

**MANX HERITAGE FOUNDATION ORAL HISTORY PROJECT
ORAL HISTORY TRANSCRIPT**

‘TIME TO REMEMBER’

Interviewee: Mr Henry Corlett and His Honour Deemster Jack Corrin

Date of birth:

Place of birth:

Interviewer: David Callister

Recorded by: David Callister

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Topic(s): *Mr Henry Corlett:*
Birching and method of administering
Glasgow and Scottish Fairs
His Honour Deemster Corrin:
The 1972 Anthony Tyrer case
Tywald debate on birching
Private hearing before Commission in Strasburg
Total opposition to birching by Louis Blom-Cooper
Isle of Man petition in favour of birching
Article 3 in Convention of Human Rights
Staged court case at King William’s College
Mass demonstrations in favour of retaining the birch

Henry Corlett - Mr C
His Honour Jack Corrin - HH JC
David Callister - DC

DC It's fair to say that most of these programmes tend to take us back to the first half of the twentieth century. But today we hear about events that were much more recent. For it was in the 1970s that the use of the birch in the Isle of Man became one of the stories of the decade. In England, Scotland and Wales judicial corporal punishment was abolished in 1948, and it ended in Northern Ireland in 1968. In the book entitled, 'Against Birching,' by the late Angela Kneale, there are, recorded, over 120 examples of the use of the birch or cane between 1952 and 1972. And 1972 was the crucial year which marked the beginning of the end of the practice. Someone who was closer than most to the use of the birch is the retired Police Constable Henry Corlett. From 1958 onwards he was frequently called on to administer the birch and to collect, during the winter, the slender branches required to make them.

HC Union Mills used to get the birch trees from ...

DC Oh, yea.

HC ... on the old railway line down there. And then you put it in there to dry off and then you made your own birch. It had to be a certain weight, a certain length, and was weighed properly, and Magistrates would examine it before and afterwards. That they made sure it was the right birch that you used.

DC Right. So they'd be quite thin branches?

HC Yea, yea, very thin. I don't think the whole lot would weigh about 12 ounces ...

DC Hmmm.

HC ... and it had a bit of plaster on it for a handle ...

DC Yea.

HC ... and you used to ... when you're giving the birch, that's what you used ...

DC Right.

HC ... and the Magistrate would be examine the birch, as I say, and the doc [doctor] would be in the room ...

- DC** A doctor?
- HC** ... would be present when it took place except one doctor who wouldn't go in – he stood outside ...
- DC** Oh?
- HC** ... and if he heard – if someone got six strokes of the birch, and he'd had about three, and he shouted – the doctor would knock on the door and say, 'right – that's enough!'
- DC** Oh really. And did the doctor have the right to stop you?
- HC** Yes, yea. So instead of getting six birch strokes, he might only get three ...
- DC** Hmmm.
- HC** ... of course, sometimes you never heard the doctor and he got an extra one.
- DC** Oh, right. Did the person being – what position was the person being birched in – were they bent over, were they upright?
- HC** They were bent over a chair, and there was a constable each side of them ...
- DC** Hmmm.
- HC** ... kind of held on each arm ...
- DC** Yes.
- HC** ... and ummm ...
- DC** Did some of them struggle?
- HC** Some of them did, yes. But there was two policemen in there that hold them, like ...
- DC** Hmmm.

- HC** ... and, in the early days you birched them with their trousers off ...
- DC** Yes.
- HC** ... and then latterly you birched them with their trousers on.
- DC** Oh aye.
- HC** And children got the cane – what they called the cane; which in my opinion was worse, more worse than the birch.
- DC** Was that on the backside as well?
- HC** Yea, on the backside, just one cane, I think, a teacher, schoolteacher had.
- DC** As they would get in a public school or whatever.
- HC** Yes, yea and I think that was more painful than the actual birch.
- DC** You don't know how painful the birch was, though, do you?
- HC** No, (*laughter*) no, I don't – but I've seen the marks!
- DC** (*laughter*) Right. When you were administering this, then, did you feel any guilt at all or you just thought it was just part of the job, was it?
- HC** No, because I must honestly say that everyone I birched certainly deserved it, because there were some very violent crimes committed by them.
- DC** A lot would be very young people, would they?
- HC** Yes, lots of them were very young, but they deserved what they got, I mean, it was no – I don't think any Judge or High Bailiff or whoever awarded a person that he didn't deserve.
- DC** Right.
- HC** But I never had any thought about it at all, because you knew what it was all

about. You knew what they had done and therefore you didn't think about it.

