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[Despatch Abstract.]

Reformatory Schools Act.

Furnishing the Govt with the views of this Govt on the Bill to amend the — and thanking certain officers for the care with which they have examined the Bill

Abstract of letter.

— Furnishing observations on the Bill to amend the —

Government {1896} of Madras.

EDUCATIONAL.

Recd. } 1896. *Enclosures*

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G.O., No. 609, 2nd October 1896.

OCTOBER.

Reformatory Schools Act.

Furnishing the Government of India with the opinion of this Government on the Bill to amend the —, and thanking certain officers for the care with which they have examined the Bill.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—again the following paper:—

G.O., No. 213, Educational, dated 6th April 1896.

ABSTRACT.—Communicating to the Hon'ble the Judges of the High Court and others, for favour of an expression of opinion, a draft Bill to amend the law relating to Reformatory Schools, and directing publication of the Bill in the *Fort St. George Gazette* in English and all the vernaculars.

READ—also the following papers:—

From the Inspector-General of Police, Madras, to the Chief Secretary to Government, dated 28th April 1896, No. 1781.

I have the honour, with reference to G.O., No. 213, Educational, dated 6th April 1896, to say that the Bill to amend the Reformatory Schools Act appears to me to effect the purpose for which it was framed and I have no remarks to offer upon it.

(Signed) M. HAMMICK,
Inspector-General of Police.

From the Inspector-General of Prisons, Madras, to the Chief Secretary to Government, dated Ootacamund, the 29th April 1896, No. 2583.

I have the honour to submit the following reply to G.O., No. 213, Educational, dated 6th April 1896, regarding the Bill to amend the law relating to Reformatory Schools.

2. The Bill appears to call for little detailed remark, but there are two general questions of importance connected with it, and both these arise in respect of the definitions in section 4.

3. In 1894 one of the non-official visitors of Her Majesty's Penitentiary, Madras (Mr. H. K. Beauchamp), drew attention to the evil effects which must arise from female children being kept in the same yard as adult female convicts, who are often prostitutes or procuresses. In G.O., No. 589, Educational, dated 19th July 1895, the Government, observing that the Reformatory Schools Act, 1876, does not provide for the confinement of girls in such institutions, determined to make enquiries as to how the question of establishing a reformatory school for girls had been dealt with in other provinces. In G.O., No. 815, Educational, dated 10th October 1895, it was decided that sufficient grounds did not exist for the establishment of a reformatory school for girls and for the legislation by which such a measure must be preceded. I was, however, directed to report whether some central jail could be set aside as a depôt to which all female juvenile prisoners could be sent. On my report, No. 1566 C., dated 7th November 1895, no orders have as yet been passed.

4. The average number of females under the age of sixteen admitted into jails and sub-jails during the three years ending 1895 has been 106 per annum. Of this average number, 38 have been received annually into central and district jails and 68 into subsidiary jails. The 68 female juveniles admitted annually into subsidiary jails must be sentenced to periods of imprisonment not exceeding thirty days, and as many of these would not in any case be sent to a reformatory school, their case need not be closely considered. There remain some 38 girls who are sent annually to central or district jails.

5. This number is small, and the Government has alreay decided that there is not a sufficient case to establish a reformatory school on their account. But it does not appear, therefore, to follow that nothing should be done to improve their position, and now that the Reformatory Schools Act is to be revised, I am strongly of opinion that its provisions should be so altered as to enable the case of female juvenile convicts to be dealt with. If that were done, the Director of Public Instruction would be able, doubtless, to indicate some aided school to which female juveniles could be drafted and the evil of keeping these juveniles in prison would be avoided. For this purpose the definition of "youthful offender" in section 4 (*a*) of the draft Bill should be reconsidered.

6. The other general question which arises in connection with the Bill relates to the definition of Inspector-General in section 4 (*b*). That definition declares that the term "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by the Bill on the Inspector-General of Prisons. But, so far as I have been able to ascertain, the Bill imposes no duties whatever on the Inspector-General of Prisons. The Bill does, indeed, impose certain duties on "the Inspector-General," but none on "the Inspector-General of Prisons," and the definition of "Inspector-General" is thus apparently without definite meaning. It is nevertheless open to the serious objection that it suggests and seems to indicate a connection between the Reformatory School and the Jail Department. In this Presidency this connection has happily been got rid of, and the advantages of separation are very great. Every qualified writer on the subject of reformatories has insisted on the necessity of separating them and differentiating them as thoroughly as possible from jails. I would invite reference to the report of the committee on reformatory schools which is printed in G.O., No. 376, Judicial, dated 12th February 1883, and its enclosures, for instance, Mr. F. A. Nicholson's notes. So long as a reformatory school is attached to the Prison Department, so long its proper position as a school, and not as a jail, will not be recognized. The exercise of patronage by the Inspector-General of Prisons will naturally bring jail officers into the school and jail habits of treatment and points of view follow. Therefore, I submit that the definition of "Inspector-General" in section 4 (*b*) of the Bill, which is already defective, should be struck out and one should be adopted instead which will not imply any connection between the Prison Department and the schools.

7. In most other respects the Bill appears to deal adequately with the defects in the existing law and to call for little remark. Referring to section 15, it appears to me that the words "if the sentence of imprisonment . . . . . is *set aside* on appeal or revision" are not free from uncertainty. The Criminal Procedure Code, section 423, speaks of sentences being altered or reversed, but not of their being "set aside," and it is not clear whether, if a sentence of imprisonment were merely altered, the order directing detention in the reformatory school would become inoperative, and whether this would happen only when the sentence of imprisonment is reversed. In section 26, power to frame rules declaring what are the offences for which youthful offenders may be punished appears to be necessary. Provision would then be made for the punishment of escape from reformatory schools, which seems at present to be punishable only under the Indian Penal Code.

(Signed) A. G. CARDEW,
Inspector-General of Prisons.

From the Collector and District Magistrate of Salem, to the Chief Secretary to Government, dated 19th May 1895, No. 579-M.

With reference to G.O., No. 213, Educational, dated 6th April 1896, I have the honour to say that the provisions of the Bill generally seem to be open to no objection.

2. With reference to section 4 (*a*), I would suggest that something might be done for the reformation of *girl* offenders.

3. *Section* 12.—"Part of a prison as the Local Government may direct" seems likely to involve unnecessary correspondence in each individual case, unless it is made clear that Government may pass a general order defining the place of confinement.

4. *Section* 20.—It seems to me that provision is necessary to enable the Superintendent to regain custody of the youthful offenders when the employer dies or ceases from business. I have not noticed any provision covering this. Sections 28 and 29 refer only to "escapes."

5. *Section* 26 (1).—I do not see the use of the words "consistent with this Act" which is generally silent on the matters referred to.

6. *Section* 31 is merely another form of the very valuable provision which Courts in England have of directing persons to enter into recognizances to "come up for sentence." A somewhat similar provision in the Criminal Procedure Code was introduced on my own suggestion to the late Advocate-General many years ago.

(Signed) W. J. H. LE FANU,
District Magistrate.

From the Commissioner of Police, Madras, to the Chief Secretary to Government, dated Madras, 19th May 1896, No. 53.

With reference to G.O., No. 213, Educational, dated 6th April 1896, I have the honour to report that I have no suggestions to offer on the draft Bill to amend the law relating to reformatory schools and that I approve of the proposed amendments.

(Signed) A. P. AGAR,
Acting Commissioner of Police.

From the Government Solicitor, Madras, dated 21st May 1896.

Abstract.—Forwarding the following opinion of the Advocate-General, dated 19th May 1896:—

[*Re* Bill to amend the law relating to Reformatory Schools, &c.]

Opinion.

I have no observations to make or suggestions to offer with regard to this Bill.

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

From the Director of Public Instruction, to the Chief Secretary to Government, dated Madras, 1st June 1896, No. 5908.

I have the honour to submit the following remarks on the "Reformatory Schools Bill" referred to me for remarks in G.O., No. 213, Educational, dated 6th April 1896.

2. *Section* 4, *Clause* (*a*).—"Youthful offender" is defined as any boy who has been convicted of any offence punishable with imprisonment or transportation and who at the time of such conviction was under the age of sixteen years. The Superintendent, Reformatory School, Chingleput, thinks that reformatory schools should be opened for girls as well as boys. Applications have been received for the admission of girls into the Chingleput school and the Superintendent observes that a small ward, a

matron and two female peons would meet all requirements for some years to come. There would be no difficulty in building a separate ward and creating a separate female establishment in the Reformatory School at Chingleput, if such measures were deemed expedient. But there are very strong objections to a reformatory school being opened for both boys and girls, however carefully they might be segregated in the actual working of the school. The establishment of entirely separate reformatories for female offenders is a different question and depends on a variety of considerations, one of which is whether the number of youthful female offenders is large enough to justify the opening of a school for them. Moreover, the sole object of a reformatory school is to reform the character of the youthful offender by awakening the intelligence, training the conscience, and teaching some trade or occupation, so that he may not only be able to earn an honest living for himself, but become a useful instead of a harmful member of society. If there were in India as in England independent careers open for women as well as for men, a strong reason could be urged in favour of giving youthful female offenders the same opportunities for reformation as are given to boys. But in this country, the youthful female offender would ordinarily at the end of the period of detention be handed over to the custody of her parents or guardians; and though she would be all the better for such training in domestic affairs as she may have received, she would seldom be in a position to carry on in after-life any industry, such as needlework or lace-making, which she may have learnt while at school. No doubt, girls in a reformatory school who are the children of depraved parents would gain by being separated for a few years from their home surroundings and kept under the strict discipline of a school, where they would receive intellectual and moral training similar to that which is given to boys, but the difficulty of dealing with them on their discharge would be much greater than in the case of boys, and experience has shown that in the case of the latter that difficulty is serious enough. On the whole, while I am opposed to any reformatory school having a female as well as a male department, I cannot see my way to recommend the opening of separate reformatory schools for female offenders.

3. As regards age it seems to me highly expedient that a minimum as well as a maximum limit should be prescribed. All youthful offenders are expected to receive some industrial training during their detention in the reformatory school. But boys under ten years of age are not fit to receive such training. Apart from this, I do not think that, as a rule, children of such tender years are fit subjects for jail or reformatory school discipline. I would therefore insert the words "but not under the age of ten years" after the words "sixteen years".

