

1911

EAST AFR. PROT
33345

C O
33345
RECEIVED
16 OCT 11

OTHER 531
Date
Sect
Previous Paper

FLOGGINGS IN NAIROBI GAOL

Gives information desired to reply to House of Commons question.

33087
To Mr. Meyer 273
Copy to Mr. Meyer 63
Copy to Mr. [unclear] 1 May 24
Copy to Mr. [unclear] 1 May 24

Mr. Piddis,

This information was asked for in order to enable the Secretary of State to reply to the question put by Mr. Edmund Harvey for the 25th of October (see H. of C. 27280).

Reply to that question as follows: There were 439 cases of flogging in the Gaol at Nairobi during the year 1910. Of these ~~number~~ 343 were inflicted as the result of sentences by the Courts of the Protectorate and the remaining 96 were ordered by the Visiting Justices for serious breaches of prison discipline. It is not necessary under the existing rules that sentences of corporal punishment in the prison at Nairobi should be authorized by the Town Magistrate.

Slab
Oct 17.

H. Macayhlen

What is the link between floggers...
2900/12

485

for reference elsewhere? The same has been
been in satisfactory

No. 17.10

no rider.

There has been very serious abuse.

Compare these figures with those of two or three
other Colonies.

E.A.P. 343 floggings, during 1910, by order of
Court & 96 for breach of prison discipline.

Gold Coast. 45 floggings, during 1910, by order of
Court, & 11 for breach of prison offences.

S. Leone. 5 floggings, during 1910 by order of Court, &
& 8 for breach of prison offences.

Nyasaland 131 floggings during 1910, by order of Court, & 10 for
breach of prison offences.

Ceylon. - In the Colony the number of floggings was
the subject of parliamentary criticism three years
ago. We had correspondence with the Govt & the
number of floggings has been greatly reduced.

1908 (a) floggings by order of Court 17 (6) for breach of Prison rules 131
1909 (a) " " " " " " " " 45
1910 (a) " " " " " " " " 30.

In 1896 & 1897 we had much con: with Hongkong over
the flogging there, & ascertained that in one year 1896-
the daily average of prisoners being 472 - 467 whippings
had been inflicted by order of the Superintendent
alone. That the flogging in Hongkong was even worse
than it has been in the "E.A." in other than the

Excluded from
the general

34730

It is also to be
noted that the
model Ord was sent to the Colony in the despatch dealing
with the 5th Regulation Ord in 1894, but it should
be sent again. - I say that the gist of these
Circulars on which Mr. Harcourt desires to
lay special stress is that floggings, both by order
of Court & for prison offences must be regarded as
a serious & exceptional form of punishment to
be employed only in the most special cases, and
no sentence of flogging should be carried out without

Hongkong case I know of no instance in which the
flogging has approximated to that in East Africa.

235

It is fully true that East Africa & Uganda were
brought into line with other colonies - we seem to have
had no con: with them in regard to flogging, & I
think Nyasaland might also be warned that the
number of floggings inflicted by their magistrates
is excessive as compared with the number
found necessary in other Colonies.

With this despatch, I say that the figures show that
floggings both by order of Court & as a punishment for
breach of prison discipline have been far too
frequent; quote the Gold Coast, S. Leone, Nyasaland
& Ceylon figures: send the Govt a copy of our
Circular despatches of the 25th May, 1897 & 12th
August 1902. [The latter ~~was~~ the enclosed
model Ord was sent to the Colony in the despatch dealing
with the 5th Regulation Ord in 1894, but it should
be sent again.] - I say that the gist of these
Circulars on which Mr. Harcourt desires to
lay special stress is that floggings, both by order
of Court & for prison offences must be regarded as
a serious & exceptional form of punishment to
be employed only in the most special cases, and
no sentence of flogging should be carried out without

the written approval of the Govt, whose duty it is also
to satisfy himself that sentences of flogging by orders
of Court are restricted to the narrowest possible limits,
& that returns - which should for the present be six-
monthly not yearly - should be submitted to their Office
both of floggings & orders of Court of floggings for
Prison offences; ~~and~~ ^{these} should clearly state for what
offence the punishment was inflicted in each case,
the number of strokes, & the nature of the implement
used, & there should be separate returns for adults & for
juvenile cases sixteen.
Medalier's memorandum a similar despatch should go to
Uganda - & I would also take the opportunity of
greatly pulling up Nyasaland in regard to floggings by
orders of Court.
In that Colony we have not insisted on the Govt's
consent as a preliminary to a flogging for a prison
offence - but as there has been serious abuses
in East Africa, we should insist on the rule
in that Colony also in Uganda.