DC When you 'wheal' it then, what, you're coming from above shoulder height are you?

HC Yes, about – yes, about that high – above shoulder, above shoulder height.

DC And then you bring it down as powerfully as you can?

HC Yes, yea.

DC What's the reaction to the first stroke of it usually?

HC Well, they usually give a leap'ish jump or a shout or something like that ...

DC Yea.

HC ... and very rarely they ever got the full six strokes, or nine strokes or whatever it was ...

DC Right.

HC ... because the doc would always intervene if the person shouted out.

DC Yes.

HC Yea.

DC Did you ever get anybody – did you ever see anybody after they'd had the birch, who had – you know, said, 'Well, it did me good,' or anything like that?

HC Yes, several of them – at least half a dozen people have stopped me later on and more or less thanked me for giving them the birch.

DC *(laughter)* Really?

HC Yea – because it brought them to their senses ...

- DC** Hmmm.
- HC** ... and that's why I think they should never have done away with it, because it's a good deterrent if nothing else.
- DC** Yes.
- HC** Yea, oh aye.
- DC** Were you – you did most of the birching, then, but other officers did as well, did they?
- HC** Yes, oh yes, yes.
- DC** How often was the birch administered and a sentence of birching would you say, roughly, in a month?
- HC** Oh well, in the summer time, probably three or four times in a month.
- DC** Yea.
- HC** Yea. But it was nearly always visitors ...
- DC** Yes.
- HC** ... who were birched, more or less, an hour after they were sentenced to it.
- DC** This would be – a lot of this would be for thefts, would they?
- HC** No, they for crimes of violence – fighting in the street, grievous bodily harm – that type of thing.
- DC** We weren't supposed to be a place that had violence in those days, were we?
- HC** No, we had our share, but they were usually Scotch fair, those weeks, those Glasgow fairs and things like that ...
- DC** Yea.

HC ... and they got mixed up fighting in pubs and using bottles or attempting to use bottles and kicking people in the head and this sort of thing ...

DC Hmmm.

HC ... that's what they got the birch for. But the children only got the cane for stealing – theft and things like that.

DC Yea.

HC There was two lads came over from England and they broke into the Town Clerk's house in Ramsey, and they stole his wife's wedding rings and everything was on the ... while they were asleep ...

DC Right.

HC ... and they got six strokes of the cane each ...

DC Yea.

HC ... but it was nearly all for violence – nothing else. One example was a grandfather sitting opposite *The Queen Hotel* on the beach with his grandson. And he was sitting in the sunshine reading the paper and a football hit him in the face and broke his glasses. And with that he said to them, 'Would you mind taking the football down to the water's edge?' And with that, they tipped him out of the deckchair and they hit him across the face with the deckchair. And the little boy, his grandson, tried to help him and they gave him a hiding, too.

DC Hmmm, right.

HC Well, they got nine strokes of the birch each ...

DC Right.

HC ... and they were Scotch chaps, and they deserved every bit of it, because they broke the man's glasses in the end and blacked all his face – his eyes were black and blue.

DC Did you ever think of any cases where you thought, well, this fellow shouldn't be birched, or anything?

HC No. I must say, I never met anybody like that.

DC It only happened to men, I take it, did it?

HC Oh yes, only men, yea, yea.

DC So, you've cut these birches, they've been left to cure, to harden I suppose – they're not treated with anything, presumably?

HC No, no, no – just to dry out.

DC You go in, you do the birching – how many people would one birch, birch, then?

HC Just the one person, then the birch was destroyed then.

DC Was it?

HC Yea.

DC Had it broken to a shred?

HC Well, more or less, yes, 'cos they're only very thin twigs, actually ...

DC Yes.

HC ... in fact, to be perfectly honest, I don't think they hurt them very much.