4. *Section* 6, *Clause* (*a*), provides for the existence of sufficient means of separating the inmates at nights. In the English reformatories, the younger offenders are separated from the older offenders, in order that the former may not be contaminated by a close association with the latter. A similar provision may, with much advantage, be made in the Indian reformatories also. In fact, such a separation is already to some extent carried out in the Reformatory School, Chingleput. If this suggestion be approved, the words "and of separating the younger from the older offenders" may be added to this clause.

Clause (*b*).—The word "recreation" may be inserted after "food".

Clause (*c*).—The Reformatory School at Chingleput gives elementary instruction in the ordinary subjects of education. No industrial training is of much value unless it is accompanied by some knowledge of reading, writing and counting at least. This should, therefore, be expressly provided for in the Act. Some of the youthful offenders, being found unfit to receive industrial training proper on admission, are given some manual occupation such as gardening, &c. After the word "offenders" the clause might run thus: "elementary instruction in the three R's and industrial or manual training".

5. *Section* 8, *Clause* (*a*).—The minimum period of detention in a reformatory school is fixed at two years. I beg to say most emphatically that a period of two years is too short for any boy to make sufficient progress in literary education (many or most of them being on admission quite illiterate), too short to receive any industrial training which would be of value to him in after-life, and far too short to effect that

change in the moral character which is the main end of a reformatory school. I would therefore suggest that the minimum period of detention be fixed at not less than three years. The maximum limit of age laid down in clause (*a*) of section 4 being, if necessary, altered to fifteen.

Clause (*b*) should be omitted if my suggestion to exclude youthful offenders under ten years of age be approved.

6. With a view to save inconvenience and unnecessary expenditure, the Superintendent recommends that the following new section be embodied in the Act :—

"No action should be taken under section 8 or 10 if a youthful offender intends appealing against his judicial sentence and until the appeal time has expired" (G.O., No. 21, Educational, dated 15th January 1896).

I endorse the above suggestion.

7. *Section* 23, *Clause* 2.—The Superintendent suggests that, in the case of non-official members, failure to visit the school for a period of three consecutive months should disqualify him to continue as a member of such committee. But I am not in favour of any distinction being made in this respect between official and non-official members.

8. *Section* 26, *Clause* (1), (ii), (*c*).—After "industrial" insert the words "or manual".

9. I highly approve of the new section 31. Since I became Director, I have often been struck with what seemed to me the over-readiness of magistrates to send youthful offenders to the reformatory school, instead of administering to them an admonition or a whipping and handing them over to their parents with precautions for their good behaviour. It is a mistake to send to a reformatory school boys who are not so far gone in vice as to need the discipline of such a school; for their detention in the school may do them more harm than good, besides taking up the accommodation which ought to be reserved for more fitting subjects.

10. The Superintendent is strongly in favour of the addition of a new section for the protection of discharged youthful offenders and states that, in the opinion of Mr. Hammick, Inspector-General of Police, much more harm will be done by allowing any discretion to the police than by prohibiting them to interfere with such discharged boys. There is much force in the above remark and I would add the following as section 33 of the Act :—

"No youthful offender discharged from a reformatory school after he has served his full term of detention there shall be under the surveillance of the police or be treated as a known depredator by the police or by the courts."

11. Certain general principles to determine the circumstances in which a youthful offender shall, or shall not, ordinarily be sent to a reformatory school are recommended by the Superintendent of the Chingleput School. They are—

(1) No boy shall be sent to a reformatory who is an habitual criminal, except it be at a very early age of his career, so that he can spend at least four years in the school.

(2) No boy shall be sent to a reformatory who is subject to any infirmity or defect, mental or physical, which would permanently incapacitate him for industrial training.

(3) No boy shall be sent to a reformatory who has been convicted of an unnatural offence or gross indecency indicating habitual immorality.

(4) As a rule, the proper subjects for reformatory treatment are boys who are without proper parental or other control and who have been guilty of an offence or offences against property.

I do not think that any hard-and-fast rule can be laid down regarding (1), (3) and (4); but I am of opinion that the reformation of a boy belonging to the habitual criminal classes cannot be effected unless he is detained in the school for not less than five years and unless steps are taken to prevent him on his discharge from being handed over to his criminal parents or criminal community. If a youthful offender belonging to the habitual criminal classes cannot be detained in the reformatory school for a period of, say, five years, he should be sent to prison. The stern discipline of a prison is more likely, through fear, to make such a youth law-abiding than the mild educational methods of the reformatory school.

As regards the Superintendent's recommendation, No. 4, I might add that, as the class of offenders referred to above in paragraph 9 are, in my opinion, not so far gone in vice as to need the discipline of a reformatory school, so the youthful offenders belonging to the habitual or hereditary criminal classes are too far gone to be made better by the comparatively mild discipline of the reformatory school.

As for the Superintendent's recommendation, No. 2, I am quite at one with him in holding that a youthful offender who is subject to any serious infirmity or defect, mental or physical, is not likely to derive any benefit from reformatory treatment, and a provision is necessary to exclude the admission of such offenders into a reformatory school. The words "who is not subject to any serious infirmity or defect, mental or physical," may be inserted after the word "transportation" in clause (*a*) of section 4.

(Signed) D. DUNCAN,
Director of Public Instruction.

From the District and Sessions Judge, Tanjore, to the Chief Secretary to Government, dated 30th May 1896, No. 621.

With reference to G.O., No. 213, Educational, dated 6th April last, I have the honour to submit the following opinion on the Reformatory Schools Bill :—

I think the Bill is a good Bill and I have only this objection to make, viz., clause 8 (2) of the Bill. I think all 1st-class magistrates should *ipso facto* have power under that clause. If a magistrate cannot discreetly exercise such powers, he is not fit to be a 1st-class magistrate.

(Signed) T. M. HORSFALL,
District and Sessions Judge.

From the Acting Chief Presidency Magistrate, Madras, to the Chief Secretary to Government, dated Egmore, 15th June 1896, No. 154.

In obedience to G.O., No. 213, Educational, dated 6th April 1896, I have the honour to submit the following remarks on the Bill to amend the law relating to Reformatory Schools :—

To avoid all appearance of ambiguity, I would suggest the words "if so empowered" being inserted between the words "the court may" and "direct" in section 8, clause 1.

As it seems to me that the words "further enquiry" used in section 9, clause 2, are capable of misconstruction, I would suggest some explanation being afforded indicating the nature of the enquiry to be held.

It seems to me section 13 might be altered with advantage. A magistrate or court having already recorded its finding as to the age of a youthful offender (under section 11) apparently some further finding is contemplated under certain circumstances by section 13, but there is nothing to show by whom such further finding is to be made or how. It cannot, I presume, be made by a court or magistrate, as their functions cease with sentence and order. As, then, section 13 leaves this point obscure, I would suggest its being altered so as to make it clear by whom the finding alluded to in it is to be made.

The only further observations I have to make regarding this Bill are that I believe it would be improved if its provisions could be made applicable to female youthful offenders as well as boys. Speaking from personal experience, I can testify to the difficulty a magistrate sometimes has in dealing with cases in which girls are charged with offences; in such cases to fine the delinquent is practically to punish her relatives, whilst a sentence of imprisonment, if imposed, has the effect of subjecting her probably to evil influences from which (if possible) the magistrate would protect

her, instead of exposing her to their contamination. In connection with these remarks I would further observe that I am informed on good authority, and believe it to be the fact, that a sentence of imprisonment passed on a female carries with it results of a very serious nature affecting her future social position, for, if married, in many cases a husband will refuse to consort with her again after she has been imprisoned, and, if unmarried, so great is the stigma attached to the fact of imprisonment that she becomes an outcaste with no hope of marriage for her, and is consequently in all probability doomed to a life of crime and shame. For the foregoing reasons, I would advocate the provisions of this salutary Bill being made applicable to females as well as males.

Lastly, I observe from the review of the report on the Reformatory School, Chingleput, for 1895, that the Superintendent attributes the misconduct of unsatisfactory pupils to the evil influence of their relatives and friends to whom by the rules such pupils have to be made over on discharge. I would therefore venture to suggest as worthy of consideration whether some provision could not be made in this Bill for enabling the proper authorities, when discharging a youthful offender under the age of 18, to either apprentice him till he attains that age, or, after due enquiry, to entrust him to the custody of some suitable person willing to take charge of him on conditions similar to those provided for in section 31, clause (*b*), of this Bill.

(Signed) W. E. CLARKE,
Ag. Chief Presidency Magistrate.

From H. TREMENHEERE, Esq., I.C.S. (on leave), to the Chief Secretary to Government, dated Ootacamund, 22nd June 1896.

With reference to G.O., No. 213, Educational, dated 6th April 1896, I have the honour to state that I see nothing in the draft Bill to amend the law relating to Reformatory Schools which calls for anything but approval.

From the Acting Collector and District Magistrate, North Arcot, to the Chief Secretary to Government, dated Camp, Tiruvallam, 26th June 1896, Dis. No. 762-Magl.

Referring to your reminder dated 10th instant, I have the honour to inform you that Mr. Wynne has passed the following order, under date 29th April 1896, on the G.O., No. 213, Educational, dated 6th idem—"I have no time to deal with this matter before giving over charge".

(Signed) R. H. CAMPBELL,
Ag. District Magistrate.

From J. W. F. DUMERGUE, Esq., I.C.S., to the Chief Secretary to Government, dated Ootacamund, 4th July 1896.

With reference to G.O., No. 213, Educational, dated the 6th April 1896, I have the honour to submit the following opinion on the draft Bill to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

2. *Clause* 1.—According to this clause, the title of the new Act is to be "The Reformatory Schools Act," but clauses 3, 8, 9, 15, 16 and 31 introduce important exceptions and additions to the Code of Criminal Procedure and the Penal Code. The real object of the Bill is to provide for the punishment and reformation of youthful offenders, and the establishment of reformatory schools is subsidiary to that object. Hence it seems to me that it would be better to call the new Act "The Youthful Offenders Act." This title would at once direct the attention of courts to the special provisions under which youthful offenders are to be dealt with and is sufficiently wide to comprehend rules for the establishment and management of reformatory schools.

