

Educational (1906) Department.

ORDINARY PRINTED.

G.O., No. 377

DATED 30.5.06.



[Despatch Abstract.]

Reformatory Schools Act. Stating that the Government do not think it necessary to take legal advice as to the meaning of Section 32 of the — and that the Local Govt have power under the Act to pass such orders as ~~would~~ prevent the consequences of a subsequent conviction from being prejudicial to the character and career of the pupil ~~concerned~~ admitted into the School.

BACK PAPERS.

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

FURTHER PAPERS.

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

Government of Madras.

EDUCATIONAL DEPARTMENT.

Recd.

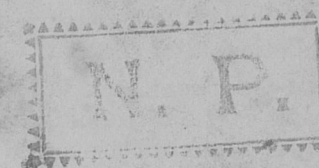
Regd.

} 1906.

Enclosures

Spare copies

G.O., No. 377, 30th May 1906.



Reformatory Schools Act.

Stating that the Government do not think it necessary to take legal advice as to the meaning of section 32 of the — ; that the scope of that section is not restricted to offences committed by a juvenile offender after his admission into the school; and that the power conferred upon the local Government to pass such orders as the circumstances of each case require is sufficient to prevent the consequences of a subsequent conviction from being prejudicial to the character and career of the pupil convicted.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following paper:—

Letter—from the Hon'ble Mr. A. G. BOURNE, D.Sc., F.R.S., Director of Public Instruction.

To—the Secretary to Government, Educational Department.

Dated—Madras, the 4th May 1906.

No.—Ref. on Cur. No. 3255.

I have the honour to submit for the orders of Government the following communication from the Superintendent, Reformatory School, Chingleput:

"I have the honour to report that pupil No. 695, Baba *alias* Ibrahim, who was admitted here on 15th November 1905, was taken before the Second Presidency Magistrate, Madras, on the 20th instant to be examined as an accused in a case of theft committed by him prior to his admission into the school. He has been convicted and sentenced to six months' rigorous imprisonment and sent to jail under section 32 of the Reformatory Schools Act VIII of 1897.

"2. It is greatly to be regretted that a boy having once entered this school should again be called upon to answer a charge and be sent to jail on that account. It appears to me that the provision in section 32 of the Act applies only or should apply only to the conviction of offences committed by the pupils after their admission into the school and during their stay here. This is the first case in which a pupil of this school has been convicted and sent to jail for an offence committed by him before coming here and which was subsequently investigated and brought home to him. It is, I think, desirable to ascertain from the legal adviser to Government whether it was or was not the intention of the legislature to exclude offences of the latter kind from the operation of section 32 of the Act.

"3. The boy will most probably be sent back to the Reformatory and as it is extremely objectionable that a boy's course of training here should be broken up and undone by a period spent in jail for an offence committed before his admission, I request that you will be pleased to bring the matter to the notice of Government for such action as you may think necessary."

Order—No. 377, Educational, dated 30th May 1906.

The Government do not think it necessary to take legal advice as to the meaning of section 32 of the Reformatory Schools Act. There is no reason to suppose that its scope is restricted to offences committed after admission into the school, and the power conferred upon the local Government to pass such orders as the circumstances of each case require is sufficient to prevent the consequences of a subsequent conviction from being prejudicial to the character and career of the pupil convicted.

(True Extract.)

A. BUTTERWORTH,
Ag. Secretary to Government.

To the Director of Public Instruction,
Judicial Department.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O., No. 377, EDUCATIONAL,
DATED 30TH MAY 1906.

[SUBJECT.—*Regarding the conviction of a juvenile offender for an offence committed by him prior to his admission to the Reformatory School, Chingleput.*]

From the Director of Public Instruction, dated 4th May 1906, No. 3255.

Orders have already been issued in the Judicial department, directing that the boy Baba *alias* Ibrahim be sent back to the Reformatory as soon as possible—*vide* G.O., No. 731, Judicial, dated 30th April 1906.

2. This is the first case in which a pupil of the Reformatory School has been convicted and sent to jail for an offence committed by him before his admission into the Reformatory school. The Superintendent of the Reformatory School holds that section 32 of the Reformatory Schools Act VIII of 1897, has application only in the case of offences committed by the pupils, after their admission into the school and during their stay there. He suggests that it is desirable to ascertain from the legal adviser to Government whether it was or was not the intention of the legislature to exclude offences committed by the pupils prior to their admission into the school, from the operation of section 32 of the Act.

