

1904.
ASSAM SECRETARIAT.
GENERAL DEPARTMENT.

HOME—A.

July.

Nos. 214-234.

Execution of Judicial whippings in Assam.

REFERENCES TO FORMER CASES.

Department, date, and Nos., or File No. and year.	Brief Title of File.
1. Home, A, Mar. 1897, Nos. 24-38.	Rules under the Prisons Act, IX of 18-94.
2. Ditto, Oct. 1901, Nos. 22-27.	Proposal for the grant of a special mark each day to a certain class of prisoners who are appointed as night watchmen.
3. Ditto, Nov. 1901, Nos. 63-81.	Whipping punishments inflicted in Lakhimpur in 1900.
4. Ditto, Jan. 1902, Nos. 46-47.	Grant of one mark per diem to convicts in district jails with sentences of less than a year's imprisonment who are appointed to be night watchmen.
5. Ditto, June 1902, Nos. 219-221.	Award of special marks to prisoners who throughout the year have not committed any prison offence.
6. Ditto ditto, Nos. 222-225.	Revision of rule 2 of mark rules to provide for remission of sentence issued by the Government of India, with the object of excluding prisoners convicted under Frontier Murderous Outrages Regulation, 1901, from the operation of the rule.

K-5—74.

REFERENCES TO LATER CASES.

Department, date, and Nos.	Brief Title of File.
(To be continued on back, if necessary.)	

PAPERS OTHER THAN PROCEEDINGS.

I.—Printed.

Notes and orders.

II.—Not printed.

Proof and original.

1904.

ASSAM SECRETARIAT.

GENERAL DEPARTMENT.

HOME—A.

JULY.

Nos. 214-234.

Execution of Judicial whippings in Assam.

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NOTES.

HOME—A, JULY 1904.

Nos. 214-234.

Execution of Judicial whippings in Assam.

FROM THE INSPECTOR GENERAL OF JAILS, ASSAM, No. 2572, DATED THE 22ND SEPTEMBER 1903.

Asks for a decision on the question as to the persons by whom sentences of judicial whipping should be executed.

Under-Secretary,

Law does not provide as to the persons by whom the sentences of judicial whippings should be inflicted. It will appear from the enclosure to the Inspector General's letter that different classes of people are employed for the purpose in different districts.

Section 391 (2) of the Code of Criminal Procedure lays down that "the whipping shall be inflicted in the presence of the officer in charge of jail, unless the Judge or Magistrate orders it to be inflicted in his own presence." The High Court's criminal rule, however, has this "The Lieutenant-Governor of Bengal has ordered that where whipping is the sole punishment awarded, officers should make arrangements for having it carried out at once at the Magistrate's office," see also note on Section 390, Criminal Procedure Code.

P. S. Kar—25th September 1903.

Secretary,

I have not been able to find out what is the procedure in other provinces. Where whipping without imprisonment is the sentence, it is of course desirable that the whipping should be carried out at once at the Magistrate's court. A court constable seems the proper man for the performance of this duty at court. It should generally be possible in Assam to secure a constable, who has no objection to doing this work, in each subdivision. Such constable should be attached to the court office, and should carry out whippings when necessary at court. He might also be entrusted with this duty at jails when a sentence of whipping in addition to imprisonment is passed.

13th October 1903.

J. DONALD.

Chief Commissioner,

So far as I remember, in Bengal sentences of whipping alone were always executed by chaprais. This was certainly the practice at some places where I served in Bengal. As it appears to be a general practice to employ court constables for this purpose in Assam, I agree to Under-Secretary's suggestion.

17th October 1903.

F. J. MONAHAN.

It degrades a man to execute a sentence of flogging, and I do not like the idea of employing either constables, peons or warders as executioners. In other provinces the kutcherry sweeper is employed. How many floggings are there annually at each district and subdivisional headquarters? Is there a sweeper to each cutcherry? If so, we could improve him into an executioner by the grant of an additional rupee or two a month.

23rd October 1903.