3. *Clause* 3.—Considering that, besides the provisions of clause 15, where the Code of Criminal Procedure is mentioned, clause 16, read with clauses 4 (*a*), 8, 9 and 10, materially alters some of the provisions of Chapter VIII of the Code of Criminal Procedure in respect of youthful offenders, while clause 31 empowers courts to dispose, in a manner unknown either to the Penal Code or the Code of Criminal Procedure, of cases ending in the conviction of juveniles, I think it would be well to add to clause 3 a provision for the repeal of "so much of the Indian Penal Code and of the Code of Criminal Procedure, 1882, as is inconsistent with this Act."

4. *Clause* 4 (*a*).—As in Act V of 1876, so the present definition of youthful offenders excludes girls, but it seems to me that, even if separate reformatory schools for girls are unnecessary, girls should be included in the definition of youthful offenders at least for the purpose of enabling the Local Government to pass orders regarding them under the proviso to clause 12, which has been thought necessary in the case of boys. According to section 3 of the Ceylon Youthful Offenders Ordinance (No. 1 of 1886), the term "youthful offender" includes any boy or girl above the age of seven and under the age of sixteen at the time of his or her conviction.

5. *Clauses* 5 (*b*), 17 (1) *and* (3), *and* 25.—Reading these clauses together it would seem that even private schoolmasters and private bodies of trustees and managers, who are willing to receive youthful offenders in their schools, must not only be appointed, but are also liable to dismissal from their posts, by the Local Government. If so, I doubt whether private individuals will consent to have their schools used as reformatory schools. No provision is made in the Bill either for the event of a private school being discontinued by the owner or for any contribution being made to private schools on account of youthful offenders placed in them. It would, in my opinion, be better to limit the term "Reformatory School" to schools established by Government, and to call private schools in which youthful offenders are placed "Certified Industrial Schools," as in the Ceylon Youthful Offenders Ordinance, of which sections 4 to 15 and 30 to 37 may, I think, be followed with advantage.

6. *Clause* 6 (*c*).—The phrase "Industrial training" appears to require definition and perhaps the definition in the Ceylon ordinance—"actual employment in agriculculture or training in some branch of useful industry"—will suffice.

7. *Clauses* 5, 6 *and* 7.—These clauses would, in my opinion, be more appropriately placed in Chapter III, which might then be headed "Establishment and Management of Reformatory Schools", the words "and Certified Industrial Schools" being added if the suggestion I have made in paragraph 5 be accepted. Referring at present only to the grouping of the clauses, I would suggest that Chapter II should be headed "Punishment of youthful offenders" and that it should include, not only clauses 8 to 16 inclusive, but also clauses 31 and 32.

8. *Clause* 15.—This clause is, in my opinion, open to serious objections. In some cases an appellate or revisional court may alter a conviction and reduce a sentence of imprisonment but will nevertheless be powerless to alter the order for detention in a reformatory for a period calculated probably with reference to the original conviction and sentence. Judges and magistrates are liable to err, no distinction is drawn in clause 8 between grave crimes and petty crimes, and the power given to magistrates, some of whom on being first appointed to the charge of a sub-division are comparatively inexperienced, is greatly in excess of their ordinary powers, not only in cases of conviction, but also in cases falling under Chapter VIII of the Code of Criminal Procedure. Under section 110 of the Code of Criminal Procedure, no person can be imprisoned in default of security for good behaviour for more than three years; under section 123, no magistrate can order imprisonment in such cases for more than one year; under section 109, the term of imprisonment is limited to six months; and under section 124, a District Magistrate may release, or recommend the release of, any person imprisoned for failing to give security. But according to clause 16 of the Bill, read with clause 8, a first-class magistrate subordinate to a District Magistrate may order a youth who fails to find security for good behaviour—whether under section 109 or under section 110 of the Code of Criminal Procedure—to be detained in a reformatory for a term which may extend to seven years and must not be less than

two years, and unless the order calling for security is set aside, the order of detention will, under clause 15 of the Bill, be free from the control which exists in the case of adults liable to be incarcerated by a magistrate for only half the minimum period prescribed for youths. No doubt clause 14 (*a*) of the Bill provides a remedy against the abuse or misuse of powers by the courts, but no reason has been given for confining the powers of an appellate court "to dealing with the original sentence of imprisonment or transportation passed" and, presumably, with the original order calling on a youth to furnish security for good behaviour. On the other hand, youths require the ordinary protection of the law against error and indiscretion even more than adults, and I am strongly of opinion that orders affecting the liberty of youths should be subject to appeal and revision quite as much as orders affecting the liberty of adults.

At the same time I think the High Court should be empowered to extend the period of detention in a reformatory when it appears that the period ordered is insufficient.

If clause 15 is to stand, the words "or transportation" seem to be required after the words "sentence of imprisonment".

9. *Clause* 16.—The wording of this clause, by limiting its operation to cases of failure to give security for good behaviour, excludes cases, included in section 123 of the Code of Criminal Procedure, in which youths may be called on to give security for keeping the peace. No reason for the omission is apparent, and if it is supplied I think the clause a good one, provided that orders passed in consequence of it are subject to appeal or revision. If there is to be no appeal or revision, then, to avoid any possible misunderstanding, it should, I think, be expressly provided that if an order requiring a youth to furnish security is set aside, the order for the detention in a reformatory shall forthwith become inoperative and cease to have effect.

10. *Clause* 22 (2).—The authority by which the unexpired term of a youthful offender's sentence "shall be cancelled" is not specified. It does not seem to me desirable that a Superintendent of a reformatory school should be empowered to cancel any part of a sentence passed by a Court of Justice, and I would suggest that, following sections 125 and 124 of the Code of Criminal Procedure, the power should be given to the District Magistrate in respect of orders passed by any court in his district not superior to his court, and in respect of other orders, to the courts which passed them, the Superintendent being required to make a report in each case. Another question I would submit for consideration is whether the penalties provided by section 15 of Act XIX of 1850 are sufficient for a youthful offender who has been apprenticed and who absconds, or whether special provision should not be made as in section 29 of the Ceylon Youthful Offenders Ordinance.

11. *Chapter IV.*—Apparently it is contemplated that section 224, Indian Penal Code, will apply to youthful offenders escaping from a reformatory, but the imprisonment provided by that section may extend to two years, whereas by clause 28 an abettor of the offence cannot be imprisoned for more than six months. Should not a special penalty be provided for the youthful offenders as in section 39 of the Ceylon Youthful Offenders Ordinance?

12. *Clause* 31.—I think that this clause is a very beneficial one, but that it does not go far enough. Cases are certain to occur in which it will be inadvisable or impossible to discharge a youthful offender after due admonition or on a bond executed by his guardian. Then, unless further provision is made and unless whipping may be awarded under the Whipping Act, 1864, a sentence of imprisonment for which detention in a reformatory may be substituted must be passed. But detention in a reformatory may not be considered necessary or proper, and the youthful offender must be sent to jail. This course would be opposed to the spirit of the Bill and I would suggest that courts be further empowered in any case of conviction to order a youthful offender, if a male, "to be whipped with not more than twenty-five strokes of a light cane or rattan within the court premises, and in the presence, if he desires to be present, of the parent or guardian of such offender." This provision is contained in clause (*a*) of section 19 of the Ceylon Youthful Offenders Ordinance. I would also invite attention to clause (*z*) by which a youthful offender may be whipped besides being sent to a reformatory

school and to the concluding paragraph of the same section by which the parent or guardian of a youthful offender is rendered liable to a fine of Rs. 20 for conducing by neglect or otherwise to the misconduct of a youthful offender.

13. *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 eighteen 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.

(Signed) J. W. F. DUMERGUE.

From the District Magistrate of the Chingleput District, to the Chief Secretary to Government, dated Saidapet, 7th July 1896, Dis. No. 413-Magte.

I have the honour, in reply to G.O., No. 213, Educational, dated 6th April 1896, to offer the following remarks on the Bill of the Government of India to amend the law relating to Reformatory Schools.

2. As sections 8 and 9 stand, proceedings can be taken by a magistrate only after a definite sentence of imprisonment has been actually passed on the youthful offender. The detention in the reformatory is also (section 8, clause 1) in substitution of the imprisonment, the period of which is running until the order of detention is made (*cf.* section 14, clause *b*). Further, section 11 requires, before such order can be made, that a preliminary inquiry shall be instituted into the question of the youthful offender's age—an inquiry which may for one reason or another occupy some time. A difficulty may thus arise should it happen that the original sentence has expired before the order is made. Apparently there is no clear authority in the Bill for detaining in such an event the offender beyond the period of the original sentence; and if so, the proceedings might be held to lapse.

This difficulty is also liable to occur where the proceedings have to be submitted under section 9 to a superior magistrate, as the chances of delay are enhanced; and the risk is greater the shorter the sentence. In the somewhat analogous case in the Criminal Procedure Code where an inferior magistrate under section 349 submits his proceedings to a superior magistrate in view of a more severe punishment being awarded than the former can inflict, the present difficulty does not arise, as no *sentence* has been passed and the prisoner remains "under trial."

There is no good reason why proceedings under the Reformatory Act should be stayed because some short term of imprisonment—very probably made short in the prospect of such proceedings—has expired, and rendered the magistrate or court "*functus officio*." Probably there is no such intention; but to make matters clear a clause may be inserted declaring that until the magistrate to whom the proceedings are submitted under section 9 shall have passed an order under the second clause of that section, or, more generally, that until the inquiry under section 11 is completed and a finding recorded by the court or magistrate, the youthful offender shall be detained in custody in the same manner as an under-trial prisoner, such confinement being, in the event of no order of detention being ultimately made, reckoned towards the term of imprisonment originally passed.

3. It is a question whether the District Magistrate or Session Judge should not have the power, where a youthful offender has been sentenced by a subordinate court to imprisonment without proceedings being taken under the Act, to intervene if he

considers the case a proper one for such action. Ordinarily, the youthful offender would be already in jail undergoing his sentence before the District Magistrate or Session Judge became cognizant of the case. Accordingly, if it is deemed expedient to confer such authority, it might perhaps be best accomplished by adding words to section 10 so as to require the officer in charge of the prison to obey the direction of a District Magistrate or Session Judge instructing him to bring up, in the manner prescribed in the section, a youthful offender sentenced by any of the inferior courts of his district. Not infrequently cases come to notice in which the reformatory discipline is plainly the most beneficial mode of dealing with a criminal lad; and it seems a pity that the course should be barred because a subordinate court has failed to appreciate the circumstances. As section 10 stands there is nothing to prevent a jailor acting on the suggestion of a District Magistrate or any other person; but it would be more satisfactory that where a District Magistrate or Session Judge indicates his opinion, the jailor's discretion should be legally determined thereby.