Orders are solicited.

P.K.M.—8-5-06.

Please see the notes with G.O., No. 731, Judicial, dated 30th April 1906. The point now raised by the Superintendent was not considered therein, nor does there seem to have been any need for it.

2 The Superintendent of the Reformatory School thinks that "the provision in section 32 of the Act applies only or should apply only to the conviction of offences committed by the pupils after their admission into the school and during their stay there". Section 32 however seems to be quite clear. It says "when a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court". It does not say "when he again commits an offence and is convicted." The conviction may therefore apparently be for offence previously committed.

3. In these circumstances it is for consideration whether any reference to the Advocate-General is necessary.

P. T. THARYAN—11-5-06.

C. A. SOUTER—12-5-06.

To the Judicial department for remarks.

JUDICIAL DEPARTMENT.

There was a good deal of discussion in connection with the framing of section 32 of the Reformatory Schools Act, 1897. The following extracts will reveal what the intention of the legislature was in the matter referred to by the Superintendent of the

Reformatory School, viz, the desirability of sending to jail, a juvenile once admitted into the Reformatory, to undergo a sentence awarded for an offence committed before his admission to the Reformatory :—

(1) *Clause 32 of the Reformatory Schools Bill (as introduced).*—"32. To section 397 of the Code of Criminal Procedure, 1882, the following paragraph shall be added, namely :
"For the purpose of this section, a person detained in a Reformatory School shall be deemed to be a person undergoing a sentence of imprisonment."

(2) *Objects and reasons relating to clause 32.*—"To meet a difficulty brought to notice by the Chief Commissioner of Burma, this clause of the Bill aims at making it clear that for the purposes of section 397 of the Code of Criminal Procedure, 1882, which provides for the infliction of a sentence on an offender already sentenced for another offence, a person detained in a Reformatory School shall be deemed to be a person undergoing a sentence of imprisonment."

(3) *Opinion of Mr. Dumergue on the Reformatory Schools Bill, which was referred to Local Government's for opinion.*—"Clause 32.—The meaning of this clause is, I venture to think, very far from clear. Section 397 of the Code of Criminal Procedure refers to a sentence passed on a person already undergoing a sentence, but the offence for which the second sentence is passed may have been committed before the first sentence was passed. In such a case it would be perfectly right to provide for prolonging the detention of a youthful offender in a Reformatory if the first order of detention expires before he is 18 years of age. But if not he cannot be kept any longer in a Reformatory and it would be better to disregard the second conviction than to expose a youth to the contamination of a jail on his release from a Reformatory thereby probably undoing any good which may have been done. If on the other hand, a youthful offender commits an offence against any law of British India (other than an offence referred to in clause 26 (1) (ii) (j) of the Bill) during his detention in a Reformatory, it seems to me that the best course to take with him would be the one provided in section 40 of the Ceylon Youthful Offenders Ordinance."

(4) *Remarks of the Under Secretary (Mr. W. Francis).*—"Apparently the section is introduced to provide for offences committed in the school. Small offences such as petty thefts and mischief would be dealt with under the rules under section 26. Serious ones, like grievous hurt, arson or murder, require more than this and more than a short extra period of detention, and it is apparently for them that the section is designed. Without the section the convicting court would not know from when to direct its sentence to take effect. The Ceylon Ordinance orders the imprisonment to take effect at once and so is open to the objection in Mr. Dumergue's penultimate sentence. Boys will very rarely get out of a Reformatory School much before they are 18 and at that age, by hypothesis, prison is the best place for them if they commit offences. So the section does not seem open to objection though its intention might be made less obscure."

(5) *Remarks of the Chief Secretary (Sir Frederick Price).*—"Please see the statement of objects and reasons. We are not told what the difficulty of the Chief Commissioner, Burma, was; but it no doubt arose from the conviction of a boy detained in a Reformatory of some offence too grave for treatment departmentally, and the difficulty as the boy was not then 'undergoing a sentence of imprisonment' of fixing the date from which the sentence passed was to run. To my mind the remedy proposed by Mr. Dumergue (the adoption of section 40 of the Ceylon Ordinance) is as bad as the disease which he wishes to cure. It only alters the period of risk of contamination and does not prevent it. Cases such as the section under consideration would apply to are likely to be of only rare occurrence. I do not remember of a single one since our Reformatory was opened. If a boy is of such bad character and disposition as to render it necessary to place him for trial before a court and he is convicted, the sooner he is sent away from the Reformatory the better for the other boys. It is wiser that he should not be allowed to return, and should be given up as a bad job. It would be, judging from past experience, but very seldom indeed that such a case occurs."