You will note from 27280 that Mr Harvey's
question is down for oral reply on Wednesday
next the 25th inst. It would be much
pleasanter for the Dept if it were possible to
avoid disclosing these unpleasant statistics
in a public reply in the House of Commons.
Would it be possible to inform Mr Harvey

privately of the figures contained in this
despatch, to say that Mr Harcourt is satisfied
that the power of inflicting corporal punishment
has been grossly abused, & is taking steps with
a view to bringing the abuses to an end - & at the
same time to thank Mr Harvey for bringing
these matters to notice.

T. O. K.
20/10

Sir J. Anderson

I was pained as well as surprised
by your speech in the Parliament and
as to the suggestion of abuse. We ought
not to say such things without being sure
of the facts.

As to the Question for the 25th Inst
as to the number of floggings by Court
orders. "Whereas" I may as well
I am not sure the state of affairs
disclosed in these figures appears to
be very unsatisfactory, and I am in
accord with the Government on the subject.

I agree, though I doubt the propriety of
requiring the Governor's approval to flogging
for prison offences. The Govt goes regular

knowingly returned, and if he sees his
duty will keep an eye on them. If he
has to approve them there will be
delay and delay in dealing with prison
offences is very undesirable.

If the return is in the same form
as I was accustomed to the nature of
the offence is stated and also particulars
of previous offences & punishments; so
that the Gov. can always have the report
over the coals if necessary.

I wd let the Gov. understand that
he is responsible & leave him to take
his own means of protecting himself.

Ch 20.10

I agree with Sir J. Anderson
as to question as proposed with
W. F. added addition

Ch 22.10.11

This question does not seem to have been put
No report has appeared in the Official Report.

J. 10711

carefully returned, and if he does his
duty will keep an eye on them, if he
has to approve them there will be
delay and delay in dealing with prison
offences is very undesirable.

If the return is in the same form
as I was accustomed to the nature of
the offence is stated and also particulars
of previous offences & punishments; so
that the Gov. can always have the report
over the coals if necessary.

I had let the Gov. understand that
he is responsible & best time to take
his own means of protecting himself.

Ch 20.10

I agree with Sir J. Anderson
as to question as proposed with
W. Fielder's addition

Ch 22.10.11

This question does not seem to have been put
No report has appeared in the Official Report.

J. 107.11

respectfully returns, and if he does his
duty - will keep an eye on them, if he
has to approve them there will be
delay and delay in dealing with prison
officers is very undesirable.

If the return is in the same form
as I was accustomed to, the nature of
the offence is stated and also particulars
of previous offences & punishments; so
that the Gov. can always haul the light
over the coals if necessary.

I wd let the Gov. understand that
he is responsible & leave him to take
his own means of protecting himself.

Ch. 20.10

I agree with Sir J. Anderson
Ans. to question as proposed with
W. Fildes' addition

Ch. 22.10.11

This question does not seem to have been put.
No report has appeared in the Official Report.

S. 107.11

monthly returns, and if he does his
duty - will keep an eye on them, if he
has to approve them there will be
delay and delay in dealing with prison
officers is very undesirable.

If the return is in the same form
as I was accustomed to, the nature of
the offence is stated and also particulars
of previous offences & punishments, so
that the Gov. can always handle the matter
over the usual if necessary.

I wd like the Gov. understand that
he is responsible & leave him to take
his own means of protecting himself.

Ch. 20-10

I agree with Sir J. Anderson
Ans. to question as proposed with
Mr. Fiddes' addition

Ch. 22 10 11

This question does not seem to have been put
the answer has appeared in the Official Report.

J. 10711

33345
16 OCT 11

GOVERNMENT HOUSE
NAIROBI.

BRITISH EAST AFRICA

EAST AFRICA PROTECTORATE.