4. *Section* 15.—The proviso evidently refers to cases where the sentence of imprisonment has been set aside *in toto*. A mere reduction of the term of imprisonment is not, I presume, intended to terminate the detention in the reformatory. If so, the proviso would, I think, be clearer if the word "wholly" were inserted before the words "set aside".

5. *Section* 20.—The license should also determine, if the employer is adjudged bankrupt or takes the benefit of the insolvency sections of the Civil Procedure Code, even if such employer should be permitted to continue to manage the business for the creditors. An apprenticeship is similarly brought to an end: *vide* Section 22, Act XIX of 1850.

6. *Section* 21.—It is a question whether the license should not be liable to be cancelled at the discretion of the Superintendent. It may come to his knowledge after the license is issued that the conduct or the surroundings, moral or physical, of the employer cannot be otherwise than injurious to the character or training or health of the youthful offender in the charge of such employer. Under this section and section 18, the three months' term can be determined only in the event of ill-treatment or of inadequate maintenance, or of the employer's failure to "keep the youthful offender employed", but considering the circumstances of the reformatory lads and the special trust undertaken by the Government, these conditions appear to be insufficient. An immense deal of harm may be wrought in less than three months, and I think there should in the last resort be an absolute discretion to revoke a license.

7. *Section* 23.—This section should apply to *non-official visitors*. Certain official persons, such as the District Magistrate, the District Judge and others, must, from the nature of the offices they hold, remain official visitors. Neglect to attend in their case should be left to departmental control.

8. Dr. Nailer, the Superintendent of the Chingleput Reformatory, has suggested to me that the new Act should make provision for youthful offenders of the female sex. This would raise very many complicated questions which do not arise in the case of providing reformatory training for boys. I do not propose to discuss the subject unless the Government is prepared to accept the principle of the extension which Dr. Nailer suggests.

9. Dr. Nailer also recommends that the principles already approved by Government as to the class of boys who are ordinarily to be deemed proper subjects for reformatory training should be specified in the Act. These are that no youthful offender should be sent to the reformatory—

(*a*) who is an habitual criminal, except he can spend at least four years in the school;

(*b*) who is subject to any infirmity or defect, mental or physical, which would permanently incapacitate him for industrial training; and

(*c*) who has been convicted of an unnatural offence or of gross indecency indicative of habitual immorality.

As section 22 of the existing Act which gives the power to make rules is to be removed from the new enactment, it is very necessary that these or similar conditions should be inserted in the Bill as substantive provisions.

(Signed) G. S. FORBES,
District Magistrate.

From the Acting Registrar of the High Court of Judicature, Madras, to the Chief Secretary to Government, dated 7th July 1896, Dis. No. 39.

With reference to G.O., No. 215, Educational, dated 6th April 1896, communicating to the Hon'ble the Judges of the High Court, for favour of an expression of opinion, a draft Bill to amend the law relating to Reformatory Schools, I am directed to forward a transcript of the minute recorded by the Hon'ble Mr. Justice Benson and to state that the Hon'ble the Chief Justice and Justices Subrahmania Aiyar and Davies have no remarks to offer on the Bill.

(Signed) C. G. TODHUNTER,
Acting Registrar.

Enclosure.

Minute.

Mr. Justice Benson.—I am altogether opposed to the provision of section 15 which enacts that there shall be no appeal against, or revision of, an order for the detention of a youthful offender in a Reformatory School. A Sub-Divisional Magistrate may be an officer of not more than a couple of years standing; and under the Act he may, even for trifling offences, consign a youthful offender to a Reformatory School for seven years. It is a question of judicial discretion whether such a sentence is appropriate or not, and there is nothing in which eccentricity and defective judgment are so frequently shown by Magistrates, and sometimes even by higher Courts, as in apportioning the penalty to the offence. Under the Criminal Procedure Code an appeal is allowed against a sentence of moderate fine by a first-class Magistrate, and under the Civil Procedure Code an appeal is allowed in regard to decrees of quite trifling pecuniary value. Is there any sufficient reason why what is practically a sentence of imprisonment (mild though it be) for seven years should not be open to appeal or revision? I can see none. I think the order for detention should, for the purposes of appeal, be regarded as a sentence of imprisonment, and be subject to appeal and revision as such under the Criminal Procedure Code.

2. The other provisions of the Act do not seem to me to be open to objection, and some of them (*e.g.*, that contained in section 31) appear to be distinctly valuable.

From the Superintendent, Government Press, Madras, dated 3rd June 1896, No. 823.

Read—again the following paper:—

G.O., Mis. No. 336, Educational, dated 6th June 1896.

Read—the following letter from J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Jails), to the Chief Secretary to the Government of Madras, dated Simla, the 25th May 1896, No. 6-Jails—269:—

I am directed to state that, in connection with the Bill to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders which is now under the consideration of the Government of India, it has been suggested that it might be desirable to provide reformatory schools for female juvenile criminals in India.

2. At the time the Reformatory Schools Act, V of 1876, was before the Governor-General in Council it was not deemed expedient, owing to the peculiar circumstances of India, to apply its provisions to the case of girl-criminals. The small

number of female youthful offenders in India, and the proportionately large expenditure which would have been involved in providing establishments for them, no doubt constituted objections to applying the provisions of the Reformatory Schools Act to females, and it may perhaps still be doubted whether such a step, which would involve the seclusion of girls for a period of years, would not be regarded with distrust and suspicion in India. As, however, it is now twenty years since the question was last under consideration, and as the experience since gained may afford materials for a further consideration of the subject, the Government of India will be glad to be favoured with the opinion of His Excellency the Governor in Council on the above proposal.

3. I am also to request that, with the permission of His Excellency the Governor in Council, the Government of India may be informed in what manner, in the event of girl-criminals being brought within the scope of the Bill, it would be proposed to provide for the reception and training of those convicted under its provisions, and whether there are any industrial schools or other private institutions in the Madras Presidency in which such persons could be kept.

4. The favour of a very early reply is requested to this letter.

Order—Mis. No. 336, Educational, dated 6th June 1896.

Communicated to the Inspector-General of Prisons and the Director of Public Instruction for very early remarks, with special reference to paragraph 3 of the Government of India letter.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

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

Read—also the following papers:—

From the Inspector-General of Prisons, to the Chief Secretary to Government, dated Madras, 11th June 1896, No. 3718.

In reply to G.O., No. 336, Educational, dated 6th June 1896, I have the honour to state that, as suggested in paragraph 5 of my letter, No. 2583, dated 29th April 1896, juvenile female convicts might, if the Reformatory Schools Act is made applicable to them, be sent to some aided school. I am not in a position to indicate any particular school.

(Signed) A. G. CARDEW,
Inspector-General of Prisons.

From the Director of Public Instruction, to the Chief Secretary to Government, dated Ootacamund, 13th June 1896, No. C. 213.

With reference to G.O., No. 336, Educational, dated 6th instant, I have the honour to state that I have dealt with the question of reformatory schools for girls in paragraph 2 of my letter, No. 5908, dated 1st instant.

2. I do not know of any existing institution in which girl-criminals could be placed. There are several industrial schools for girls under the management of missionaries, but they are for the most part intended for Native Christians. I do not think that any missionary would run the risk of his school becoming unpopular by admitting female criminal offenders into it; and, even if he were willing to admit them, I do not think he would be able to afford Government the guarantees that would be needed for the administration of strict reformatory discipline, such as is maintained in reformatory schools for boys.

3. If a reformatory school for female offenders is to be provided, it must, in my opinion, be a Government institution managed on the general lines of the Reformatory School, Chingleput.

(Signed) D. DUNCAN,
Director of Public Instruction.

Order—No. 609, Educational, dated 2nd October 1896.

Messrs. Forbes, Dumergue, and Cardew and the Hon'ble Dr. Duncan will be thanked for the care with which they have examined the Bill dealt with in the above papers.

2. The following letter will be despatched to the Government of India.

[Here enter letter No. 610, Educational, dated 2nd October 1896.]

(True Extract.)

A. T. ARUNDEL,
Ag. Chief Secretary.

To the Hon'ble the Chief Justice with C.L.
„ the Government Solicitor.
„ the Inspector-General of Police.
„ the Chief Presidency Magistrate.
„ the Commissioner of Police.
„ G. S. Forbes, Esq.
„ J. W. F. Dumergue, Esq.
„ A. G. Cardew, Esq.
„ the Hon'ble Dr. Duncan.
„ W. J. H. LeFanu, Esq.
„ J. H. A. Tremenheere, Esq.
„ T. M. Horsfall, Esq.

Ed. Shaik Karim.

Government {1896} of Madras.

EDUCATIONAL.

Recd. } 1896. *Enclosures*

Regd. } *Spare copies*

Letter, No. 610, 2nd October 1896.

OCTOBER.

Reformatory Schools Act.

Furnishing opinion on the Bill to amend the —.

EDUCATIONAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA, Home Department.

Sir,

I am directed to reply to Mr. Carnduff's letter No. 902, dated 27th March 1896, forwarding, for the opinion of this Government, a Bill to amend the law relating to Reformatory schools with a Statement of Objects and Reasons, and also to your letter No. 6-Jails—269, dated 25th May 1896, requesting that the Government of India may be informed in what manner, in the event of girl-criminals being brought within the scope of the Bill, it would be proposed to provide for their reception and training, and whether there are industrial schools or other private institutions in this Presidency in which they could be kept.

2. The former of these letters was referred to the Hon'ble the Judges of the High Court, the Advocate-General, the Director of Public Instruction, the Inspectors-General of Police and Prisons and certain selected officers for remarks and opinion, and the latter to the Inspector-General of Prisons and the Director of Public Instruction, and I am to enclose a copy of the replies which have been received.