(6) *The Honourable Member's Remarks (The Hon'ble Mr. Grose).*—"Such cases are so rare that I don't think it is worthwhile to object strongly but I think it would be better to let the offender be imprisoned at once. As the Chief Secretary says 'if a boy is of such bad character and disposition as to render it necessary to place him before a court and he is convicted the sooner he is sent away from a Reformatory the better for the other boys' he should be given up as a bad job."

Page 11 of the original notes filed in G.O., Nos. 609, 610, Educational, dated 22nd October 1896.

(7) *Select Committee's Remarks on Clause 32 of the Bill.*—"Having considered the criticisms offered on this clause by the Calcutta High Court and various local Governments, we have entirely recast it, our object being to provide that a sentence passed on a youthful offender in a Reformatory shall commence at once subject to any special orders which the local Government, to whom the matter is to be reported forthwith, may think fit to issue."

(8) *Clause 32 as amended by Select Committee.*—"When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such court shall commence at once notwithstanding anything to the contrary in section 397 of the Code of Criminal Procedure, 1882, but the court shall forthwith report the matter to the local Government which shall have power to deal with the matter in any way which it thinks fit."

[This was passed as section 32 of the Reformatory Schools Act, 1897.]

(9) *The Hon'ble Sir John Woodburn's speech in connection with the Reformatory Schools Bill as amended by the Select Committee.*—

There is a new section in the Bill, which is section 32. The Judges of the High Court drew our attention to a case of this kind. A boy of 12 years of age on being sent to a Reformatory school for six years causes soon after admission grievous hurt to another boy, for which offence he is sentenced to two years' imprisonment. This sentence, under the law as it at present stands, is kept hanging over him all the time he is in school, and must exercise a very depressing effect throughout the reforming process. It might possibly prevent his being reformed at all. But suppose this boy is discharged from the school with an excellent character. It would seem to be barbarous if he is only to be discharged from school to be sent to jail for an offence committed six years before. In these remarks the whole Committee concurred with the Bengal High Court. It would be cruel to send a boy to jail at the expiry of his term of detention in the Reformatory in a case such as that suggested by the High Court, and in order to give effect to the suggestion of the Judges we added section 32 to the Bill. I hope that the cases will be very few in which a boy in a Reformatory School will be sent to a Magistrate and convicted and sentenced in Court. There are almost no conceivable cases short of the gravest crime, such as murder or incendiarism, in which a boy cannot be adequately punished under the ordinary rules; but should such a case arise in which the disciplinary rules are not adequate and the Superintendent and his committee consider it essential that the boy should be sent for formal trial before a Magistrate, then it was the opinion of the Committee that the sentence of the Magistrate should take immediate effect and that the boy should be sent at once to the prison of the district, there to receive at once the punishment judged necessary by the Magistrate. If the term of imprisonment in the jail expires before the period for which he was to be detained in the Reformatory, the boy after having finished his term of imprisonment will return to the Reformatory to complete his term of imprisonment, but under no circumstances will a sentence of imprisonment be kept hanging over him until he is discharged from the Reformatory.

2. It would appear from the foregoing extracts that the applicability of section 32 of the Reformatory Schools Act to cases of (1) a juvenile offender in the Reformatory, who, for having committed an offence (in the Reformatory) too grave for departmental punishment, is awarded a sentence of imprisonment in jail, and of (2) a juvenile offender in the Reformatory who is convicted for an offence committed before the first sentence was passed, was under consideration when the Act was passed.

3. In this connection, attention is invited to G.O., No. 491, Educational, dated 27th August 1897, and notes K.W. it, where it was held that a juvenile offender once detained in the Reformatory should not be sent back to prison under any circumstances.

4. It is therefore submitted that the intention of the legislature, with reference to the case of a juvenile offender once detained in the Reformatory and who is convicted and sentenced to imprisonment for an offence committed previous to his detention, seems to be that it is undesirable to send him to the jail. In G.O., No. 731, Judicial, dated 30th April 1906, such a case has arisen. It was considered that it came within the purview of section 32 of the Reformatory Schools Act; but, in deference to the

Vide paragraph 10 of the Select Committee's report extracted at page 6 of G.O., No. 491, dated 27th August 1897.

intention of the legislature indicated above, the Government have ordered his removal back to the Reformatory by virtue of the power invested in them by the latter portion of the section.