No. 531

September 25th, 1911.

4
2-9-11

In obedience to the instructions contained in your despatch No. 466 of August 13rd on the subject of flogging in the Gaol at Nairobi, I have the honour to report that out of a total of 1,726, or a daily average number of 497, prisoners incarcerated in the Gaol during 1910 343 were sentenced by the Courts to be flogged in addition to other punishment of imprisonment. Of this number one flogging was ordered by a Judge of the High Court, 217 by the Town Magistrates of Nairobi and Nakuru, and 125 by 22 District or Assistant District Commissioners stationed in various parts of the Protectorate, all of whose sentences were confirmed by the High Court.

2. During the same period the Town Magistrate as a Visiting Justice of the Prison ordered one prisoner to be flogged and the other Visiting Justices

THE RIGHT HONOURABLE
LEWIS HARCOURT, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
BOWING STREET,
LONDON, S.W.

Justices ordered 95 floggings under Section 43 of the Prisons Regulations 1902.

3. It will be seen therefore that of the total number of 499 floggings 343 were inflicted as the result of sentences by the Courts and carried out in the Nairobi Gaol and that for serious breaches of Prison discipline 96 floggings were ordered by the Visiting Justices. The following gentlemen were the Visiting Justices of the Nairobi Gaol in 1910:- Judge Hamilton, Judge Barth, Judge Bonham-Carter, Mr. Hobley, Provincial Commissioner, Mr. Mumphery, District Commissioner, Mr. F.G. Hamilton, Labour Inspecting Officer, Mr. Pickering, Town Magistrate, Mr. Rollis, Secretary for Native Affairs, Dr. Lowsley, Medical Officer, Mr. Sturdy, Chief Veterinary Officer, Colonel Bell, Rev. Mr. Falloon, Mr. A.A. Baillie, and Captain N.H. Cowie.

4. In the new Prisons Ordinance, which is now before Council, provision will be made for all sentences of flogging ordered by a Visiting Justice for serious breaches of Prison discipline to be confirmed by a Judge of the High Court if exceeding 12 lashes and by the Town Magistrate if less than that number.

I have the honour to be,
Sir,
Your humble, obedient servant,


GOVERNOR.

Gov/33345/E.A.P.

*Ans d 2-85
11-12*

Downing Street,

Na
8 October, 1911.

DRAFT

EAST AFRICA PROTECTORATE.

No. *654*

Governor
COLONEL SIR PERCY GIROUARD, K.C.M.G., D.S.O.,
R.E.

MINUTE.

Mr. Macnaghten. 27th Oct.

Mr. Bullen *30 + Nov 0*

x Mr. Fiddes *6/11/11*

Sir H. Just.

Sir J. Anderson.

Lord Lucas.

Mr. Harcourt.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 531 of the 25th of September last on the subject of flogging in the Gaol at Nairobi.

2. It appears from your des-

patch that 343 floggings were inflicted during the year 1910 by order of the Courts, and 96 floggings for breaches of prison discipline. In my opinion these figures must be regarded as

Circular desp. 25th May 1907.

Ditto. 18th August 1902.
d.C. Ordinance.

Specimen form for Returns.

(Attach copy of form (not form in 15909))

drafts)

showing

showing that floggings both by order of the Courts and for breaches of prison

discipline have been too frequent.

5. During the year 1910 the number of floggings inflicted in the Colony of the Gold Coast was 45 by order of the Courts and 11 for prison offences; in Sierra Leone and the Protectorate the figures for the same period were 5 and 8;

while in Nyasaland the figures were 135 and

12. The number of floggings by order of the Courts in Nyasaland appears to be somewhat excessive and I am calling the attention of the Governor to the matter.