DC In 1972 a Castletown youth named Anthony Tyrer was among a number of boys sentenced to birching. But an appeal, which eventually led to the European Court of Human Rights, ultimately ended our use of judicial corporal punishment. Deemster Jack Corrin was the Island's Attorney General at the time and he has vivid recollections of the event of three decades ago when the Isle of Man found itself in the international spotlight.

HH JC Yes, that's correct, and there was a specific case – the Tyrer case – as you mention, which was in 1972, and this involved a young chap who was charged with assault occasioning actual bodily harm to a senior pupil at this school. And he was caned by the master of the school for taking beer into the school. And then, later on, they sought their revenge and attacked the senior pupil who was badly assaulted and as a result this lad was brought before the Court, the Magistrate's Court, and he was ordered to be birched.

DC Now he was ordered, as I see it or read it, three strokes of the birch, whereas the other boys were to have five. And three of the four boys actually received the birch sentence, but the Tyrer case, in the case of Anthony Tyrer, things changed very differently for the Isle of Man.

HH JC Yes, that's correct, and the reason, the reason why, the reason why it was Tyrer's case was that, under the Convention of Human Rights, which applied to the Isle of Man, you are not entitled to take a case to the European Court of Human Rights until you've exhausted all the remedies in your own country ...

DC Hmmm.

HH JC ... and therefore, in Tyrer's case, it was necessary for him to appeal to the Court of Appeal in the Isle of Man and to have his appeal heard, before he would have any chance of taking the case to Europe. And therefore the people who were responsible for taking the matter to Europe knew this, and they arranged through the National Council for Civil Liberties in London for an appeal to be lodged on this young man's behalf. I mean, it wasn't really at the will of the young man at all, it was really the National Council who were doing it, and they were in touch with his parents, and they were persuading his parents to go ahead with it, and I think, probably at the time, told the parents they'd probably get compensation as well for what was happening to him, so the parents willingly signed their names to the form, and as a result, the matter went to the Court of Appeal in the Isle of Man. The Court of Appeal dismissed the appeal, and so the sentence was carried out. That's what they wanted 'cos they'd then exhausted all their local remedies and they were able to take the case then to the European authorities.

DC Well, I take it that Angela Kneale and a number of other people who were really active on this were essential in the persuasion of taking this to Europe, were

they?

HH JC Yes, they were entirely responsible, and they were in touch with the National Council in London, and at the time, the lady who was running the National Council at the time, I think was Patricia Hewitt, who is now Trade and Industry Secretary. She was a young lady in those days, just qualified as a lawyer, and I think she was secretary in London, they were in touch with her, they knew the rules, they knew how to go about it, 'cos not many people at that time had been to the European Commission ...

DC Hmmm.

HH JC ... in fact, we were one of the first – ours was one of the first cases to be heard in the European Court, in fact ...

DC Yes.

HH JC ... so it was only certain people who knew the rules, and it was the NCCL [National Council for Civil Liberties] in conjunction with the people in the Isle of Man who were carrying on the campaign against birching.

DC Well, the incident occurred in 1972 – it wasn't, in fact, until 1978 that it was heard by the European Court where you were, of course, present, representing the Isle of Man as Attorney General. But in the meantime, Tynwald had debated the birching issue and decided it should be retained, and that happened, I think, in 1976.

HH JC Yes – you're not quite right there. The fact is that the set-up of the European Convention of Human Rights, there are two – there's a two-strata society out there – you've got the European Court of Human Rights and the European Commission of Human Rights, and initially, applications go to the European Commission of Human Rights, and this particular case went to the European Commission of Human Rights in 1975. And it was considered by the Commission in 1975 and there was a full Hearing in private before the Commission in Strasburg in October 1975, which I attended and I addressed the European Commission in private ...

DC Right.

HH JC ... and we had to wait from 1975 – October 1975 until '76 to get the result of that verdict and the result was that they felt, on the preliminary view, that birching was contrary to the Convention on Human Rights ...

DC Right.

HH JC ... and that was notified to the Isle of Man in 1976.

DC But then it moved to the European Court after that.