J. B. FULLER.

Under-Secretary,

The number of floggings in subdivisions are not shown separately. The following table will show the number of floggings in each district for the past three years:—

		1900.	1901.	1902.
Cachar	...	9	13	10
Sylhet	...	45	50	19
Goalpara	...	11	14	9
Kamrup	...	28	17	15
Nowgong	...	6	24	8
Darrang	...	38	44	29
Sibsagar	...	54	99	66
Lakhimpur	...	65*	38	30
Naga Hills	...	6	15	17
Garo Hills	...	9	Nil	Nil
Khasi and Jaintia Hills	...	2	Nil	Nil

* Page 2 of Home, A, Nov. 1904, Nos. 63-81.

P. S. Kar—29th October 1903.

The following sweepers are employed in the Sadr and Subdivisional offices as :—

					Rs.	a.	p.	
Cachar (Sadr)	...	...	...	1	at	6	0	0
Hailakandi	...	...	...	1	"	8	0	0
Haflong	...	...	...	1	"	8	0	0
Dhubri	...	...	...	1	"	3	0	0
Shillong	...	...	...	1	"	6	0	0
Jowai	...	...	...	1	"	4	0	0
Kohima	...	...	...	1	"	8	0	0
Manipur	...	...	...	1	"	6	0	0
Aijal	...	...	...	12	"	10	each	} Apparently for conser- vancy pur- poses.
Lungleh	...	...	...	8	"	10	each	
Sylhet (Sadr)	...	...	...	1	"	4	0	0

J. B.—13th November 1903.

Secretary,

In addition to those named by Comptroller, I think there is always a sweeper for each kutcherry. He may be a municipal sweeper, and sweeps kutcherry in the course of his other work.

18th November 1903.

J. DONALD.

Chief Commissioner,

19th November 1903.

F. J. MONAHAN.

Please draft orders, saying that whippings would be executed by the kutcherry sweeper, who, if in receipt of very low pay, may be given a small increment.

20th November 1903.

J. B. FULLER.

[To the Commissioner, Assam Valley Districts, the Political Agent in Manipur and Superintendent of the State, and the Inspector General of Jails, Assam, No. 179 Jails—125-7J., dated the 12th January 1904.]

[Circular to all Deputy Commissioners and Subdivisional Officers, Assam, No. 5, dated the 12th January 1904.]

FROM THE DEPUTY COMMISSIONER, SYLHET, No. 3843J., DATED

Points out certain difficulties in carrying out the orders contained in Circular No. 3J., dated the 12th January 1904, and suggests that whippings should be inflicted by the prisoner who is specially trained for this work in the jail.

Secretary,

In a large jail like Sylhet, a suitable convict might be obtained for whipping purposes to take the place of the sweeper. There appears to be a specially trained convict for whipping, and in these circumstances, it might be well to employ him in all cases. But we might add that the person who is trained for this purpose should be a convict of very low caste, and that he should be credited with marks for every whipping he inflicts.

17th February 1904.

J. DONALD.

Consult Inspector General of Jails unofficially.

18th February 1904.

F. J. MONAHAN.

Secretary,

I am not certain whether the flogging in the Sylhet jail is done by a warder or by a prisoner, but will find out.

26th February 1904.

A. W. DAVIS.

FROM THE DEPUTY COMMISSIONER, GARO HILLS, No. 123J., DATED THE 18TH FEBRUARY 1904.

Referring to the Chief Commissioner's Circular No. 3J., dated the 12th January 1904, says that there is no paid sweeper attached to his court, and that whippings are now carried out by the constable on duty at the court office.

Secretary,

We may ask the Deputy Commissioner, Garo Hills, by whom his cutcherry is swept, and who inflicts whippings in jail.

5th March 1904.

J. DONALD.

7th March 1904.

F. J. MONAHAN.

[To the Deputy Commissioner, Garo Hills, No. 32 Jails—1046J., dated the 12th March 1904.]

FROM THE DEPUTY COMMISSIONER, GARO HILLS, No. 142J., DATED THE 26TH MARCH 1904.

says that his cutcherry is swept by a convict sweeper and that the whippings in the jail at Tura, are whenever necessary, inflicted by Civil Police.

Secretary,

An exception to the rule might be made in the case of the Garo Hills. The convict sweeper who sweeps the cutcherry might be made to inflict sentences of whipping, and he might be allowed some remission of sentence for such work in the shape of marks and reduction of sentence proportionate to the marks earned.

13th April 1904.

J. DONALD.

FROM THE INSPECTOR GENERAL OF JAILS, ASSAM, No. 1228, DATED THE 13TH APRIL 1904.

