Educational (1896) Department.

ORDINARY PRINTED.

G.O., No 21

Dated 15th Jany 1896

INDEXED.

[Despatch Abstract.]

JUVENILE OFFENDER.

Forwarding, with remarks, to the Director of Public Instruction the opinion of the Advocate-General regarding the over-detention of a -- in the District Jail of Tanjore.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Govt. of {1896} Madras.

EDUCATIONAL.

21

15th Jany 1896

Issued

Recd. *Encl.*

G.O., No. 21, 15th January 1896.

JANUARY.

Juvenile Offender.

Forwarding, with remarks, to the Director of Public Instruction the opinion of the Advocate-General regarding the over-detention of a — in the District Jail of Tanjore.

No. 21, Educational, 15th January 1896.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

Read—the following papers:—

From the Hon'ble Mr. D. DUNCAN, M.A., D.Sc., Director of Public Instruction, to the Chief Secretary to Government, dated Madras, 6th December 1895, No. 13071.

I have the honour to submit for the orders of Government the following case of a juvenile convict transferred to the Reformatory School, Chingleput, ten days after the expiry of his judicial term of imprisonment.

2. One Kuppuswami Chetti *alias* Balaswami Chetti, aged thirteen years, was sentenced by the Secnd-class Magistrate of Kumbakónam on the 23rd January 1895 to 6 weeks' rigorous imprisonment and 24 stripes. He was accordingly admitted into the District Jail, Tanjore, on the 26th January 1895. The above magistrate's orders were then appealed against, but the orders of the Appellate Court confirming the sentence of the committing magistrate were communicated to the Superintendent, District Jail, Tanjore, on the 5th March 1895, on which date the term of imprisonment of Kuppuswami Chetti expired. Meanwhile the Superintendent of the jail addressed the First-class Deputy Magistrate, Tanjore Division, on the 30th January 1895, under section 8 of the Reformatory Act, No. V of 1876, with a view to the juvenile in question being transferred to the Reformatory school. This magistrate, who inspected the boy on the 8th February following, passed orders only on the 1st March directing his detention in the Reformatory School, Chingleput, for a period of five years. This order seems to have reached the Superintendent of the district jail on the 2nd March, but the boy was not sent to the Reformatory immediately pending the result of the appeal, which, as stated above, was communicated to him on the 5th idem on which date Kuppuswami Chetti was whipped, and as under the rules of the Jail Department prisoners who have been whipped should not be transferred to any place until they are found fit to stand the journey, the juvenile was detained in the district jail until the 15th March 1895 and received into the Reformatory School, Chingleput, on the following day.

3. I now beg to enquire—

(1) whether it is in keeping with the spirit of section 7 of the Reformatory Act that a juvenile should be detained in a Reformatory school after he had once been subjected to punishment under the orders of a magistrate, or, in other words, whether detention in a Reformatory is not an alternative to imprisonment or any other form of punishment inflicted on a juvenile offender; and

(2) whether the Superintendent of the District Jail, Tanjore, was right in detaining Kuppuswami Chetti in the jail after the orders of the deputy magistrate directing his transfer to the Reformatory had reached him.

4. The whole correspondence on the subject is herewith submitted for reference and favour of return when done with.

From the Government Solicitor, dated 21st December 1895, No. 747.

Abstract.—Forwarding the following opinion of the Advocate-General, dated 20th December 1895:—

Opinion.

1. Act 29 and 30 Vict., C. 117, which repealed the earlier statutes on the subject of Reformatory schools, declared that any Court, Magistrate or Justice before whom a person, under the age of sixteen, is convicted and sentenced to receive punishment to the extent of ten days' imprisonment at the least, may direct that *at the expiration of*

such period of confinement the offender shall be sent to a Reformatory school *for a further period* of not less than two, or more than five, years (S. 14); but if the offender is under the age of ten, then, in order that he must be so dealt with, the sentence must be at the assizes or quarter sessions; or else, he must have been previously charged with some crime punishable with penal servitude or imprisonment (S. 14).

2. The object of Act V of 1876 as declared in the Statement of Objects and Reasons annexed to the Bill is "to establish in British India institutions which, so far as regards males, may serve the combined purposes of the Reformatory and the Industrial schools so successfully carried on in England under 29 and 30 Vict., C.C. 117, 118."

3. The Act provides for two classes of cases in sections 7 and 8, respectively—

(1) The Court which sentences a youthful offender to transportation or imprisonment may direct that, instead of undergoing his sentence, he shall be sent to a Reformatory school.

(2) The officer in charge of the jail in which a youthful offender is confined may bring him before the magistrate within whose jurisdiction such jail is situate and such magistrate may direct such offender to be sent to a Reformatory school.

In both cases the detention in such school shall be for not less than two years and not more than seven years and shall be in conformity with any rules made under section 22 and for the time being in force.

In exercise of the powers conferred by section 22 the Governor-General in Council made the following rule *: —"No boy shall be sent to a Reformatory school if under ten years of age for a less period than seven years; if over ten years of age for a less period than five years unless he shall sooner attain the age of eighteen years," beyond which age he cannot be detained in the school (S. 10).

