

EAST AFR PROT
31463

C. O.
31465

Governor Conf
Belfield 133

CORPORAL PUNISHMENT IN POLICE

1914

23rd July

Concurs in opinion expressed by Major Edwards that corporal punishment should be again included in the schedule of punishments sanctioned by the Police Ordinance. Gives reasons.

Last previous Paper.

Resol 20457 Libar
Nov 12-66

W. B. Cottonley *Dr. G. Fiddes*

The Gov. strongly supports

the 3 G's view that corporal punishment of Asiatic & African constables should be re-introduced. His reasons, and those of Major Edwards (pp 24, 6 of his report), seem to me quite convincing. The fact that since the abolition of corporal punishment the standard of discipline in the Force has declined, should of itself be a sufficient indication that the stage has not yet been reached at which this form of punishment can be abandoned.

I cannot see that it would

End

Next subsequent Paper.

Nov 48397

Ansd. Conf. cons. 28 Aug 14.

tend to the advancement either of our own interests or of those of the native, if we were permanently to discard more effective means of correction, among so impotent a body as the police, in favour of other means which do not succeed, which the native does not understand, which leads him to misinterpret and to mistrust us, and render him unamenable to discipline.

I also think that it is proved that the substitutes for corporal punishment are ineffective & unsuitable. It is not "humanitarianism" to employ means of correction which probably inflict more eventual suffering, and do moral harm; I should say "humaneness" would be better fostered by using effective means of improvement, and by using them without excess or severity, and with an eye to strict justice. The latter conditions are secured by the relevant clauses of the Ordinance.

? Reply that, on having consideration of the D. G.'s Report, and in view of the Gov's support given by the Gov. to his opinion.

I don't agree
L. W.

opinion, the S of S agrees that
corporal punishment shall be reverted
to among the police, and that an
amending Ordinance (on the lines of
Sections 51(2)(d) and 55 of the E. Afr.
Police Ord. 1909) shd be passed
providing accordingly.

We should instruct Uganda
to do similarly.

A.C. 22/8/14

17907/07 SM
02704/07 N.N.

I have annexed the 1907 Uganda papers, which
found E.A.P. Police liable to be flogged for
insubordination
striking a superior officer
wilful neglect of duty
dereliction or
any conduct to the prejudice of discipline,
& left them liable only in the "most aggravated
cases of misconduct".

The clause (51) of the draft Ordinance
attached for E.A.P. from which the flogging
provision was cut out, contained the
flogging "in every case of aggravated misconduct
or where the accused has been previously
convicted of any offence under this Ordinance"

(a) I don't know what is meant by "aggravated
misconduct". The phrase is taken from
the Uganda Ord. of 1908, where it is not defined.

and although the Uganda Rules mention that lying & false defenses are to be regarded as a gross aggravation of an offence. This hardly amounts to a definition. There are many offences which might conceivably be punished by flogging as a matter of discipline, but which in an aggravated form would be much better dealt with by the criminal courts.

- (4) As regards repeated offences, in my & no doubt common, that the accused means the "proved delinquent", but I am not sure whether "convicted" means found guilty in the criminal court or under the Ordinance, and the idea that a policeman should be liable to be flogged for any offence after he has previously committed any (other) offence seems to me to go much too far.

I have not failed to notice that in Inspector's discharge must be confined by the Magistrate (perhaps the last I joined Port District Court), before he tells his tale, but I don't think this is good enough to prevent any possibility of abuse.

In 15342 p. 10 Sir P. Gifford said he would show that "certain offences will not be tolerated", and if, - I

Number of offences
this dispatch.

hope, the idea of flogging is not ruled
out at once, I think we should begin
by asking what the "serious offences" are.
If the modesty of our Governors
demands a dispensation for offences against
that of prisoners, ^(for example) & they only want
the power of flogging for offences of that
kind, this case is weakened, since
the pernicious practice of flogging
must continue for less grave
offences. If not, the power must
be carefully circumscribed.

[Major Edwards' remarks about the
state of discipline of the force, in the
report for 1912 written in or before May
1913, are a little out of date. We have
no later report.]

35298/13

C.A.S. 24/8/14

As proposed by Mr. Duttonley?

H. J. R.

24/8/14

W. 25. 1. 14

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Ch 25. 1. 14

EAST AFRICA PROTECTORATE.

Confidential No. 133GOVERNMENT HOUSE,
NAIROBI.

BRITISH EAST AFRICA.

July 23rd 1914.

C O
31455

Sir,

*Recd
20-7-14
Ibar*

In reply to your Confidential despatch of June 23rd, 1914, I desire to express my regret that my communication on the subject of corporal punishment in the Police Force should have been so long delayed. The question appears to have been inadvertently overlooked in the Secretariat in consequence of the pressure of other work, and it was only on the receipt of your despatch under reply that attention was drawn to the omission.