Forwards copy of a letter from the Superintendent of the Sylhet jail about execution of whippings.

Under-Secretary,

It seems very doubtful whether marks could be awarded as suggested by Mr. Donald above (*Vide* Rule 520, page 121, Assam Jail Manual.) The obvious objection to the grant of this concession based on Rule 511 that the prisoners in the subsidiary jails* concerned will not be convicts whose sentence would amount to one year, and will thus not be eligible would not, however, apply in the case of convict sweepers (Rule 1123, Jail Manual).

Rebati—18th April 1904.

Secretary,

It appears to me essential that if whippings are to be really effective, they should be carried out by a trained man, in a large jail like Sylhet, a special long-term convict might be trained for the purpose as is the present practice; in subdivisions like those of Sylhet and in the Garo Hills whipping might be inflicted by the lock-up sweeper, who is always a long-term convict, and I think always of low caste. As suggested by Mr. Donald marks might in both cases be given for whippings.

I agree.—J. B. F.

It seems to me essential that whippings should be inflicted by a convict as police chaprasis and ordinary sweepers are, I am convinced, frequently hampered with by the friends of persons sentenced to be whipped, and thereby induced to perform their task in a very perfunctory way.

25th April 1904.

F. W. STRONG.

Chief Commissioner,

28th April 1904.

F. J. MONAHAN.

See margin.

28th April 1904.

J. B. FULLER.

FROM THE DEPUTY COMMISSIONER, CACHAR, No. 537, DATED THE 28TH APRIL 1904.

Requests sanction to the increase of the pay of the sweeper attached to his office by Rs. 2 per mensem for the work of inflicting whipping.

FROM THE COMMISSIONER, ASSAM VALLEY DISTRICTS, No. 1085G., DATED THE 3RD MAY 1904.

Proposes to instruct the Deputy Commissioners of his division that where there is no kutcherry sweeper, whipping should be inflicted by the jail sweeper.

Send unofficially to Inspector General of Jails for favour of note, as to whether the giving of marks for this sort of service is permissible under section 520, page 121, Jail Manual, or any other section.

17th May 1904.

F. W. STRONG.

The award of marks can be made with the sanction of the Chief Commissioner.

20th May 1904.

A. W. DAVIS.

Under-Secretary,

The rules regarding marks and rewards embodied* in the Assam Jail Manual were issued Government of India in the Home Department Resolution 12Jails—500-510J., dated the 31st August 1896, Part IV†, Appendix II. All the corrections which have subsequently been made to these rules have also been issued by India, *e.g.*

	Correction to Rule.	Government of India's order.
* Page 3 of Home, A, June 1902, Nos. 222-225.	511 (Correction Slip 96)	... Home Department Resolution* No. 253-57, dated the 10th May 1902.
† Page 1 of Home, A, June 1902, Nos. 219-221.	511 (Correction Slip 120)	... Government of India's letter No. 505,† dated the 11th August 1902.
Cf. page 123 of Jail Manual.	520 (Correction Slip 97)	... Home Department, Resolution No. 348-358,† dated the 12th June 1902.
	530 (Correction Slip 124)	... Government of India's letter No. 505, dated the 11th August 1902.

It may be noted that in the case of awarding marks for particular work, India's sanction is needed. (In 1901, the Resident of Hyderabad made* a proposal to the Government of India to award a special mark to a certain class of prisoners for doing a particular work (night watch). The Government of India collected opinions† of Local Governments and Administrations.)

R. K. Sen—24th May 1904.

Secretary,

The Inspector General of Police is of opinion that Chief Commissioner's sanction is sufficient for awarding marks for whippings, but it might perhaps be as well to get India's sanction.

2nd June 1904.

F. W. STRONG.

Chief Commissioner,

(1) Commissioner's proposal may be approved. It seems unnecessary to raise the question of marks.

(2) An increase of Rs. 2 a month to the pay of the kutcherry sweeper, Silchar, may be sanctioned, as recommended by the Deputy Commissioner.

3rd June 1904.

F. J. MONAHAN.

I agree.

4th June 1904.

J. B. FULLER.

[To the Deputy Commissioner, Sylhet, No. 89Jails—2676J., dated the 16th June 1904.]