5. Submitted for orders.

K.K.—21-5-06.

This seems a great deal of fuss about very little. To my mind the wording of section 32 is clear. No reference is made to the date of the commission of the second offence and the section obviously gives the local Government a wide discretion in dealing with such cases. In the exercise of this discretion Government can consider the peculiar circumstances of each case and then say whether in that case it is advisable or not to send the convict to prison or school. In the present case under reference it would, in my opinion, be utterly contrary to policy to send the boy to prison. His second offence was committed before he was sent to the school and before he had come under the school's reforming influence. To send him to prison at this stage would probably result in his complete degradation. Of course, if a boy already in the school committed, say, murder or an unnatural offence it might be wise to put him in jail and out of harm's way. But to send a boy to jail for theft before he has had time to come under the school's influence seems quite contrary to the purpose of the school. Every boy is sent to the school because of some offence, and the intention of the school is to cure him of the propensity to offend. It is, therefore, I submit in general inaccurate to talk of one boy influencing another. If *after the boy has entered the school* he shows by his conduct that his further detention there is inadvisable, then it is time enough to consider whether he should go to jail. Section 22 of the Act is wide enough to admit of this being done.

C. A. SOUTER—22-5-06.

The plain question put is whether the construction of section 32 of the Reformatory Schools Act is doubtful. I do not think there can be any doubt, so I do not think any reference to the Advocate-General necessary. The cases of a boy tried while in the Reformatory for a crime which occurred before the one for which he has been sent to the school will be so few that any amendment of the law seems unnecessary.

M. HAMMICK—22-5-06.

G. S. F[ORBES]—23-5-06.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

Say: "The Government do not think it necessary to take legal advice as to the meaning of section 32 of the Reformatory Schools Act. There is no reason to suppose that its scope is restricted to offences committed after admission into the school and the power conferred upon the local Government to pass such orders as the circumstances of each case require is sufficient to prevent the consequence of a subsequent conviction from being prejudicial to the character and career of the pupil convicted."

A. BUTTERWORTH—26-5-06.

The draft has been typed and placed below. It may now issue.

P. T. THARYAN—26-5-06.

C. A. SOUTER—28-5-06.

Issue.

A. BUTTERWORTH—29-5-06.

[G.O., No. 377, Educational, dated 30th May 1906.]

CURRENT FILE.

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PAPERS PUT UP WITH CURRENT No. _____

Papers of the department to which the current belongs.

Number.	Date.	Original (=O) or spare copy (=S. C.).	Remarks. (In this column such of the papers as have been removed for copying, printing, &c., should be marked with a cross.)	Initials of Referencer with date in token of return to Reference department.
731	30.4.06	mis		
491	27.8.97	30 th mis		
609-10	2.10.96	only.		
213	6.4.96	only.		
Ceylon ordinance. 40/86. vol II				
Cr. p.c.				
Also in Act Reformatory School 1826d158)				

Papers of other departments.

Department.	Number.	Date.	Original (=O) or spare copy (=S. C.).	Despatcher to note the return of the papers to the departments concerned.

Stock Form No. 135
8,700 2-6-05.

EDUCATIONAL DEPARTMENT.

Ed. 736 - sent 20/7. Received 5-5-1906; Registered 7-5-1906.

Subject.

Submitting for the orders of Government a communication from the Superintendent, Reformatory School, Chingleput, regarding a juvenile offender who has been convicted of an offence committed by him prior to his admission into the school and sentenced to 6 months' imprisonment under Section 32 of the Reformatory Schools Act VIII of 1897.



Ref. m. for No. 3255/6

Station Madras, Dated the 4th May 1906.

From (Name) The Hon'ble Mr. A.G. Bourne, D.Sc., F.R.S.,

(Designation) Director of Public Instruction.

To The Secretary to the Government of Madras,
Educational Department.

Sir,

I have the honour to submit for the orders of Government the following communication from the Superintendent, Reformatory School, Chingleput:-

I have the honour to report that pupil No. 695 Baba alias Ibrahim, who was admitted here on 15th November 1905, was taken before the Second Presidency Magistrate, Madras, on the 20th instant to be examined as an accused in a case of theft committed by him prior to his admission into the school. He has been convicted and sentenced to 6 months' rigorous imprisonment and sent to jail under section 32 of the Reformatory Schools' Act VIII of 1897.