In Ceylon the frequency of floggings formed the subject of Parliamentary criticism a few years ago with the result that substantial diminution in the number of floggings has been effected. The

figures

figures for the last three years are as follows:-

1908

- (a) Floggings by order of Court 17
- (b) Floggings for breach of prison rules 131

1909

- (a) Floggings by order of Court 6
- (b) Floggings for breach of Prison rules 45

1910

- (a) Floggings by order of Court 15
- (b) Floggings for breach of Prison rules 30

5. I enclose for your information and guidance a copy of Mr. Chamberlain's Circular despatch of the 25th. of May, 1897, and also a copy of his further Circular of the 13th of August 1902 enclosing a draft Ordinance to regulate the law relating to sentences of flogging. The purpose of these Circulars, on which I desire to lay special stress, is that floggings, both by order of Courts and as a punishment for breaches of prison discipline must be

regarded

regarded as a "serious and exceptional
form of punishment to be employed only
in the most special cases". ^{as} I will not
~~be so far as to insist~~ ^{be prepared to require} that the Governor's
consent should be a necessary preliminary
before any sentence of flogging is
~~inflicted on a prisoner in the Gaol of~~
~~the Protectorate~~, but I consider that you

should require a monthly return ^{to be}
furnished to you ^{of the sort done already,} giving full particulars
of all floggings that have been inflicted,
You will thus be able to judge whether there
has been any abuse of this form of
punishment.

You should also be ~~informed~~
to satisfy yourself that ~~sentences of~~
flogging by order of the Courts are
restricted to the narrowest possible
limits, and I have to request that ~~returns~~
~~which should for the present be sent~~
to the subordinate
Courts of the P. in such manner
as you may consider proper.

See Gov. 1115/11 Jan.
for something on
the nature of a
proceeding!

7. I have to request that I
may in future be furnished
half yearly, in the first instance,

and not yearly as indicated
in the Circular of May 1887 - ~~should be~~
~~submitted to me~~ giving particulars both
of floggings by order of the Courts and
of floggings for prison offences. These
returns should clearly state for what
offence the punishment was inflicted in
each case, the number of strokes, and the
nature of the implement used; and separate
returns should be furnished in regard to
adults and in regard to juveniles of under
sixteen years of age.

DRAFT.

~~K.S.B.~~ I enclose a specimen of a form
which might conveniently be adopted for
the return in question.

I have etc.,

Gov./33345/E.A.P.

Ans. 16/11/11

Downing Street,

8th October, 1911.

DRAFT.

UGANDA PROTECTORATE.

No. 421

Governor

F. J. JACKSON, ESQ., C.B., C.M.G.
&c., &c., &c.

MINUTE.

Mr. Macnaghten. 27th Oct.

Mr. Buller 30 + Nov 0

Mr. Fiddes. *6/11/11*

Sir H. Just.

Sir J. Anderson.

Lord Lucas

Mr. Harcourt.

*Mr. Buller has since then
written an agreement
Circular desp. 25th Mar 1897.*

Ditto. 13th August, 1902.
dft. Ordinance.

Specimen form for Returns.
(Black copy of Gold (and Form in 1897)

drafts)

Sir,

I have the honour to inform
you that my attention has recently
been called to the extent to which

floggings have been inflicted in the
~~Prison of the East Africa Protectorate.~~

take the opportunity of
I think it desirable to communicate
of punishment by flogging
with you on the subject, both for the
as in the absence of periodical
future guidance of your Government
return from Uganda, I am
and in case it should prove that this
not aware how the matter is
punishment has also been inflicted
regarded in that Protectorate
with undue frequency in Uganda.

I have ascertained that 343 floggings were inflicted in the Gaol at Nairobi during the year 1910 by order of the Courts and that a further ^{in addition} 96 floggings were inflicted for breaches of prison discipline. In my opinion these figures must be regarded as ^{in that Protectorate} showing that floggings both by order of the Courts and for breaches of prison discipline have been too frequent.

3. During the year 1910 the number of floggings inflicted in the Colony of the Gold Coast was 45 by order of the Courts and 11 for prison offences; ^{in Sierra Leone} in Sierra Leone and the Protectorate the figures for the same period were 5 and 8; while in Nyasaland the figures were 15 and 12. The number of floggings by order of the Courts in Nyasaland appears to be somewhat excessive and I ~~draw the attention of the Governor~~

to the matter

4. In Ceylon the frequency of floggings formed the subject of Parliamentary criticism a few years ago, with the result that ^asubstantial diminution in the number of floggings has been effected. The figures for the last three years are as

follows:-

1908.

(a) Floggings by order of Court	17
(b) Floggings for breach of prison rules	131

1909.