3. With reference to the latter letter and the question whether girl-criminals should be included among "youthful offenders," I am to say that His Excellency the Governor in Council, after full consideration of the question, is entirely in favour of girls being brought within the scope of the present Bill by an amendment of section 4 (*a*). It will be seen that the Director of Public Instruction reports that he knows of no industrial school or institution in which they could at present be received, and from returns obtained from the Inspector-General of Prisons it appears that their numbers are hardly sufficient to warrant the maintenance of a separate reformatory school on their account. But it is by no means impossible that if such industrial schools are recognized by law they may be called into existence, and the necessity for confining girl-offenders in some place other than a jail may perhaps, in the course of a few years, become of pressing importance. If girls are now excluded, there would then be occasion for regret that the present opportunity for legislating regarding them had been allowed to pass. In the meantime the provisions of the present Bill as to the retention of youthful offenders in a reformatory school are entirely permissive, and, moreover, many cases might suitably be dealt with under sections 12 and 31 thereof. The Inspector-General of Prisons has reported that he would have no difficulty in establishing a depôt at one of the Central Jails to which all girl-criminals sentenced to periods of over three months could be sent and confined apart from older convicts. I am to add that His Excellency in Council is of opinion that female juvenile offenders should not be detained in a reformatory school before they are thirteen years of age nor after they are sixteen, and that if they are brought within the purview of the Bill, sections 4 (*a*), 8 and 13 should be amended accordingly.

4. Section 3 of the Bill appears to this Government to be insufficiently comprehensive. As is pointed out by Mr. Dumergue (paragraph 3 of his letter), the Bill permits several courses which are contrary to the directions of the Indian Penal Code and the

Code of Criminal Procedure. It would seem to be desirable to widen the terms of this section. As is remarked in paragraph 6 of the letter of the Inspector-General of Prisons, the definition of "Inspector-General" in section 4 (*b*) appears to be defective. The Bill imposes no duties upon the Inspector-General of Prisons. This Government is, moreover, opposed to that officer controlling the reformatory school in any way. The effect of such a step would inevitably, in its opinion, result in the introduction of jail methods and ideas and the gradual destruction of the feeling that the school was in fact a school and not a jail. His Excellency in Council would prefer that nothing in the management of the school, or even in the wording of the Act [the expression "sentence" in section 22 (2) is an instance of the latter] should suggest that detention in the school was equivalent to imprisonment in a jail. The definition in section 4 (*b*) might accordingly, in His Excellency's opinion, be limited to a statement that the "Inspector-General" includes any officer appointed by the local Government to perform the duties imposed by the Act on that officer.

This Government is also of opinion that it is desirable that the Bill should differentiate more clearly than it does at present between Government reformatory schools and private certified reformatory schools, and considers that sections 4—11 of the Ceylon Youthful Offenders Ordinance I of 1886, or similar provisions, should be enacted to meet the case of the latter.

5. I am to commend the suggestion in paragraph 4 of the Director of Public Instruction's letter, that express provision should be made in the Bill enjoining the separation of the older offenders from the younger at night, to the favourable notice of the Government of India. The matter appears to be one of importance. The same officer's recommendations that recreation should be included in section 6 (*b*) and elementary instruction in reading, writing and arithmetic in section 6 (*c*), and that, for the reasons given in paragraph 5 of his letter, the minimum period of detention should be fixed at three years by section 8 (*a*) also appear to be worthy of adoption. The latter suggestion is important.

6. With regard to section 9 of the Bill I am to solicit the attention of the Government of India to paragraph 2 of the letter from the District Magistrate of Chingleput. The difficulty pointed out by him appears to be real, but the solution he proposes does not commend itself to this Government, which would prefer the enactment of a provision analogous to section 349, Code of Criminal Procedure, under which a youthful offender could be considered to be under trial until his case was finally disposed of. The same officer's suggestion that words should be added to section 10 requiring the officer in charge of the prison to obey the direction of the Magistrate or Judge instructing him to bring up a youthful offender in the circumstances described, also appears to merit consideration.

7. I am to solicit the attention of His Excellency the Governor-General in Council to the remarks of Mr. Dumergue upon section 15 of the Bill, and to say that this Government agrees with them in all respects. In the same section the word "reversed" should apparently be substituted for the expression "set aside" which is not used in the Code of Criminal Procedure.

8. This Government concurs with the opinion in paragraph 9 of Mr. Dumergue's letter that section 16 should include cases in which security is required to be given for keeping the peace.

9. In section 18 (i) it appears to be advisable to add after the word "Government" the words "or of a railway, or of a company as defined in section 3 (*e*) of Act I of 1894."

In section 20 it might be provided that the license should also determine if the employer becomes bankrupt or goes through the Insolvency Court, and section 21 would be more comprehensive if it permitted the Superintendent to cancel the license for good cause shown, such cause to be recorded.

10. Mr. Dumergue's observations in paragraph 10 of his letter upon section 22 (2) of the Bill are entirely concurred in by His Excellency the Governor in Council. With regard to the latter portion of them His Excellency in Council would recommend the adoption of the provisions in sections 27—29 of the Ceylon Ordinance.

11. With the additions and alterations which have above been referred to, the Bill would meet with the approval of this Government.

12. The Bill and Statement of Objects and Reasons was published in the *Fort St. George Gazette* in English on the 21st April and in the other vernaculars on 28th April, 5th May, 12th May and 2nd June 1896.

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

A. T. ARUNDEL,
Ag. Chief Secretary.

Ootacamund,
2nd October 1896.

Exd. Shaik Karim.

JUDICIAL.

JAIL (1895) DEPARTMENT.

526
534
52

815 : 10 : 10-95 on the
589/90 : 19-7-95 on the
1767 : 19-7-94.

From

The Inspector-General of ~~Jails~~, Prisons

To

The Chief Secretary to Government.

Rc Exa No 607 - 10 Sept 95 2-10-95

Dated 7th
Despatched 8th } November 1895.
Received 12

Rep 13th

CHIEF SECRETARIAT
12 NOV 1895
No. 1566.
GOVERNMENT OF MADRAS

Ref
Exa 19-7-95, Exa 1767
2 copies of Jail report
3 Co Thanjavur

Enclosures, nil.

Proposal to amend the Reformatory Schools Act, plan of Trichinopoly Prison and certain connected papers.

Subject.

Reports, in reply to Gf. No 815 dated 10th October 1895, that it would be impracticable to concentrate all Female juvenile Convicts, other than those admitted into Subjails, into the Coimbatore Central Jail.

5347/1326

No. C. 1566.

Camp Berhampore Prisons
OFFICE OF THE INSPECTOR-GENERAL OF ~~JAILS~~,
Dated 7th November 1895.

From

A. G. CARDEW, Esq., M.A.,

INSPECTOR-GENERAL OF ~~JAILS~~, Prisons

To

THE Hon'ble Mr. J. F. Price, C.S.I.

CHIEF SECRETARY TO GOVERNMENT,

SIR,

Enclosure.

In reply to G.O. Jud. No. 815, dated 10th October 1895, I have the honour to state that it is not, in my opinion, practicable to set aside some Central Jail as a depôt to which all female juvenile Convicts should be sent.

2. The number of Female Juvenile Convicts admitted in 1894 was 95, and these were received into the following Jails Viz.—

Central Jails	Rajahmundry	3
	Vellore	4
	Coimbatore	1
	Penitentiary	13
District Jails	Nellore	2
	Bellary	1
	Cuddalore	1
	Madura	4
	Mangalore	1
Subsidiary Jails		65

It will thus be seen that two-thirds of the total number of Female Juvenile Convicts are admitted into Subsidiary Jails, and must, therefore, be sentenced to periods not exceeding 30 days. The concentration of such prisoners in a Central Jail is impossible, owing to obvious considerations of time and distance.

3.

3. The number of Female Juvenile Convicts admitted into Central and District Jails was 30, of whom nearly half were received into the Penitentiary Madras, and it would be possible, if the Government so directs to collect these into a single Central Jail, excluding such as are convicted in the 4 Northern and 2 Western Districts. The only Central Jails into which Female Convicts are now regularly received are those at Rajahmundry, Vellore, Cannanore and the Penitentiary, but Female Convicts sentenced to not more than 30 days imprisonment are also received in the Coimbatore Central Jail. At Rajahmundry Vellore and the Penitentiary there is neither accommodation by which Female Juveniles can be separated from Adult Female Convicts, nor space to build such accommodation. At the Coimbatore Central Jail, such accommodation could be provided, without, I think, much outlay. If therefore, a central depot for Female Juveniles other than those admitted into Sub-jails is to be provided, it would be best to place it at the Coimbatore Central Jail, where adult females are rarely received. Female Juvenile Prisoners from all the Ceded, Central and Southern Districts could doubtless be concentrated at Coimbatore without great difficulty.

4. The removal of Female Children to such a distance from their homes would certainly constitute a severe punishment, and proper measures for their due restoration to their friends on release would, in my opinion, be imperative. A staff of an Eurasian Matron on Rs. 20 per mensem and at least 2 Female Warders on Rs. 7 per mensem each would be necessary, as it would not be desirable to send released girls back in the charge of male Escorts, nor could such prisoners be turned adrift at the Jail Gate with a railway pass.

5. It certainly seems to me that it would be much better to amend the act (V of 1876) and to establish a small Female Reformatory in connection with some recognised orphanage or School.

I have the honour to be
Sir,
Your Most obt. Servant
H.G. Gardiner
Inspr. Genl. of Prisons

[25]
300—5-1095

E.P. DEPARTMENT.

C. No. 1326.

FOR ORDERS.

I saw in the Mail a few days ago something to the effect that the G of I were considering whether Government should not establish Female Reformatories. If anything known officially about that?

JG
28/11/95

~~Should there be a Female Reformatory. I don't think we can do anything. Female juvenile convicts are usually sentenced for very short periods to send them in charge of female warders to any central place & there to return them, still in charge of female warders, & their fares (& perhaps subsistence allowance) both ways, but hardly female warders could be kept for Rs. 7 p.m. however much arrears of pay & probably sole the girls on route~~

Attention is invited to the notes & orders in S. 1081 of '95, Jan 815.

It would have been as well if the J.G had indicated the school or Orphanage where he would suggest. It would be necessary to separate the female convict juveniles entirely from the others. This would be rather a difficult matter

JO
26/11/95.