2. It is greatly to be regretted that a boy having once entered this school should again be called upon to answer a charge and be sent to jail on that account. It appears to me that the provision in section 32 of the Act applies only or should apply only to the conviction of offences committed by the pupils after their admission into the school and during their stay here. This is the first case in which a pupil of this school has been convicted and sent to jail for an offence committed by him before coming here and which was subsequently investigated and brought home to him. It is, I think, desirable to ascertain from the legal advisor to Government whether it was or was not the intention of the legislature to exclude offences of the latter kind from the operation of section 32 of the Act.

3. The boy will most probably be sent back to the Reformatory and as it is extremely objectionable that a boy's course of training here should be broken up and undone by a period spent in jail for an offence committed before his admission, I request that you will be pleased to bring the matter to the notice of Government for such action as you may think necessary.

I have the honour to be,

Sir,

Your most obedient servant,

A. H. P. S. K. S. M.

For Director of Public Instruction.

K.P.D.

Notes connected with file no. 37728 430-5-86

EDUCATIONAL DEPARTMENT.

C. No. 753 From the

D. P. J. No. 3255, dated 4-5-1906.

SUBJECT.

Re the conviction of a juvenile offender for an offence committed by him prior to his admission to the Reformatory School, Chingleput.

Orders have already been issued in the Judicial Dept., directing that the boy Bala alias Ibrahim, be sent back to the Reformatory as soon as possible. (vide G.O. No. 731 Judicial dated 30th April 1906).

2. This is the first case in which a pupil of the Reformatory School has been convicted & sent to jail for an offence committed by him before his admission into the Reformatory School. The Inspect^r of the Reformatory School holds that Section 32 of the Reformatory Schools Act VIII of 1897, has application only in the case of offences committed by the pupils after their admission into the school & during their stay there. He suggests, that it is desirable to ascertain from the legal advisor of Govt whether it is or was not

*Pres
Please put this
in file & show
proof -
1/6/06*

[illegible]

the intention of the Legislature to exclude officers committed by the pupils prior to their admission into the School, from the operation of Section 32 of the Act.

P.K.M. Orders are Solicited

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Please see the notes with P.O. No 731 Judicial
of 30th April 1906. The point was raised by the Superintendent
was not considered therein, nor does there seem to have been any need for it.
2. The Superintendent of the Reformatory School
thinks that the provision in Section 32 of the Act applies only, or
"should apply only to the conviction of offences committed by
"the pupils after their admission into the school and during
"their stay there". Section 32 however seems to be quite
clear. It says "When a youthful offender during his period
"of detention in a Reformatory school is again convicted by a
"criminal Court". It does not say "when he again commits
an offence and is convicted". The conviction may therefore apparently
be for offence previously committed.
3. In these circumstances it is for consideration
whether any reference to the Advocate General is necessary.

Myharyan
11/5/6

Chas. Suter
12.5.16.

363D
 14/5/6
 CHIEF SECRETARIES
 14 MAY. 1906
 DOTACAMUND.

To the left
Jno. Co. for remarks

Aug 24. 5. 06

CURRENT NO.
2584
JUDICIAL

C-2584.

For the Asst. Secy.

1. There was a good deal of discussion in connection with the framing of section 32 of the Reformatory Schools Act, 1897. The following extracts will reveal what the intention of the legislature was in the matter referred to by the Supdt. of the Reformatory School, viz. the desirability of sending to jail, ~~or~~ a juvenile once admitted into the Reformatory, to undergo a sentence awarded for an offence committed before ~~the~~ his admission to the Reformatory:—

(1) CLAUSE 32 OF THE REFORMATORY SCHOOLS BILL (as introduced)

" 32 To section 397 of the Code of Criminal Procedure, 1882, the following paragraph shall be added, namely:—

" For the purpose of this section, a person detained in a Reformatory School shall be deemed to be a person undergoing a sentence of imprisonment."

(2) OBJECTS & REASONS RELATING TO CLAUSE 32 -

" To meet a difficulty* brought to notice by the Chief Commissioner of Burma, this clause of the Bill aims at making it clear that for the purposes of section 397 of the Code of Criminal Procedure, 1882, which provides for the infliction of a sentence on an offender already sentenced for another offence, a person detained in a Reformatory School shall be deemed to be a person undergoing a sentence of imprisonment."