[To the Inspector General of Jails, Assam, No. 89Jails—2677J., dated the 16th June 1904.]

[To the Deputy Commissioner, Garo Hills, No. 89Jails—2678J., dated the 16th June 1904.]

[To the Inspector General of Jails, Assam, No. 89Jails—2679J., dated the 16th June 1904.]

[To the Commissioner, Assam Valley Districts, No. 89Jails—2680J., dated the 16th June 1904.]

Proposition statements verified and corrected.

File returned.

23rd June 1904.

V. C. SCOTT O'CONNOR.

[To the Deputy Commissioner, Cachar, No. 87Jails—2803J., dated the 24th June 1904.]

[To the Comptroller, Assam, No. 87Jails—2804J., dated the 24th June 1904.]

ASSAM SECRETARIAT PROCEEDINGS.

Home—A.

July 1904.

Execution of judicial whippings in Assam.

No. 214.

No. 2572, dated Shillong, the 22nd September 1903.

From—A. W. DAVIS, Esq., I.C.S., Inspector General of Jails, Assam,

To—The Secretary to the Chief Commissioner of Assam.

I have the honour to request that you will be good enough to obtain the decision of the Hon'ble the Chief Commissioner on the question as to by whom sentences of judicial whipping passed under sections 390 and 391 of the Code of Criminal Procedure, should be executed. In this province, there is no uniform practice in this matter, in some districts such sentences are carried out by court peons, while in others they are carried out by a convict from the local jail. A precis of the replies received from the several Deputy Commissioners to whom a reference has made on the subject is enclosed herewith. The Deputy Commissioner of Darrang says that sentences of judicial whipping in his court and in the courts subordinate to it are executed by convicts, because "the chaprasis have caste prejudices against the work". I am not aware if this is the case in some other districts, but the point is to decide whether, if court peons have their caste prejudices against this work, it is proper to compell prisoners to do the same against theirs. It is, moreover, desirable that there should be one uniform practice throughout the province.

No. 215.

Precis of replies received from the several Deputy Commissioners in Assam regarding the practice of executing judicial sentences of whipping.

Nowgong.—By court constables, in cases in which the sentence is one of whipping only, but by convicts in cases in which sentences of whipping and imprisonment are combined, the former being executed in jail when the time allowed for appeal has expired.

Cachar.—As in the Nowgong district.

Naga Hills.— Ditto.

Lushai Hills.— Ditto.

Garo „ — Ditto.

Kamrup.— Ditto.

Sylhet.— Ditto, but when a sentence of whipping is passed in addition to imprisonment, it is executed in jail by a warder, and not by a convict.

Goalpara.—By convicts, but at the subdivisional court at Goalpara, sometimes by the court constable and sometimes by convicts.

Lakhimpur.—By convicts.

Sibsagar.— Ditto.

Khasi and Jaintia Hills.—Ditto.

Darrang.—Ditto. The Deputy Commissioner admits that the execution of judicial whipping should be the duty of court chaprasis, but they do not do it on account of their caste prejudices.

Execution of Whippings by Court Sweepers.

CIRCULAR No. 3J.

FROM

THE SECRETARY TO THE CHIEF COMMISSIONER OF ASSAM,

TO

ALL DEPUTY COMMISSIONERS AND SUBDIVISIONAL OFFICERS,
ASSAM, AND THE SUPERINTENDENT, LUSHAI HILLS.

Shillong, the 12th January 1904.

SIR,

I AM directed to say that in all cases in which sentences of whipping are passed by Magistrates the whipping should be inflicted by the sweeper attached to the Cutcherry. The Chief Commissioner will be prepared to consider proposals for giving sweepers entrusted with this work, who are in receipt of low pay, a small increment on this account.

I have the honour to be,

SIR,

Your most obedient Servant,

F. J. MONAHAN,

Secretary to the Chief Commissioner of Assam.

MEMO. No. $\frac{179 \text{ Jails}}{125-7}$ J.

Shillong, the 12th January 1904.

COPY forwarded to the Commissioner, Assam Valley Districts, the Political Agent in Manipur and Superintendent of the State, and the Inspector General of Jails, Assam, for information [with reference to his letter No. 2572, dated the 22nd September 1903].

[] To Jails only.