Whether we have a Female Reformatory or some portion thereof for juvenile female offenders. I suppose it will be necessary to have a certain number of female warders not only to travel back with the girls to restore them to their own people, but also to bring them from the places where they are convicted to the Central depot wherever it may be. I should

EP
29/11/95

like to know what is done now whenever girls have to be conveyed from one place to another. Presumably they travel under female escort — and a few more could not make much difference. The girls that now get only short sentences cannot well be brought into a central depot, but it appears to me that we ought to make provision for the 30 long sentence ones — and I should think an annexe to the Rajahmundry and Vellore jails would be most suitable — one for the north and one for the south — with a matron and proper establishment in each. These might also be made to include some at least of the nearest short sentence girls. It appears to me that it is our duty to make some arrangements for keeping these young girls apart from the older & more hardened offenders —

G
2 Dec

This of course supposing India is not moving in the matter. We cannot well undertake legislation for ourselves.

G

Reformatory schools for girls

FOR ORDERS.

H. E. THE GOVERNOR. (3)

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE.

[G. 25]
1,000—8-11-93

DEPARTMENT

C. No.

FOR ORDERS.

I think we may wait, as suggested, to see if India is going to do anything —

I observe that H. E. speaks of "the 30 long sentenced ones" as if 30 were the number of female juvenile convicts in confinement on the average (otherwise than in Subsidiary jails) throughout the year. But 30 were the whole number so admitted during the year 1894. The number actually in jail at any one time must have been very much smaller. Figures I have made out the 30 children constituted about 4·4 % of the total admissions (679) of female convicts. Out of the 679 only 22 were left at the end of the year. On this proportion, the no. of children left would be about 10. This is on the supposition that the no. of sentences of the children are as long as the no. sentences of the adults, which is improbable. I imagine that if 5 or 6 children were left at the end of the year, it is supposable enough; & that the no. in prison at any one time would not exceed 5 or 6. I should think we can frame any plans for so small a no.

Looking at it from this point of view, I will withdraw my remarks which were based on a misunderstanding. I think we had better wait for the die a

G
20/12/95

Re-circulated

2. The communication has been received from the Govt of India about the establishment of a Reformatory school for girls. The Hon'ble Mr Grose probably refers to the note marked on page 6 of the Madras Mail of the 23rd ult. last.

3. With reference to H. E.'s enquiry as to what is done as regards escort of female prisoners from one place to another, it is ruled that a female warder is, whenever possible, detailed to accompany the escort when a female prisoner or more than one female prisoner is transferred from one jail to another vide Rule 545 of the Jail Code

When a female prisoner is sent to be released from jail on intimation of the date of release is given by the jail authorities to her friend or relative to enable them to come to the jail & receive her. If no friend or relative appears on that date, the Supt sends her to her home in charge of a female warder if he considers this course desirable by reason of her youth or otherwise - Vide Rule 1050 of the Jail Code.

Mar the matter rest
1/12/95 for a month or so until
the revised Reformatory
Schools Act referred to by the Naib
Simla correspondence is received?

Hopkins 16/12/95

Reformatory Schools
Girls

Ed. Govt. 1326

FOR ORDERS.

H. E. THE GOVERNOR. (3)
THE HON'BLE MR. H. W. BLISS, C.I.E. (2)
THE HON'BLE MR. J. GROSE. (2)

Sir,

To await the receipt of the revised Reformatory Schools Bill & any communication on the subject.

HF. 7/1/96

By
Please show this paper to me in March 1896.
HF
7/1/96.

[G. 9 4,000] 220

~~Current~~ No.

Home DEPARTMENT.

From P.S. to H.E.
the Govt

No.

Dated 26th April 1895
Received 28th " "
Registered
Enclosures

SUBJECT.

Returning certain papers re: Reformatory for female juvenile.

Note
H.S. has noted on the Despatch to Govt the Girls' Reformatory Schools Bill.

Girl Criminals in India.

TO THE EDITOR OF THE "TIMES."

SIR,—In your issue of Sept. 6th, 1895, you kindly published a letter from me, referring to a few of the defects in the prison system of British India, and especially to the want of Reformatory Schools for girl criminals. I remarked that "there is no provision whatever for the reception of female juveniles in a Reformatory school, and children of this sex have consequently to remain in jail to herd with the prostitute and professional thief." I pointed out how, as one of the official visitors of the large Central Jail in this Presidency town I had drawn the attention of the Madras Government to the case of a little girl whom I found amongst the adult females, and whose wooden badge already bore the mark of an "habitual," although she was only about 12 years of age. In response to my plea (backed by the Inspector-General) for a female reformatory for such cases, the Madras Government passed orders admitting the desirability of confining youthful female offenders in Reformatory Schools, but it discovered that "the Reformatory Schools Act, 1876, does not provide for the confinement of girls in such institutions." This Act is now to be amended, and the last *Gazette of India* contains a draft of the amending Bill. Unfortunately, however, no provision whatever has been made in it for girl criminals; and apparently it is still to apply to boy criminals only. It is to be hoped that the Secretary of State will before the Bill is taken into consideration in the Supreme Legislative Council direct that a section or two be added enabling such local administrations as desire to do so, to establish reformatories for girl criminals. The number of such girls is by no means inconsiderable, judging from my own experience of one jail; but even if only isolated cases could be quoted, the plea for reformatories would still be valid. I may add that for the most part the girls have been driven by their parents to commit crimes and it is certainly the duty of Government to save them from such evil influences before they become "habituals," and utterly irreclaimable.

HENRY BEAUCHAMP,
Madras, April 9th, 1896.

[G. 9]
4,000—98-1-96.

Current No. 272

DEPARTMENT.

From

H. A. Stuart Esqre. I. C. S.
Private Secretary to H.E. the Govr.

No.

Dated 16th April 1896.

Received 17 — " — "

Registered 17 — " — "

Enclosures one.

SUBJECT.

Asking to be furnished with the papers relating to the amendment of the Informatory Act and any other Information on the Subject.

Dec 16 2000 No 27

Rel Act

Plan
17/4/96

D.O. No: 272

PRIVATE SECRETARY TO THE GOVERNOR OF MADRAS

GOVERNMENT HOUSE,

17 APR 1896

CHIEF SECRETARY TO GOVERNMENT OF MADRAS

Apl. 1896.

Dear Mr Price,

With reference to the article on Reformatories in last Monday's Mail and to the enclosed letter to the London Times, His Excellency wishes to be furnished with the papers relating to the amendment of the Reformatory Act

D.O. No: 200

Coonoor
24th April 1896

My dear Stuart,

In reply to your D.O. of the 16th April (the end to which I returned) I send herewith a file on the question of Reformatory Schools. You will see from the papers in the bundle marked "Subject file" that the question of providing separate accommodation for first juvenile offenders in Jails is being over pending the discussion of the Govt of India's Reformatory Schools Bill, and that this is also in G.O. No. 213 J, 6-4-93 lately sent round to the High Court and others for an expression of opinion.

Sincerely Yours,
(Sd) J. T. Price

A. A. Stuart Esq I.C.S. &c.

(one encl.)

CHIEF SECRETARIAT,

No. 200

Dated 24-4-1896

and any other information on the subject which you may think it desirable to send.

Yours sincerely

H A Clemart

D. O.

GOVERNMENT OF MADRAS

OOTACAMUND,

24th April 1886.

My dear Branch

In reply to your D.O. of the 16th April (the enclo. to which I return) I send herewith a file on the question of Reformatory Schools. You will see from the papers in the bundle marked "Intact file" that the question of providing separate accommodation for female juvenile offenders in Jails is by me over pending

PRIVATE SECRETARY TO THE GOVERNOR · MADRAS ·

GOVERNMENT HOUSE.

26 Apl 1896

Recd / Note. Kept them in the file

Dear Mr Price, W 28 4 96

In returning the file I am to say that His Excellency desires that the q^n of a Reformatory for girls may be considered when the opinions on the draft Bill are received.

Yours sincerely
H Blunt

the discussion of the Govt
Indian Reformatory Schools Bill,
& that this letter has in fo.
No 213.J. been recently sent
6.4.93
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for an expression of opinion.

Sincerely yours,

Hedworth Lee

H.A. Stuart Esq. ICS.

(One encl.)

NOTES.

Suggestions

P.J.:—

9. I highly approve of the new section 31. Since I became Director, I have often been struck with what seemed to me the over-readiness of magistrates to send youthful offenders to the reformatory school, instead of administering to them an admonition or a whipping and handing them over to their parents with precautions for their good behaviour. It is a mistake to send to a reformatory school boys who are not so far gone in vice as to need the discipline of such a school; for their detention in the school may do them more harm than good, besides taking up the accommodation which ought to be reserved for more fitting subjects.

Mr. Le Fanu:—

6. *Section* 31 is merely another form of the very valuable provision which Courts in England have of directing persons to enter into recognizances to "come up for sentence." A somewhat similar provision in the Criminal Procedure Code was introduced on my own suggestion to the late Advocate-General many years ago.

2. The other provisions of the Act do not seem to me to be open to objection, and some of them (*e.g.*, that contained in section 31) appear to be distinctly valuable.

—12. *Clause* 31.—I think that this clause is a very beneficial one, but that it do[es] go far enough. Cases are certain to occur in which it will be inadvisable or i[m]sible to discharge a youthful offender after due admonition or on a bond execut[ed] his guardian. Then, unless further provision is made and unless whipping m[ay] awarded under the Whipping Act, 1864, a sentence of imprisonment for which dete[n]in a reformatory may be substituted must be passed. But detention in a reform[atory] may not be considered necessary or proper, and the youthful offender must be s[ent] to jail. This course would be opposed to the spirit of the Bill and I would suggest that [he] be further empowered in any case of conviction to order a youthful offender, if a male, "to be whipped with not more than twenty-five strokes of a light cane or rattan within the court premises, and in the presence, if he desires to be present, of the parent or guardian of such offender." This provision is contained in clause (*e*) of section 19 of the Ceylon Youthful Offenders Ordinance. I would also invite attention to clause (*c*), by which a youthful offender may be whipped besides being sent to a reformatory school and to the concluding paragraph of the same section by which the parent or guardian of a youthful offender is rendered liable to a fine of Rs. 20 for conducing by neglect or otherwise to the misconduct of a youthful offender.

—13. *Clause* . —The meaning of this clause is, I venture to think, very far from clear. Section 35 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 eighteen 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 nadoing 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(*f*) 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.