(3) OPINION OF MR. DUMERGUE on the Reformatory Schools Bill, which was referred to Local Govts. for opinion.

" Clause 32.- The meaning of this clause is, I venture to think very far from clear. Section 397 of the Code of Criminal Procedure refers to a sentence passed on a person already undergoing a

Vide D. P. J.'s letter (pp. 1-2 C.F.)

Vide copy of Bill + Statement of O.D.R. filed with G.O. 21328, 21329, 21330, 21331, 21332, 21333, 21334, 21335, 21336, 21337, 21338, 21339, 21340, 21341, 21342, 21343, 21344, 21345, 21346, 21347, 21348, 21349, 21350, 21351, 21352, 21353, 21354, 21355, 21356, 21357, 21358, 21359, 21360, 21361, 21362, 21363, 21364, 21365, 21366, 21367, 21368, 21369, 21370, 21371, 21372, 21373, 21374, 21375, 21376, 21377, 21378, 21379, 21380, 21381, 21382, 21383, 21384, 21385, 21386, 21387, 21388, 21389, 21390, 21391, 21392, 21393, 21394, 21395, 21396, 21397, 21398, 21399, 21400, 21401, 21402, 21403, 21404, 21405, 21406, 21407, 21408, 21409, 21410, 21411, 21412, 21413, 21414, 21415, 21416, 21417, 21418, 21419, 21420, 21421, 21422, 21423, 21424, 21425, 21426, 21427, 21428, 21429, 21430, 21431, 21432, 21433, 21434, 21435, 21436, 21437, 21438, 21439, 21440, 21441, 21442, 21443, 21444, 21445, 21446, 21447, 21448, 21449, 21450, 21451, 21452, 21453, 21454, 21455, 21456, 21457, 21458, 21459, 21460, 21461, 21462, 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(A case similar to the
one under consideration)

+ viz., sending the boy at once to the jail.

vide p. 11 of the orig. notes in
G.O. 609-10: 2-10-1896
10.

vide pp. 21-23 of the orig. notes in
G.O. 609-10: 2-10-1896
10.

"a sentence, but the offence for which the second
"sentence is passed may have been committed be-
"fore the first sentence was passed. In such a
"case it would be perfectly right to provide for
"prolonging the detention of a youthful offender
"in a Reformatory if the first order of detention
"expires before he is 18 years of age. But if not
"he cannot be kept any longer in a Reformatory
"and it would be better to disregard the 2nd
"conviction than to expose a youth to the con-
"tamination of a jail on his release from a
"reformatory thereby probably undoing any good
"which may have been done. If on the other hand,
"a youthful offender commits an offence against
"any law of British India (other than an offence
"referred to in clause 26(1)(ii)(j) of the Bill)
"during his detention in a reformatory, it seems
"to me that the best course to take with him
"would be the one provided in section 40 of the
"Ceylon Youthful Offenders Ordinance"

(4) REMARKS OF THE UNDER SECRETARY (Mr. W. Francis)

" Apparently the section is introduced to
"provide for offences committed in the school.
"Small offences such as petty thefts and mis-
"chief would be dealt with under the rules under
"section 26. Serious ones, like grievous hurt,
"arson or murder, require more than this and more
"than a short extra period of detention, and it is
"apparently for them that the sec. is designed.
"Without the section the ~~xxxx~~ convicting court
"would not know from when to direct its sentence
"to take effect. The Ceylon Ordinance orders
"the imprisonment to take effect at once and so
"is opened to the objection in Mr. Dumergue's
"penultimate sentence. Boys will very rarely
"get out of a reformatory school ~~xxxx~~ much before
"they are 18 and at that age, by hypothesis,
"prison is the best place for them if they com-
"mit offences. So the section does not seem
"open to objection though its intention might be
"made less obscure".