* Notification of the Government of India, Home Department (Judicial), dated 30th June 1887, No. 1076.

4. Detention in a Reformatory school is not a substitute for imprisonment in a jail, except in the special case provided for in section 7 of Act V of 1876. The maximum and minimum periods of detention are fixed by the Act without any reference to the period of imprisonment awarded by the sentence of the Criminal Court.

5. With regard to the second question put by the Director of Public Instruction in paragraph 3 of his letter, No. 13071, dated 6th December [Current No. 1439], the cause of the delay in sending Kuppuswami Chetti *alias* Balaswami Chetti to the Reformatory is explained by the Superintendent of the District Jail, Tanjore, in his letter to the Deputy Magistrate, Tanjore Division, No. J—620, dated 27th July 1895. *Imprisonment* does not appear to have been thereby extended, though, of course, the offender was actually detained in the jail until he was fit to be removed to the school.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—No. 21, Educational, dated 15th January 1896.

The Advocate-General's opinion will be communicated to the Director of Public Instruction for information and guidance.

2. The Superintendent of the District Jail, Tanjore, should not have taken action under section 8 of the Reformatory Schools Act until the appeal time had expired. His attention should now be drawn to paragraph 3 of G.O., No. 1995, Judicial, dated 21st November 1889.

(True Extract.)

Chief Secretary.

To the Director of Public Instruction.
" Inspector-General of Prisons.

Exd. A. Raitt.

CURRENT N 1439

1p

Office of the Director of
Public Instruction,
Madras, 6th December 1895.

No. 13071

From

The Honorable Mr. D. DUNCAN, M.A., D.Sc.,
Director of Public Instruction,
Madras,

To

The Honorable The CHIEF SECRETARY TO GOVERNMENT,
Fort St. George.

Sir,

I have the honour to submit for the orders of Government the following case of a juvenile convict transferred to the Reformatory school, Chingleput, ten days after the expiry of his judicial term of imprisonment.

2. One Kuppuswami Chetti alias Balaswami Chetti aged 13 years was sentenced by the 2nd class Magistrate of Kumbakonam on the 23rd January 1895 to Six weeks rigorous imprisonment and 24 stripes. He was accordingly admitted into the District Jail, Tanjore, on the 26th January 1895. The above Magistrate's orders were then appealed against, but the orders of the Appellate Court confirming the sentence of the Committing Magistrate

Ed. Cor.
15 (b) 1,500—17-11-94.

gistrate were communicated to the Superintendent, District Jail, Tanjore, on the 5th March 1895, on which date the term of imprisonment of Kuppuswami Chetti expired. Meanwhile the Superintendent of the Jail addressed the First class Deputy Magistrate, Tanjore Division, on the 30th January 1895 under Section 8 of the Reformatory Act No. V of 1876 with a view to the juvenile in question being transferred to the Reformatory School. This Magistrate who inspected the boy on the 8th February following passed orders only on the 1st March directing his detention in the Reformatory School, Chingleput, for a period of five years. This order seems to have reached the Superintendent of the District Jail on the 2nd March, but the boy was not sent to the Reformatory immediately pending the result of the appeal, which, as stated above, was communicated to him on the 5th idem on which date Kuppuswami Chetti was whipped, and as under the rules of the Jail Department prisoners who have been whipped should not be transferred to any place until they are found fit to stand the journey, the juvenile was detained in the District Jail until the 15th March 1895 and received into the Reformatory School, Chingleput, on the following day.

3. I now beg to enquire

(1) whether it is in keeping with the spirit of Section 7 of the Reformatory Act that a juvenile should be detained in a Reformatory School after he had once been subjected to punishment under the orders of a Magistrate or in other words, whether detention in a Reformatory is not an alternative to imprisonment or any other form of punishment inflicted on a juvenile offender

& (2) whether the Superintendent of the District Jail, Tanjore, was right in detaining Kuppuswami Chetti in the Jail after the orders of the District Deputy? Magistrate directing his transfer to the Reformatory had reached him.

But the Supdt. should not have moved the Dy. Magistr to pass the order of transfer until after the appeal had been disposed of. See G.O. 2 Sept 91. No 1761.

4. The whole correspondence on the subject is herewith submitted for reference and favour of return when done with.

I have the honour to be,
Sir,
Your most obedient Servant

D Duncan

Director of Public Instruction

CURRENT No. 1439

Edl

From
The Director of Public Instruction
Madras

To
The Hon'ble The Chief Secretary
to Government
Fort St George

DESPATCHED
9 [illegible] 1895

835 – 30-4-91
Reformatory file

No. 13071
Dated 6th Dec: 1895
Despatched 9th Do
Enclosures 4
Recd 10 } 12-95
Regd 12 }

CHIEF SECRETARY
10 DEC 1895
GOVERNMENT OF MADRAS
23 DEC 1895

Subject
Submitting for orders of Govt the case of a Juvenile offender who was detained in the District Jail, Tanjore, and transferred to the Reformatory School, Chingleput, ten days after the expiry of his judicial term of imprisonment

---

C.