—10. The Superintendent is strongly in favour of the addition of a new section for the protection of discharged youthful offenders and states that, in the opinion of Mr. Hancock, Inspector-General of Police, much more harm will be done by allowing any discretion to the police than by prohibiting them to interfere with discharged boys. There is much force in the above remark and I would add the following as section 33 of the Act:—

"No youthful offender discharged from a reformatory school after he has served his full term of detention, there shall be under the surveillance of the police or be treated as a known character by the police or by the courts."

Notes

Mr. Le Fanu understands P.J.

But under sec. 5 of the Whipping Act, whipping may be ordered in the case of any offence by any juvenile offender which comes under the Act. Mr. Domergue apparently had it in his mind to forget that, although whipping is only allowed with adults in certain cases, it can be administered in all cases to juvenile offenders or not.

It would be rather difficult to decide how much neglect would bring a parent within the clause.

Apparently the sec. is intended to provide for offences committed in the school. Such offences, such as petty thefts & mischief, would be dealt with under the rules and require more than this & more than a short extra period of detention, & it is apparently for this that the sec. is designed. Without the section the conducting officer could not know from the sentence to be affected. The Ceylon Ordinance orders the inflict to be affected at once, & so gets round the objection in Mr. Domergue's penultimate sentence. Boys will rarely get out of a reformatory school much before they are 18 & 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.

Suggestions

The D.P.I:—

11. Certain general principles to determine the circumstances in which a youthful offender shall, or shall not, ordinarily be sent to a reformatory school are recommended by the Superintendent of the Chingleput School. They are—

(1) No boy shall be sent to a reformatory who is an habitual criminal, except it be at a very early age of his career, so that he can spend at least four years in the school.

(2) No boy shall be sent to a reformatory who is subject to any infirmity or defect, mental or physical, which would permanently incapacitate him for industrial training.

(3) No boy shall be sent to a reformatory who has been convicted of an unnatural offence or gross indecency indicating habitual immorality.

(4) As a rule, the proper subjects for reformatory treatment are boys who are without proper parental or other control and who have been guilty of an offence or offences against property.

I do not think that any hard-and-fast rule can be laid down regarding (1), (3) and (4); but I am of opinion that the reformation of a boy belonging to the habitual criminal classes cannot be effected unless he is detained in the school for not less than five years and unless steps are taken to prevent him on his discharge from being handed over to his criminal parents or criminal community. If a youthful offender belonging to the habitual criminal classes cannot be detained in the reformatory school for a period of, say, five years, he should be sent to prison. The stern discipline of a prison is more likely, through fear, to make such a youth law-abiding than the mild educational methods of the reformatory school.

As regards the Superintendent's recommendation, No. 4, I might add that, as the class of offenders referred to above in paragraph 9 are, in my opinion, not so far go in vice as to need the discipline of a reformatory school, so the youthful offend belonging to the habitual or hereditary criminal classes are too far gone to be ma better by the comparatively mild discipline of the reformatory school.

As for the Superintendent's recommendation, No. 2, I am quite at one with him in holding that a youthful offender who is subject to any serious infirmity or defect, mental or physical, is not likely to derive any benefit from reformatory treatment, and a provision is necessary to exclude the admission of such offenders into a reformatory school. The words "who is not subject to any serious infirmity or defect, mental or physical," may be inserted after the word "transportation" in clause (*a*) of section 4.

Mr. Fowler:—

9. Dr. Nailer also recommends that the principles already approved by Government as to the class of boys who are ordinarily to be deemed proper subjects for reformatory training should be specified in the Act. These are that no youthful offender should be sent to the reformatory—

(*a*) who is an habitual criminal, except he can spend at least four years in the school;

(*b*) who is subject to any infirmity or defect, mental or physical, which would permanently incapacitate him for industrial training; and

(*c*) who has been convicted of an unnatural offence or of gross indecency indicative of habitual immorality.

As section 22 of the existing Act which gives the power to make rules is to be removed from the new enactment, it is very necessary that these or similar conditions should be inserted in the Bill as substantive provisions.

Notes

These things seem more in place in general instructions to Magistrates sending boys to schools than in an Act. The suggestions all seem sound & may perhaps be communicated to all Magistrates.

I consider that anything as regards these points would better suit the Rules - If any orders or suggestions are made I incline to the views of the Supt. rather than the DPI as to the maximum age of admission of habituals to the Reformatory. If the views of the latter were adopted there would be a very large increase in the admissions to the Reformatory - and consequently to the Expenditure

ditto. admissions of habituals instead of being as in the case.

I have with the figures of 1895 before me but think the following are those for 1892, 93, 94.

Total Admissions	Habituals	Habituals under 14 & over
35	18	9
35	26	9
35	29	14.

Please vide supra.
See with reference to this the remarks on the Statement of Objects & Reasons against Section 8 & 10 of the Bill, 376 Ed.

It is proposed to read G.O. 6.6.95 & the replies made in the same order upon this Bill.

Cent. 730. gives the dates of publication of the Bill in the Gazette.

Mr Ommegra has certainly taken a great

dear of trouble with this paper & his suggestions
are many of them of much value. Orders
are solicited as to whether he may be thanked.
It is submitted that a local Govt's remarks on
a Bill of this kind ought to be characterized
by much care & thought. It is about the
only chance it has of putting in any word
about legislation by India which will affect it
even afterwards unless its representative on the
Council either takes interest in a Bill or sits
on the Committee to revise it. Even then
the representative may not voice the opinion
of the Govt. under which he serves, & his opinion
is not moreover carry the same weight as the
deliberate view of the Govt. itself.

But too often local officers take next to no
trouble to criticize bills sent them for opinion &
their local knowledge & experience are lost. The
High Court is a very broken reed to rely upon. Of
the four Bills which are at this moment under dis-
cussion not a single one has been criticized in
detail by any of the Judges, & most of them say they
have no remarks to offer which assuredly means that
they have not looked at the papers.

Clearly therefore, an officer takes the trouble that
Mr. D. has about this bill it is submitted that he may
be thanked, if only to encourage the others.

No doubt the chief reason why his remarks are
good is that he had plenty of leisure & had not to
hurry the thing through against time with half a
hundred other matters clamouring for attention like most
one else who has touched it but that seems no
reason why he should not be thanked

X This is to obviate the trouble
of the Judges being consulted
they have got the power to
to with Papers of this kind
This Bill has given that power
to work and to guide
Libel that Lawrence
Kings which I explain
Andrews Lees Sandiford
Bannerjea Ld

X Mr Archer I think has
done so too - as has
Mr Ilbert.

I know from personal experience
has much Officers appreciate "thank
you". It is only due to double
to their work and to especially
nothing for the Govt thanks cost
nothing and are customary & from
Govt Ld

Section 7 Bill

Bill to amend the Schools Reformatory Acts

We have protested again & again against the extremely inconvenient practice of sending reports in these words struck out. I thought it had been abandoned — I must ask that these notes be made use in any thing which will come before Parliament. There can be no reason at all why they should not be put into the Bill as printed for orders

HH 3/9/96

(For orders)

H.H. & Circ.

Note for Hon Mr. Bliss Q.C.

Reference Hon Mr. Bliss note of the 29th Aug. with regard to the form in which this paper has been sent up.—

It is really regretted that H.M's objection to these bills sheets was not known before. It appears that his instructions on the matter were recorded in papers in Rolls other than Judicial & Sanctional, & the U.S. was not aware of them. They will be observed in the case in future.

It is found on trial to be exceedingly difficult to have exactly all these notes, as many of them are originally against marked passages of the printed matter, & would not be intelligible if recopied below.

The file has accordingly been restitched in book form, & now about two inches wider than a foolscap book, & it is resubmitted to H.M. for orders as to the, whether this will meet his views.

The file was sent with Report of this on 1st Aug., & is a month late already, & this seems to constitute a reason against any other way.

Copies to Madras to be recopied if H.M's objections can be

Wright

29/8/96

All the directions have been carried out

HH 3/9/96

Section of Bill

How youthful offenders may be otherwise dealt with.

31. *Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—*

(a) discharged after due admonition, or

(b) delivered to his parent or to his guardian or nearest adult relative, on such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

Amendment of section 397 of the Code of Criminal Procedure, 1882.

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

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

* This consider would be contrary to the spirit of the Reformatory Act, the object of which is not to provide for the punishment of Youthful Offenders by a magistrate. It carefully steers clear of this doubt all through. Uppermost in the only object. The Ceylon Ordinance to which he refers is the ordinary punishment ordinance in use (cf. section 19) in Colombo the town.

This suggestion can best be carried into effect by departmental instructions to the Chief of Police. He may be asked to issue instructions accordingly. I think so too. Shall

I think that I can [illegible] I cannot [illegible] should all be thanked

I know from what I have done myself that it is only at exceptional times of leisure that a Colonial can examine a Bill carefully enough to be sure that mistakes will be avoided & this time is valuable

28/8/96

H/9/96

A.H. 9.9.96.

Orders

Section 31. is good & shd stand as it is
There should also be power JG
to birch before discharge and admonition and delivery of parents
or guardians
WS

I don't think the Superintendent should have these powers. JG
17/9/96

Whether that gives sufficient powers, I will consider the
charge.
A SH 26.9.96

Such cases are so rare that I don't think it worth while to object strongly, but I think it would be better to let the offender be imprisoned at once. At the C.S. rep – "if a boy is of such bad character as this proviso as to render it necessary to place him before a Court, the sooner he is dealt with by a Reformatory the better for the boy & he should be given up as a bad job"
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WS JG

Section of Bill

Suggestions

Title, extent and commencement.

1. (1) This Act may be called the Reformatory Schools Act, 1896.

(2) It extends to the whole of British India; and

(3) It shall come into force in each Province of British India *in which the Reformatory Schools Act, 1876, is now in force, at once, and in each other Province* on such day as the Local Government *may*, by notification in the local official Gazette, *direct* in *this* behalf.

Mr Dumergue:—

2. *Clause* 1.—According to this clause, the title of the new Act is to be "The Reformatory Schools Act," but clauses 3, 8, 9, 15, 16 and 31 introduce important exceptions and additions to the Code of Criminal Procedure and the Penal Code. The real object of the Bill is to provide for the punishment and reformation of youthful offenders, and the establishment of reformatory schools is subsidiary to that object. Hence it seems to me that it would be better to call the new Act "The Youthful Offenders Act." This title would at once direct the attention of courts to the special provisions under which youthful offenders are to be dealt with and is sufficiently wide to comprehend rules for the establishment and management of reformatory schools.