(5) REMARKS OF THE CHIEF SECRETARY (Sir Frederick Price)

" Please see the statement of objects and
"reasons. We are not told what the difficulty
"of the Chief Commissioner, Burma, was, but it no
"doubt arose from the conviction of a boy
"detained in a reformatory of some offence too
"grave for treatment departmentally, and the
"difficulty as the boy was not then undergoing
"a sentence of imprisonment, of fixing the date
"from which the sentence passed was to run. To
"my mind the remedy proposed by Mr. Dumergue
"(the adoption of section 40 of the Ceylon Ordi-
"nance) is as bad as the disease which he wishes
"to cure. It only alters the period of risk of
"contamination and does not prevent it. Cases
"such

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"such as the section under consideration would
"apply to are likely to be of only rare occurrence
"I do not remember of a single one since our
"Reformatory was opened. If a boy is of such
"bad character and disposition as to render it
"necessary to place him for trial before a court
"and he is convicted, the sooner he is sent away
"from the reformatory the better for the other
"boys. It is wiser that he should not be allowed
"to return, and ~~he~~ should be given up as a bad job.
"It would be, judging from past experience, but
"very seldom indeed that such a case occurs. x
" x x x x".

p. 11 of the orig. notes filed
in G.O. 107-10:2-10-1896
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(6) THE HON'BLE MEMBER'S REMARKS (The Hon'ble Mr. Croze)

" Such cases are so rare that I don't think it
"is worthwhile to object strongly but I think it
"would be better to let the offender be imprisoned
"at once. As the Chief Secy. says "if a boy is
"of such bad character and disposition as to ren-
"der it necessary to place him before a court &
"he is convicted the sooner he is sent away for
"a reformatory the better for the other boys x x
"he should be given up as a bad job."

Extracts from p. 57 of the G.O.
gazette, Part I D. 27.2.1897

(7) SELECT COMMITTEE'S REMARKS ON CLAUSE 32 OF THE BILL

" Having considered the criticisms offered
"on this clause by the Calcutta High Court ~~and~~ and
"various local Govts. ~~we~~ have entirely recast ~~it~~,
"our object being to provide that a sentence
"passed on a youthful offender in a reformatory
"shall commence at once subject to any special
"orders which the local Govt., to whom the matter
"is to be reported forthwith, may think fit to
"issue."

p. 63 of G.O. gazette, Part I D.
27.2.1897.

(8) CLAUSE 32 AS AMENDED BY SELECT COMMITTEE

"When a youthful offender during his period
"of detention in a reformatory school is again
"convicted by a criminal court the sentence of
"such court shall commence at once, notwithstanding
"anything to the contrary in section 397 of the
"Code of Criminal Procedure, 1882, but the court
"shall forthwith report the matter to the Local
"govt. which shall have power to deal with the
"matter in any way in which it ~~s~~ thinks fit."

[This was passed as sec. 32 of the Reformatory
Schools Act, 1897].

remarks. There is a new section in the Bill, which is section 32. The Judges of the High Court drew our attention to a case of this kind. A boy of 12 years of age on being sent to a Reformatory School for six years causes soon after admission grievous hurt to another boy, for which offence he is sentenced to two years' imprisonment. This sentence, under the law as it at present stands, is kept hanging over him all the time he is in school, and must exercise a very depressing effect throughout the reforming process. It might possibly prevent his being reformed at all. But suppose this boy is discharged from the school with an excellent character. It would seem to be barbarous, if he is only to be discharged from school to be sent to jail for an offence committed six years before. In these remarks the whole Committee concurred with the Bengal High Court. It would be cruelty to send a boy to jail at the expiry of his term of detention in the reformatory in a case such as that suggested by the High Court, and in order to give effect to the suggestion of the Judges we added section 32 to the Bill. I hope that the cases will be very few in which a boy in a Reformatory School will be sent to a Magistrate and convicted and sentenced in Court. There are almost no conceivable cases short of the gravest crime, such as murder or incendiarism, in which a boy cannot be adequately punished under the ordinary rules, but should such a case arise in which the disciplinary rules are not

adequate and the Superintendent and his committee consider it essential that the boy should be sent for formal trial before a Magistrate, then it was the opinion of the Committee that the sentence of the Magistrate should take immediate effect and that the boy should be sent at once to the prison of the District, there to receive at once the punishment judged necessary by the Magistrate. If the term of imprisonment in the jail expires before the period for which he was to be detained in the reformatory, the boy after having finished his term of imprisonment will return to the reformatory to complete his term of imprisonment, but under no circumstances will a sentence of imprisonment be kept hanging over him until he is discharged from the reformatory."

2. It would appear from the foregoing extracts that the applicability of section 32 of the Reformatory Schools Act to cases of (1)⁺ a juvenile offender in the Reformatory, who, for having committed an offence (in the Reformatory) too grave for departmental punishment, is awarded a sentence of imprisonment in jail, and of (2)^a a ~~juvenile~~ juvenile offender in the Reformatory who is convicted for an offence committed

before

⁺ vide portions marked in blue pencil.

vide portion marked in red pencil in Mr. Durnmagui's opinion.

before the first sentence was passed, was under consideration when the Act was passed.