Endorsement No. 3016.

Referred to the Advocate General for favour of opinion

(By order)
W. Francis
Ag. Under Secretary

[illegible] 13/12/95

Fort St. George
17th December 1895

[illegible] 13/12/55

TO BE RETURNED
WITH REPLY.

1895.
Edl Dept
Enclos. No. 2
To
C. No. 1509

To The Govt. Solr
with papers in orig. to be retd. & copies of G.O.s 23-7-87. No 1616
— 30-4-91. No 835
— 2-9-91. No 1761

Current No. 1509

Educational (1895) Department

From
Ernest Barclay
Government Solicitor
Madras

To
The Chief Secretary
to Government
Madras

CHIEF SECRETARY
23rd DEC 1895
GOVERNMENT OF MADRAS

No. 747

Dated 21st Decr 1895
recd
Regd 2nd January 1896.
Enclos — 2.

Forwarded with enclosures with reference to the Order of Government dated 17 Decr 1895. No 3016. Judicial Department.

Ernest Barclay
Government Solicitor

Vide chap. 29 & 30 – R O for the statement of [illegible] + Accounts (Annex 2)
[illegible] Indian Rept. 1076 ✓ 30 [illegible]
~~[illegible]~~
1113–14–25
1116–25 7–87 [illegible]
~~[illegible]~~ Reformatory file ✓
6/1/96

1/8/75 No. 19 L C Judl
22/12/76 Do 99 & 101 [illegible] Judl

H. M. 5 P

C. Nos 1439 & 1509.

Order
P. S. No. 21 d/ 15 Jany 96 13/1/96

The Advocate Genl's opinion will be comd. to the D. P. I. for information & guidance.

2. The Supt. of the Dt. Jail, Tanjore should not have taken action under sec. 8 of the Reformatory Schools Act. until the appeal time had expired. His attention should now be drawn to para 3 of G. O. of 21 Novr. 89. No 1995. Judl.

W. Raig 9/1/96

[illegible] 10/1/96.

[illegible] 7/1/96.

× Printed in G. O. 2 Sep. 91 No 1761.

To the D. P. I. }
~~Supdt. Jail~~ [illegible] (with copy) } 4 [illegible]
~~I. G. of Prisons~~ }
6

CM/1

Despd
28/1/96

Opinion

1 Act 29 and 30 Vict C. 117 which repealed the earlier statutes on the subject of Reformatory Schools, declared that any Court, Magistrate, or Justice before whom a person, under the age of sixteen, is convicted and sentenced to receive punishment to the extent of ten days imprisonment at the least, may direct that at the expiration of such period of confinement the offender shall be sent to a reformatory School for a further period of not less than two or more than five years (S. 14); but if the offender is under the age of ten, then, in order that he must be so dealt with, the sentence must be at the assizes or quarter sessions; or else, he must have been previously charged with some crime punishable with penal servitude or imprisonment (S. 14)

Vide 7 S. L. Gaz. VII part ofs, paper marked) with red tape

2 The object of Act V of 1876 as declared in the Statement of Objects and Reasons annexed to the Bill is "to establish in British India institutions which, so far as regards males, may serve the combined purposes of the Reformatory and the Industrial Schools so successfully carried on in England under 29 and 30 Vict C. C. 117, 118"

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In both cases the detention in such School shall be for not less than two years and not more than seven years, and shall be in conformity with any rules made under Section 22 and for the time being in force.

In exercise of the powers conferred by section 22 the Governor General in Council made the following rule (a)

"No boy shall be sent to a Reformatory "School if under 10 years of age, for a less "period than 7 years; if over 10 years "of age, for a less period than 5 years, "unless he shall sooner attain the age "of 18 years" beyond which age he cannot be detained in the School (S-10)

(a) Notification of the Govt. of India Home Department, Judicial 30 June 1887 No 1076 in G.O. d 23-7-87 1616. Judl

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Madras ------- }
20th December 1895 }

J. H. Spring Branson
Advocate General

(True Copy)

Ernest Barclay
Govt. Solr.

1895
Edl
Enclos. No 1
To
O. No 1509

30l

Proof for U S
24/1/96

No. 21, EDUCATIONAL, 15TH JANUARY 1896.

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(True Extract.)

Chief Secretary.

To the Director of Public Instruction.
" Inspector-General of Prisons.

Exd. A. Raitt.

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* Notification of the Government of India, Home Department (Judicial), dated 30th June 1887, No. 1076.

Govt. of {1896} Madras.

EDUCATIONAL.

Issued

Recd. *Encl.*

G.O., No. 21, 15th January 1896.

JANUARY.

Juvenile Offender.

Forwarding, with remarks, to the Director of Public Instruction the opinion of the Advocate-General regarding the over-detention of a — in the District Jail of Tanjore.

First copy sent to Press.

Returned for signature.

Despatched in print.

NUMBER OF COPIES REQUIRED. { Order complete. 38
Letter only.
Order complete with Letter.

READ AGAIN G.O., No. DATED
189

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT .. .. ..

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—

A = Print in full.
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Q = Print heading only.