch is  
used in this country as a milder  
instrument than the cat and is  
being better adapted to young  
prisoners, but the material for  
making birch does not grow in  
East Africa, and imported birches  
would become unworkable soon  
after they have been cut as the  
twigs soon dry and become  
brittle, or if kept in a damp  
atmosphere become mouldy.  
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regulations are made limiting the  
number of strokes, and the part of