By order of the Chief Commissioner of Assam,

J. DONALD,

Under-Secretary to the Chief Commissioner of Assam.

Execution of judicial whippings in Assam.

H. 218-223.

No. 218.

No. 3843J., dated Sylhet, the February 1904.

From—The Deputy Commissioner of Sylhet,

To—The Secretary to the Chief Commissioner of Assam.

With reference to your Circular No. 3J., dated the 12th January 1904, I have the honour to point out that the sweepers' work in sadr and subdivisional cutcherries in this district is done by prisoners from the jail who are sent every morning for this purpose.

Whippings are at present inflicted by a chaprasi of the Magistrate who pronounces the sentence and are generally done in a very unsatisfactory way. As there is no cutcherry sweeper, I would suggest that whippings should be inflicted by the prisoner who is specially trained for this work in the jail.

No. 219.

No. 123J., dated Tura, the 18th February 1904.

From—H. A. C. COLQUHOUN, Esq., B.A., I.C.S., Deputy Commissioner, Garo Hills,

To—The Secretary to the Chief Commissioner of Assam.

With reference to your memorandum No. 179Jails—379J., dated the 26th January 1904, I have the honour to say that there is no paid sweeper attached to this court. Whippings are now carried out by the constable on duty at the court office.

No. 220.

No. 32Jails—1046J., dated Shillong, the 12th March 1904.

From—The Under Secretary to the Chief Commissioner of Assam,

To—The Deputy Commissioner, Garo Hills.

With reference to your letter No. 123J., dated the 18th February 1904, I am directed to request that you will be good enough to report by whom your cutcherry is swept, and who inflicts whippings in jail.

No. 221.

No. 142J., dated Tura, the 26th March 1904.

From—H. A. C. COLQUHOUN, Esq., B.A., I.C.S., Deputy Commissioner, Garo Hills,

To—The Secretary to the Chief Commissioner of Assam.

With reference to your letter No. 32Jails—1046J., dated the 12th instant, I have the honour to say that the cutcherry is swept by a convict sweeper and whippings in the jail here are, whenever necessary, inflicted by Civil Police constables.

No. 222.

No. 1228, dated Shillong, the 13th April 1904.

Memo. by—The Inspector General of Jails, Assam.

Copy of letter No. 336, dated the 9th April 1904, forwarded to the Secretary to the Chief Commissioner of Assam for information.

No. 223.

No. 336, dated Sylhet, the 9th April 1904.

From—Major H. S. Woods, I.M.S., Superintendent of Jails, Sylhet,

To—The Inspector General of Jails, Assam.

With reference to your letter No. 626, dated the 4th March last, I have the honour to state that the practice formerly was to have the floggings done by the 2nd warder; but after visiting the Alipore jail (where the practice is to have the whippings done by convicts), I have now a convict trained for the purpose and all floggings are done by him.

H. 224.

Execution of judicial whippings in Assam.

No. 224.

No. 537, dated Silchar, the 28th April 1904.

From—Captain W. M. KENNEDY, I.A., officiating Deputy Commissioner, Cachar,

To—The Secretary to the Chief Commissioner of Assam.

With reference to your Circular No. 3J., dated the 12th January 1904, directing that in all cases in which sentences of whipping are passed by Magistrates, the whipping should be inflicted by the sweeper attached to the cutcherry, and stating that the Chief Commissioner will be prepared to consider proposals, for giving sweepers entrusted with this work, who are on receipt of low pay, a small increment on this account, I have the honour to request that you will be good enough to move the Honourable the Chief Commissioner to sanction an increment of Rs. 2 per month to the pay of the sweeper attached to my office. The present sanctioned pay is Rs. 6, for which a whole-time sweeper is not available. The services of a whole-time sweeper are really required to keep the cutcherry and compound clean. The usual proposition statement is herewith submitted.

Statement of Proposition for Revision of Establishment.

increase of pay of the sweeper recommended in view of Chief Commissioner's orders contained in his Secretary's Circular No. 3, dated the 12th January 1904.

V. C. SCOTT-O'CONNOR,
Comptroller, Assam.

W. M. KENNEDY,
Offg. Deputy Commissioner, Cachar.

H. 226-230.

Execution of judicial whippings in Assam.

No. 226.

No. 1085G., dated Gaubati, the 3rd May 1904.