2. I have now the honour to state that I concur in the opinion expressed by Major Edwards that corporal punishment should be again included in the schedule of punishments sanctioned by the Police Ordinance for the following reasons:-

3. Personal chastisement is a form of punishment which is well understood by the native of East Africa and is regarded by him as the natural result

The Right Honourable

Lewis Harcourt, P.C., M.P.,

Secretary of State for the Colonies,

Downing Street,

LONDON, S. W.

result of detection in the commission of petty offences. He sees nothing degrading in its infliction, while it appeals to his convictions far more readily than any other form of deterrent. It is possible to inflict it promptly upon discovery of the offence, thus impressing upon the culprit the connection between misconduct and punishment in a far more effectual manner than can be otherwise accomplished. Lastly, the power to inflict corporal punishment renders it in most cases unnecessary to resort to the alternatives of fine and imprisonment, both of which are open to serious objection.

4. The objections to the imposition of fines are those mentioned in paragraph 14 of the Inspector General's report. The effect of such punishment is to reduce the offender's means of subsistence, with the probable result of lessening his efficiency or inducing him to resort to dubious methods of recouping himself. Moreover the African invariably believes that the process of cutting his pay is adopted in order that his employer may benefit by his personal loss, and a feeling of distrust is thus created which cannot but have a prejudicial effect upon discipline.

5. Imprisonment is a form of punishment which is quite unsuitable in cases of offences against discipline. It temporarily deprives the Force of the services of the offender and throws him into the company of criminals, thereby imperiling his future and lowering his prestige in the estimation

estimation of his companions.

6. I would deprecate the assumption that the recommendation now before you is made with any desire to treat the members of the Force with additional or undue severity. It is offered because the punishment fits the class of offence in respect of which it is desired to inflict it as no other form of penalty can do. Our officers may be trusted to exercise the authority with humanity and discretion, and the result will be better for the offender and better for the discipline of the Force as a whole.

What class?

I have the honour to be,

Sir,

Your humble, obedient servant,

Alonzo B. B. B.

GOVERNOR.

C. D.
R. 26 AUG
17

SR

28 Aug, 1914

Hand 48397

DRAFT.

E. A. P.

Confidential

Gov. Sir H. Belfield

MINUTE.

- Mr. Cooke 25/8/14
- Mr. Bottomley 26.8.14
- Mr. B. and Sir G. Fiddes. 26
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

Handwritten initials and scribbles

For copies of Points
X X are with in
minutes

Handwritten initials

Sir,

I have the honour
to acknowledge the receipt of
your confidential despatch
No. 133 of the 23rd of July,
on the question whether
provision for the punish-
ment by flogging of
Asiatic & African N.C.O.'s
and Constables in the
Police Force of the E. A. P.,
should be included in
the East Africa Police
Ordinance.

2. It is necessary for me, in
view of the ~~importance~~ ^{importance} of this question, I
wish to be clearly informed
as to the ^{particular} ~~specific~~ offences
which

which it is proposed to make punishable by flogging. I am aware that Clause 51 of the Draft "East African Police Ordinance 1909" ^{to the possibility of a contemplated sentence} of flogging "in every case of aggravated misconduct or where the accused has been previously convicted of any offence under this Ordinance". ~~In discussing this clause~~ Sir P. Grover's in his despatch No 232 of the 23rd of April, 1910, stated that he considered it necessary to employ this form of punishment as being "almost the only means of convincing natives that certain offences

^{provision} These words appear to me to be ~~rather~~ too indefinite and too wide, but I am not sure, in view of the words "certain offences, will not be tolerated,"

and the words "the class of offences in respect of which it is desired to inflict the punishment in your despatch under act."

that ~~if~~ your intention & that of your predecessor has not been to restrict the infliction of flogging to a few grave cases.

3. If this is so, then you should inform me definitely what offences you have in mind, but I would point out that the objections to punishment

by force or imprisonment will still exist in the case of other offences, and, further, that for the more serious offences ~~punishment by~~ ^{dismissal,} with or without criminal proceedings in addition, is the most appropriate punishment.

* If on the other hand your intention is that flogging should be the common form of punishment for offences against discipline, my difficulty in approving of its introduction would be greatly increased.

4. In any case, I cannot give further counsel to the matter until I have exactly for what offences it is proposed to adopt corporal punishment, and it would be of assistance to me if ~~you~~ ^{you} were to give me this information. You could also indicate what severity of punishment,

offences will not be tolerated. I presume that you share this opinion.

(3) I have to request, therefore, that you will clearly explain to me what class of offences you consider it essential to punish by the infliction of flogging.

I must await your reply to ^{my} this enquiry before ~~I can come to~~ ^{giving fuller} ~~any decision~~ ^{consideration to} the subject.

(Signed) L. T.

as regards interest
and rate of return,
you will recommend
for the various offices.