(a) Floggings by order of Court	6
(b) Floggings for breach of Prison Rules	45

1910.

(a) Floggings by order of Court	15
(b) Floggings for breach of Prison rules	30

I enclose for your information and guidance, a copy of Mr. Chamberlain's Circular despatch of the 25th of May, 1897, and also a copy of his further Circular of the 13th of August 1902 enclosing a

draft

draft Ordinance to regulate the law relating to sentences of flogging. The purport of these Circulars, on which I desire to lay special stress, is that floggings, both by order of ^{the} Courts and as a punishment for breaches of prison discipline, must be regarded as a "serious and exceptional form of punishment to be employed only in the most special cases".

I will not go so far as to require ~~that~~ the Governor's consent should be a necessary preliminary before any sentence of flogging is inflicted on ~~a~~ ^{for prison offences,} prisoners in the ~~Cad~~ of the Protectorate. But I consider that you should require a monthly return ^{to be} furnished to you, ^{if this is not done already,} giving full particulars of all floggings ^{for such offences} that have been inflicted. You will thus be able to judge whether there has been

any case of ~~excessive use of punishment.~~ in order that ^{in any case} ~~you may be able to~~ ^{be able to} ~~check any tendency~~ ^{to excessive use of} ~~to excessive use of~~ ^{of punishment}

DRAFT.

is also desirable in my opinion that the need of the enforcement of flogging referred to in the above paragraph of his despatch should be communicated ~~by way of suggestion~~ to the subordinate Courts of the ~~you should also be at pains to~~ ^{Protectorate,} in such manner as you satisfy yourself that sentences of ~~may consider proper.~~ flogging by orders of the Courts are

244

restricted in the narrowest possible limits, and you should furnish me, as soon as possible after the conclusion of the present coming year, with a return showing all ^{during the year} floggings that have been inflicted both by order of the Courts and for breach of prison discipline. Similar returns which should for the present be sent six-monthly and not yearly as indicated in the Circular of May 1897 - should be sent regularly hereafter, and they should clearly state for what offence ^{flogging} the punishment was inflicted in each case, the number of strokes, and the nature of the implement used. Separate returns should be furnished in regard to adults and in regard

regard to juveniles under sixteen years of

I enclose a specimen of a form which might conveniently be adopted for the return in question.

I have etc.,

Gov/33345/E.A.P.

2 copies

Downing Street,

8 ^{Nov} October, 1911.

DRAFT.

NYASALAND.

273

Governor
COLONEL SIR W. MANNING, K.C.M.G., C.S.I.

MINUTE.

Mr. Macnaghten. 27th Oct.

Mr. Buller. 30 or Nov. 6

Mr. Fiddes. *offly*

Sir H. Just.

Sir J. Anderson.

Lord Lucas.

Mr. Harcourt.

*Recd 29808/12
copy to Mr. Buller or Mr. Fiddes in office
29 Nov 1911*

I have to inform you that

my attention has recently been drawn

to the extent to which flogging has

been inflicted as a form of punishment

in the East Africa Protectorate.

2. In this connection I observe

from the annual returns forwarded

from Nyasaland that the number of

floggings inflicted by order of the

courts during 1910 was 135,

and that there is no return in the returns for the first six months of 1911.

3 drafts)

(in G.O. 3341)

3. *Nov*

his red shield be commuted
by way of ~~request~~
the subordinate Court of the
Protectorate in such manner
as you may consider proper

I have

3. ~~consider~~ ^{affair} this number excessive
in comparison with other Colonies, as
during the year 1910 the number of floggings
inflicted in the Colony of the Gold Coast was
45 by order of the Courts, and 11 for
prison offences ^{while} in Sierra Leone ^{and} the S. Leone
Protectorate the ^{number} ~~is~~ for the same
period ^{is} ~~is~~ 5.

~~I have, therefore, to request~~ ^{that}
that you will satisfy yourself that
sentences of floggings by order of the
Courts are restricted to the narrowest
possible limits.

~~I have also,~~
~~to state~~ ^{that}
that flogging ~~is~~ ^{is} regarded
as a serious and exceptional
form of punishment, to be
employed only in the most special
cases. It is desirable, in my opinion,
that