From—P. G. MELITUS, Esq., C.I.E., I.C.S., Commissioner of the Assam Valley Districts,

To—The Secretary to the Chief Commissioner of Assam.

In forwarding herewith copy of a letter No. 804L.J., dated the 9th February 1904, from the Deputy Commissioner of Sibsagar, regarding the execution of whipping by court sweepers, I have the honour to say that I have ascertained that there is no whole-time sweeper attached to any cutcherry in this division. In Darrang, Nowgong, and Lakhimpur the courts are swept by convicts deputed from the jails who do not get anything for it. In Kamrup there are court sweepers, but they are not whole-time servants. In Goalpara the subdivisional court is swept by a sweeper from the sub-jail, and the sadr court by a sweeper who works at the dāk bungalow and gets Rs. 3 per month for it. I propose, therefore, with the Chief Commissioner's permission, to instruct Deputy Commissioners that, where there is no kutcherry sweeper the whipping should be inflicted by the jail sweeper, who is always, I believe, a convict.

No. 227.

No. 804L.J., dated Sibsagar, the 9th February 1904.

From—W. J. REID, Esq., I.C.S., Deputy Commissioner, Sibsagar,

To—The Commissioner, Assam Valley Districts.

With reference to Circular No. 3J., dated the 12th January 1904, of the Honourable the Chief Commissioner, I have the honour to say that there is no separate sweeper attached to this cutcherry, the kutcherry is swept out daily by a convict deputed from the jail.

In the circumstances, I have the honour to enquire by whom sentences of whipping should be executed.

No. 228.

No. 89Jails—2676J., dated Shillong, the 16th June 1904.

From—The Secretary to the Chief Commissioner of Assam,

To—The Deputy Commissioner, Sylhet.

With reference to your letter No. 3843J., of February 1904, without date, I am directed to say that a special long-term convict should be trained in the Sylhet district jail for the purpose of inflicting whipping in the Sylhet sadr courts. In the subdivisional courts whippings should be executed by the convict sweeper of the subsidiary jails.

No. 229.

No. 89Jails—2677J., dated Shillong, the 16th June 1904.

Memo. by—The Under-Secretary to the Chief Commissioner of Assam.

Copy of letter No. 89Jails—2676J., dated the 16th June 1904, forwarded to the Inspector General of Jails, Assam, for information, with reference to his memorandum No. 1228, dated the 13th April 1904.

No. 230.

No. 89Jails—2678J., dated Shillong, the 16th June 1904.

From—The Secretary to the Chief Commissioner of Assam,

To—The Deputy Commissioner, Garo Hills.

With reference to the correspondence ending with your letter No. 142J., dated the 26th March 1904, I am directed to say that the convict sweeper who sweeps the cutcherry should execute whippings.

Execution of judicial whippings in Assam.

H. 231-234.

No. 231.

No. 89Jails—2679J., dated Shillong, the 16th June 1904.

Memo. by—The Under-Secretary to the Chief Commissioner of Assam.

Copy of letter No. 89Jails—2678J., dated the 16th June 1904, forwarded to the Inspector General of Jails, Assam, for information.

No. 232.

No. 89Jails—2680J., dated Shillong, the 16th June 1904.

From—The Secretary to the Chief Commissioner of Assam,

To—The Commissioner, Assam Valley Districts.

With reference to your letter No. 1085G., dated the 3rd May 1904, I am directed to say that the Chief Commissioner approves your proposal to instruct the Deputy Commissioners of your division, that where there is no whole-time kutcherry sweeper, whipping should be inflicted by the jail sweeper.

No. 233.

No. 87Jails—2803J., dated Shillong, the 24th June 1904.

From—The Secretary to the Chief Commissioner of Assam,

To—The Deputy Commissioner, Cachar.

With reference to your letter No. 537, dated the 28th April 1904, I am directed to convey the sanction of the Chief Commissioner to an increase of Rs. 2 per month to the pay of the sweeper attached to your office.

No. 234.

No. 87Jails—2804J., dated Shillong, the 24th June 1904.

Memo. by—The Under-Secretary to the Chief Commissioner of Assam.

Copy of letter No. 87Jails—2803J., dated the 24th June 1904, with copy of the letter and enclosure to which it is a reply, forwarded to the Comptroller, Assam, for information.