3. In this connection, attention is invited to G.O. 491, 25th, 27.8.1897, & notes K. Br. it, where it was held that a juvenile offender once detained in the Reformatory should not be sent back to prison under any circumstances.

4. It is therefore submitted that the intention of the legislature, with reference to ^{the case of} a juvenile offender once detained in the Reformatory & who is convicted & sentenced to imprisonment ~~in~~ for an offence committed previous to his detention, seems to be that ~~the~~ it is undesirable to send him to the jail. In G.O. 731, 1st, 30.4.1906, such a case ~~which~~ has arisen. It was considered that it came within the purview of section 32 of the Reformatory schools Act; but, in deference to the intention of the legislature indicated above, the Government have ~~not~~ ordered his removal back to the Reformatory by virtue of the power invested in them by the latter portion of the section.

Vide para. 10 of the Select Committee's Report extracted at p. 60 of G.O. 491: 27.8.97
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148P
5. Submitted for orders.

W.H.
21/5/06

(C.)

This seems a great deal of
fines about very little. To my mind
the wording of section 32 is clear. No
reference is made to the date of the
commission of the second offence &
the section obviously gives the Local
Court a wide discretion in dealing
with such cases. In the exercise of
this discretion the Court can consider the
peculiar circumstances of each case
other say whether in that case
it is advisable or not to send the
convict to prison or school. In the
present case under reference it would,
in my opinion, be utterly contrary to
policy to send the boy to prison. His
second offence was committed
before he was sent to the School &
before he had come under the school's
reforming influence. To send him
to prison at this stage would probably
result in his complete degradation.
Of course, if a boy is already in
the School Committee, say, murders
or an unnatural offence it might

be wise to put him in jail & out of
 harm's way. But to send a boy
 to jail for theft before he has had time
 to come under the School's influence seems
 quite contrary to the purpose of the School.
 Every boy is sent to the School because of
 some offence, & the intention of the School
 is to cure him of the propensity to offend.
 It is, therefore, I submit, ^{in general} inaccurate
 to talk of one boy influencing another.
 If after the boy has entered the School
 he shows ~~that~~ his conduct ~~is such~~ that
 his further detention there is inadvisable,
 then it is time enough to consider whether
 he should go to jail. Sec 22 of the Act
 is wide enough to admit of this being
 done.



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 is wide enough to admit of this being
 done.

C.B. out
 22.5.06.

Alls

To Ed. J. Doherty
 24.5.06

Just L.O. D 2584-1
 24.5.06
 Ed. no. 177 R
 25.5.06

The plain question put is whether the
 construction of § 32 of the Reformatory Schools
 Act is doubtful. I do not think there can
 be any doubt. so I do not think any reference
 to the Ad. Soc. necessary. The case of a boy
 tried while in the Reformatory for a crime which
 occurred before he came for which he has been
 sent to the School, even he so few that any
 amendment of the law seems unnecessary.

W. H. 22 v. 26
 8/4/06

£ deposit moral 8/5

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Ria

Long

"The Inst. do not think it nec^y to take legal advice as to the meaning of sec 32 of the Reg^d Schools Act. There is no reason to suppose that its scope is restricted to offences committed after admission into the School & the power conferred upon the d. G. to pass such orders as the circumstances of each case require is sufficient to prevent the Court from passing orders consequent upon a subsequent conviction from being prejudicial to the character & career of the pupil convicted."

Ans
2678

Further As.

The draft has been ~~again~~ typed & placed below.

It may not issue?

Pharmacy on
26/5/6

Die

Chas. Carter
28.5.06,

Issue
An Butterworth
29/5

172P

C. No. 753, from the D.P.I., Ref. on Cur. No. 3255, dated the 4th May 1906.

ORDER:-- 377 d/ 30-5-06.
P.B.

The Government do not think it necessary to take legal advice as to the meaning of Section 32 of the Reformatory Schools Act. There is no reason to suppose that its scope is restricted to offences committed after admission into the school and the power conferred upon the Local Government to pass such orders as the circumstances of each case require is sufficient to prevent the consequences of a subsequent conviction from being prejudicial to the character and career of the pupil convicted.

A.B.
26-5-06.

To the D.P.I. ✓

" Judicial Dept. ✓

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30/5/06

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29/5/06

377 Educ

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