HH JC Well, it did – not immediately – what happened then was that under the rules and regulations of the European Human Rights Court, you then had to enter a period of friendly settlement, or attempted friendly settlement. And so in '77 I went to London two or three times to meet the European Judges with provisions for friendly settlement. So, for example, I suggested that we might be able to carry on with the birching but subject to different considerations, for example, not taking – not having to take your trousers down, but leaving your trousers on, things like that. We came up with one or two ideas, and we put these forward to the European Court and said, 'How about this and how about that – would you allow it in those circumstances?' And this went on during the whole of '77, but by '78 – by, I think, the end of '77, it was obvious that they weren't going to accept this and they then moved the whole thing into the European Court, and the European Court Hearing was in January '78, but as regards Tynwald, the whole matter was debated in Tynwald, well, several times, but there was a major debate in Tynwald in the latter part of '77, before – with the full knowledge that I was going to Strasburg in '78 when the case was going to be fully heard ...

DC Yes.

HH JC ... and the debate in Tynwald, well, it was a very lengthy debate indeed, it lasted all day, everybody took part, and at the end of it, the vote was, I think it was unanimous but one, if that's ...

DC Yes. (*laughter*)

HH JC ... I think the late Jack Nivison held out to the end and I think he was probably the only one who voted against. Otherwise it would have been a unanimous

decision.

DC 'We want to keep the birch,' they were saying.

HH JC Yes, absolutely ...

DC Yes.

HH JC ... and it was my job as Chief Law Officer of the Isle of Man to do what my Parliament wanted me to do, and to obey their dictates, and so I had a very clear notion of what I had to do.

DC So this, then, took you to the European Court together with Louis Blom-Cooper who was representing the United Kingdom.

HH JC That's right, yes, the situation in the European Court was that the Isle of Man really had no status there, it was only the United Kingdom that was permitted to appear there, so I was part of a United Kingdom team, I was really part of the United Kingdom team although I, myself, was representing the Isle of Man. It was a very usual position.

DC You were in conflict with the UK view, of course.

HH JC I was, I was in conflict, and Louis Blom-Cooper, who was representing the Foreign Office – he had been given his script. He'd been given his script by the Foreign Office as to what he had to say, and basically, what he had to say was, 'I represent her Majesty's Government of the United Kingdom, her Majesty's Government is totally opposed to birching, judicial corporal punishment as it was known, we have no countenance for it, but this fellow on my left, from the Isle of Man, the Attorney General for the Isle of Man, we've allowed him to come here as part of our team, we disagree entirely with what he's saying, or going to say, but we're going to allow him to put the case for the Isle of Man to the European Court, and allow you to listen him.'

DC Did you think you had a strong case?

HH JC Yes, I think I thought I had a strong – I thought I had a strong case, but I knew what I was up against, because, when you think that none of the countries that

were represented in the European Court, and they were countries such as Norway and Sweden, countries like that, had ever heard of birching – they'd never had it in their cultures.

DC No.

HH JC There are very, very few countries that have, and so it was quite foreign to their attitude, and so you were really up against the culture of it from the start.

DC While this was going on, of course, the Isle of Man was in a fury about the whole situation, weren't they? I mean, there was a petition where, I think, they collected over 30,000 signatures in favour.

HH JC Yes, yes, took that petition to Strasburg, that was one of the weapons I took to Strasburg, because in the Convention of Human Rights, there's reference to local conditions, and I put that forward as a point of view that the local conditions in the Isle of Man where there was an absence, in those days, I'm glad to say, an absence of violence, I was able to try and attribute this to local conditions of the Isle of Man, that we were a small Island and that this would be a reason for allowing us to continue and not be in breach of the Convention of Human Rights.

DC Apart from that argument, did you have any other main grounds for the Isle of Man case?

HH JC Well, the main, the main defence for the Isle of Man was that it was a deterrent. I think we all know that in the period that we're talking about when thousands of people came to the Island on holiday, the Isle of Man was known as a place where if you really got into trouble you were liable to get the birch. I don't think it was carried out a great number of times, but everybody knew that that was the, that was the ultimate thing, and people were known to come off the police and say to the police, 'Have you still got the birch here?' and all that sort of thing. And so my principal argument in Strasburg was that it was a deterrent. The fact that it was on the statute book, that it might be carried out, was a deterrent against violence. And I took with me, not only the petition, but all the statistics on violence over the years in the Isle of Man – violent crimes – to show how peaceable the Isle of Man was. And I attributed that – or attempted to attribute that to the fact that we had this on the statute book.

DC Yes, yes. Now the Article in the European Court on Human Rights, Article 3, was the, was the specific documentation that we are talking about here. What is, what is that Article, and where does it define the resultant ruling here?

HH JC Well Article 3 is a very, very short Article in the ... umm, in the Convention. It's just one line – it says, 'No one shall be subjected to torture, or to inhuman or degrading treatment or punishment.'

DC Well this 'degrading' treatment or 'inhuman or degrading treatment' was, was one of the main arguments because in the United Kingdom, corporal punishment in schools was, was regularly performed at the time, caning went on in schools here in the Isle of Man. It was never considered in a British view point to be degrading, was it?

HH JC No, it never was. But of course the European people took a different view and they held that judicial punishment, birching, was institutionalised violence. And although the applicant did not suffer any severe or long lasting physical affects, his punishment constituted an assault on precisely that which Article 3 was to protect, namely a person's dignity and physical integrity.

DC Louis Blom-Cooper, then, was he, was he quite a tough opponent for you?

HH JC Umm, well he had, he had his script written for him, as I said before, and he had to stick to that script. The thing that I was unhappy about with him was, that, when I first met him he said, the first thing he said to me was, 'Of course, you realise that I totally oppose, I totally oppose what you're, what you're proposing to do.' And by that I meant that he personally was against corporal punishment, I wondered how he knew that I was in favour of corporal punishment, because I was there representing my Government. And it was irrelevant to me whether I was in favour of corporal punishment or not.

DC Did you make that point to him?

HH JC Ummm, oh no, no, I didn't make that point to him. But it brings to mind a story which I think I can tell at this stage that, before all this happened, I was approached by the principal of King William's College to see whether I would perform a court case at King William's College for the boys on the birching debate, so that – as an Advocate, this was when I was an Advocate. And they

also asked a colleague of mine, the late Mr Eric Teare whether he would represent one side and I would represent the other. So we met together, Mr Teare and I, and he said, 'Which side are you going to take for the birching – are you for or against?' I replied, 'I don't mind – what do you want to do?' And he said, 'Well, let's toss for it.' So we tossed a coin and it came down in favour of Mr Teare and he said, 'I'll be for it.' And I said, 'Well I'll have to be against it.' So we went down to King William's College, we had a wonderful evening, we called witnesses, and at the end all the boys voted on it and they all voted by a big majority in favour of birching, so I lost my case very badly and that was the end of that, and then a day or two later I had a telephone call from all the anti-birch people – the late Angela Kneale and all those people, wanting to come to my house to see me. And they came to the house and they told me they seemed to think that I was entirely against birching and that I was going to take up the cause for them. So of course I had to tell them that I didn't have any special views; that I was simply appearing at King William's College as an Advocate.

DC *(laughter)* Yes. At that time, then, you didn't have any personal views then did you – or what?

HH JC No, I don't think I did, because, as I've just said, also I was representing Tynwald ...

DC Yes.

HH JC ... and Tynwald were virtually unanimous.

DC You had to take their view as the AG [Attorney General].

HH JC Yes, yes, mmm.

DC Yes. Well then, the, the – how many Members were there on this Court – there was quite a few of them, wasn't there?

HH JC Yes. It wasn't the full Court, it was what we call the Chamber of Judges and there were seven Judges in my case. One of them was the English Judge – that is the rule, because the defendant, of course, was the United Kingdom Government, and therefore they had to have one English Judge on, but the

President was an Italian. But in the European Court they speak in English and French, so there was no problem with that.

DC No problem with language, no. How long did the European – this particular Court, then, take to come to a judgement?

HH JC I think we were there in January 1978 and we got the judgement roundabout the April 1978. The Court actually held that the punishment inflicted on Tyrer did attain the level of humiliation inherent in the notion of degrading punishment within the meaning of Article 3. But they specifically held that it was not inhuman treatment and it was not torture.

DC Now when you'd referred there to – was it Fitzmaurice? Wasn't he one that differed from the other Members?

HH JC Yes, yes. Out of the seven Judges it was – the judgement was by six to one and on this occasion it was the English Judge, Fitzmaurice, who gave a dissenting judgement.

DC I mean, he saw nothing wrong with birching as such, then.

HH JC That's right, yes. Well, of course, he was English and it was England where they carried it out until 1948. The other people, Italy and Norway and the other Judges – I think Malta as well was the other one, they'd never had corporal punishment there, they'd never heard of it.

DC Here you're in a situation, then, where you're coming back from this European Court pretty well assuming that you've lost your case. In the Isle of Man, the public is seething, isn't it?

HH JC Oh, absolutely, there was a huge demonstration on the day that I was appearing in the European Court. Douglas was packed with people, the MHKs were all outside of Tynwald and there are amazing photographs in *The Examiner* that week.

DC Yes. You've kept a lot of these cuttings, of course.

HH JC Yes, showing the crowds and there's one of Prospect Hill – well, the estimate is

about 4,000 people. They've all got placards – 'No Birch, No Discipline, No Way,' and so on. 'No Birch, No Discipline,' 'Don't just stand there, join us – protect your heritage!'

DC Yea, it really was a time where the vast majority of the population were in favour of birching. And of course, it spread, not only to our newspapers, but to UK and international press, as well, didn't it?

HH JC Oh, yes, yes. It was something that was interesting throughout the world, particularly in America. I got a tremendous amount of correspondence from all parts of the world at the time, but as you rightly say, I was on a hiding to nothing going out to Strasburg, considering what the people felt in the Isle of Man. So I was really quite relieved when I, when I read the press – the national press on the 18th January, particularly *The Telegraph* and *The Mail* where I got a very good write-up, so at least the local people knew that I'd put up a – even if I was going to lose the case – I'd put up a good show.

DC Yes. Well, *The Telegraph* says, 'Spirited defence of birching by Manx Attorney General,' in quite big letters there.

HH JC Yes, I was very grateful to them, and also in *The Mail*, they said, 'The Isle of Man yesterday denied that birching is degrading and claimed that it would be the utmost folly to abolish the punishment. The Manx Attorney General told seven Judges at the European Court that birching is a major factor in preventing crimes of violence, and he said that Judges should bear in mind that the Island was a stable and peaceful community where law and order is under complete control. We were part of the Convention and we had to abide by the terms of the Convention, we elected to join the Convention and we became bound by it and the United Kingdom was in breach of the obligation under the Convention and therefore we had to abide by it.'

DC Would the – would there have been an instruction to the Magistrates and to other advocates and so on, not to apply this punishment then?

HH JC There wasn't an instruction as such, but they were handed a copy of the judgement of the European Court, and that was really sufficient.

DC Yes.

HH JC And so after that there was a long period of silence until one day a bench of Magistrates actually purported to impose the punishment again, although it was contrary to the Convention. And, of course, there was quite a kafuffle about that and eventually the defendant, before the birch was carried out, was persuaded to appeal against the decision and it went to the Appeal Court, and of course the Appeal Court did not allow the punishment to take effect. Although, at the time, the – I have to say – at the time the defendant, who I think was someone who had come from Scotland on holiday, asked to see whether he could be birched by the Court of Appeal, so it put the Court of Appeal in a very embarrassing situation when he wanted to be birched and yet they knew that they wouldn't dare carry it out because they would be in breach of their international obligations.

DC Yes. Well, we referred earlier to 30,000 signatures on a petition that you took to Strasburg. Today the situation in the Isle of Man is very different. Do you suspect that a petition would strike up as many signatures now as it did then in favour of birching?

HH JC Oh, I don't think so, no, I think, I think this was just something that happened in the 1970s which hit the Island and I think, at the time, we felt very nationalistic about it, that we ... why should Europe interfere with our local affairs here in the Isle of Man. We've come a long way since then, we all know about European law and that we are all now part of the European nations and I think it is something that happened thirty years ago and its passé.

DC Deemster Jack Corrin recalling momentous times for the Isle of Man. Though long after the Strasburg decision people were still calling for the restoration of the birch. But there's one missing statistic from our programme. As we heard, Jack Corrin was able to produce a petition with 30,000 signatures calling for the retention of birching. The anti-birch lobby of that time could only muster 3,000 names.

END OF INTERVIEW