Repeal of Act V of 1876.

2. (1) *The Reformatory Schools Act, 1876, is hereby repealed.*

(2) *But all proceedings taken, orders passed, officers appointed or authorised and rules made under the said Act shall, as far as may be, be deemed to have been respectively passed, appointed or authorised and made under this Act.*

(3) *Any enactment or document referring to the said Act shall, as far as may be, be construed to refer to this Act, or to the corresponding portion thereof.*

Mr. Dumergue:—

3. *Clause* 3.—Considering that, besides the provisions of clause 15, where the Code of Criminal Procedure is mentioned, clause 16, read with clauses 4 (*a*), 8, 9 and 10, materially alters some of the provisions of Chapter VIII of the Code of Criminal Procedure in respect of youthful offenders, while clause 31 empowers courts to dispose, in a manner unknown either to the Penal Code or the Code of Criminal Procedure, of cases ending in the conviction of juveniles, I think it would be well to add to clause 3 a provision for the repeal of "so much of the Indian Penal Code and of the Code of Criminal Procedure, 1882, as is inconsistent with this Act."

Section 399 of the Code of Criminal Procedure, 1882, repealed on issue of a notification under section 1, sub-section (3).

3. *Section 399 of the Code of Criminal Procedure, 1882, is hereby repealed with effect, as regards any Province of British India in which it is now in force, from the date of the issue of a notification under section 1, sub-section (3), bringing this Act into force therein.*

Mr. Le Fanu:—

2. With reference to section 4 (*a*), I would suggest that something might be done for the reformation of *girl* offenders.

Definitions.

4. In this Act, *unless there is anything repugnant in the subject or context*,—

(*a*) "youthful offender" means any boy *who has been convicted of any offence punishable with imprisonment or transportation and who, at the time of such conviction, was under the age of sixteen years; and*

Mr Dumergue:—

4. *Clause* 4 (*a*).—As in Act V of 1876, so the present definition of youthful offenders excludes girls, but it seems to me that, even if separate reformatory schools for girls are unnecessary, girls should be included in the definition of youthful offenders at least for the purpose of enabling the Local Government to pass orders regarding them under the proviso to clause 12, which has been thought necessary in the case of boys. According to section 3 of the Ceylon Youthful Offenders Ordinance (No. 1 of 1886), the term "youthful offender" includes any boy or girl above the age of seven and under the age of sixteen at the time of his or her conviction.

Mr Clarke:—

The only further observations I have to make regarding this Bill are that I believe it would be improved, if its provisions could be made applicable to female youthful offenders as well as boys. Speaking from personal experience, I am aware of the difficulty a magistrate sometimes has in dealing with cases of girls charged with offences; in such cases to fine the delinquent is practically to fine her relatives, whilst a sentence of imprisonment, if imposed, has the effect of exposing her probably to evil influences from which (if possible) the magistrate would wish to shield her, instead of exposing her to their contamination. In connection with these remarks I would further observe that I am informed on good authority, and believe it to be the fact, that a sentence of imprisonment passed on a female carries with it results of a very serious nature, affecting her future social position; for, if married, in many cases her husband will refuse to consort with her again after she has been imprisoned, and if unmarried, so great is the stigma attached to the fact of imprisonment that she becomes an outcaste with no hope of marriage for her, and is consequently in all probability doomed to a life of crime and shame. For the foregoing reasons, I would advocate the provisions of this salutary Bill being made applicable to females as well as males.

Notes

Note. The bill is printed in Extenso in Gen. 213. Ed 6.6.96 & the Opinions in the printed file put up.

Submitted that this suggestion may be commended to India's notice. Mr. Dumergue apparently got the idea from the title of the Ordinance in Ceylon 1 of 1886, to which he alludes several lines lower down.

Note. These and other numbers similarly written in blue pencil in this column refer to paragraphs of the Chief Secretary's note written on separate sheets. This note has not been bound with the rest of the notes so that it may be more conveniently referred to.

2 "some" apparently sec. 118. proviso third is the only provision afforded.

Submitted that this may also be commended to India's notice. It seems to be one instance out of several where the draft Bill has been spoilt by too slavish an adherence to the lines of the badly drafted Act V of 1896 which it is to repeal.

Submitted that this is a good suggestion, & may be commended to India. The D.P.I. (below) says that he knows of no existing school or institution in which girl criminals could be received, & it is doubtful whether the number of such girls who are annually committed to district & central jails (58. please see Mr. Cardoza's letter below) justifies the creation or establishment of a separate reformatory school like that at Chinglepet, for girls. But if girls are not included now among youthful offenders they will not be for years & perhaps before this the case for doing something with them will have grown much stronger, & it will be regretted that this opportunity was lost. The terms of the bill are entirely permissive, so that even if

Orders

I doubt as to the desirability of altering the title. The acts we have to repeal are the Reformatory Schools Act, & Reformatory Schools Amendment Act, & the objects of the Bills. We are now I do not think it well to call attention to past but these enactments are "spent" & are in due course to die.

As to Mr. Dumergue's suggestion in matter in clause 4 of the Act, I don't think it matters what the Act is called. Associating other names as well as correct called. I add Lam very grateful.

JG 17/9/96

I agree with Mr. Grant.

ARH 20.9.96

I think here "imposed" is clearer above. The C.S. says it proves opinion to follow one other course here were provided for in the Indian Penal Code the Criminal Code Procedure. If the other course is followed the I.P.C. & C.C.P. are necessarily set aside. Jagree with the C.S.

JG

Informed Mr. Cotton by telephone that Mr. Grant agrees with the C.S. & that I think the proposed amendment of the Penal Code should be made.

JG 26.9.96

I think girls should be included. Sch. 3/9/96

12 & 31 may be utilized with regard to Matara & Galle, & the Jail Code need not be prejudiced in establishing reformatory schools for them, as girls from these two provinces in which jails exist may easily be sent with young up some, as they now are done in Ceylon.

JG

I quite agree that girls should be included, being be able to start a Female Reformatory, though I need not decide on doing so at once. The Bill being permissive & I do not see, however, that we need do more than permissive & I do not see, however, that we need do more than provide the enactment of girls as a particular schools under this enactment of girls as a particular part of particular prisons until we have a Female Reformatory. We cannot do that at once, if we choose hereafter.

JG

My opinion are confirmed as a Jail Officer as well as I do has been found necessary in the Province. The most legal matter

JG 27/9/96

[illegible] A. 1,000—VI-3-90.

DEPARTMENT.

C. No. 13

FOR ORDERS.

In this note I have where making remarks on the tabular statement in which the C.S. has written his notes, marked the places with numbers in blue pencil and put corresponding numbers in [illegible] the same colour in the Statement.

1 I do not agree with Mr. Dumergue that it is desirable to call the Act "The Youthful Offenders Act". The Govt. of India has evidently drawn on the Ceylon Ordinance for when framing the Bill and has no doubt deliberately retained the name of the existing Act the reason being that it has always been the object to dissociate as much as possible a Reformatory School as much from any idea of a prison and its unpleasant harmony as much as possible from the term Criminals. I do not myself see why calling the enactment "the Youthful Offenders Act" should

X I find that it is apparently the Khasi Settlement Ordinance

Section of Bill

Mrs Cordeaux

* It is submitted that if girls are included among youthful offenders, the age sixteen may be substituted for eighteen as the maximum age at which a girl may be kept in a reformatory school. A native girl of 16 to 18 is a woman in all ways, & would probably be little benefitted by being detained in a school.

The D.P.I.:—

* Substitute "a person" for "a woman" & "person trained" without leading one out in ways to girl's living

Suggestions

3. In 1894 one of the non-official visitors of Her Majesty's Penitentiary, Madras (Mr. H. K. Beauchamp), drew attention to the evil effects which must arise from female children being kept in the same yard as adult female convicts, who are often prostitutes or procuresses. In G.O., No. 589, Educational, dated 19th July 1895, the Government, observing that the Reformatory Schools Act, 1876, does not provide for the confinement of girls in such institutions, determined to make enquiries as to how the question of establishing a reformatory school for girls had been dealt with in other provinces. In G.O., No. 815, Educational, dated 10th October 1895, it was decided that sufficient grounds did not exist for the establishment of a reformatory school for girls and for the legislation by which such a measure must be preceded. I was, however, directed to report whether some central jail could be set aside as a depôt to which all female juvenile prisoners could be sent. On my report, No. 1566 C., dated 7th November 1895, no orders have as yet been passed.

4. The average number of females under the age of sixteen admitted into jails and sub-jails during the three years ending 1895 has been 106 per annum. Of this average number, 38 have been received annually into central and district jails and 68 into subsidiary jails. The 68 female juveniles admitted annually into subsidiary jails must be sentenced to periods of imprisonment not exceeding thirty days, and as many of these would not in any case be sent to a reformatory school, their case need not be closely considered. There remain some 38 girls who are sent annually to central or district jails.

5. This number is small, and the Government has already decided that there is not a sufficient case to establish a reformatory school on their account. But it does not appear, therefore, to follow that nothing should be done to improve their position, and now that the Reformatory Schools Act is to be revised, I am strongly of opinion that its provisions should be so altered as to enable the case of female juvenile convicts to be dealt with. If that were done, the Director of Public Instruction would be able, doubtless, to indicate some aided school to which female juveniles could be drafted and the evil of keeping these juveniles in prison would be avoided. For this purpose, the definition of "youthful offender" in section 4 (*a*) of the draft Bill should be reconsidered.

2. *Section 4, Clause (a).*— "Youthful offender" is defined as any boy who has been convicted of any offence punishable with imprisonment or transportation and who at the time of such conviction was under the age of sixteen years. The Superintendent, Reformatory School, Chingleput, thinks that reformatory schools should be opened for girls as well as boys. Applications have been received for the admission of girls into the Chingleput school and the Superintendent observes that a small ward, a matron and two female peons would meet all requirements for some years to come. There would be no difficulty in building a separate ward and creating a separate female establishment in the Reformatory School at Chingleput, if such measures were deemed expedient. But there are very strong objections to a reformatory school being opened for both boys and girls, however carefully they might be segregated in the actual working of the school. The establishment of entirely separate reformatories for female offenders is a different question and depends on a variety of considerations, one of which is whether the number of youthful female offenders is large enough to justify the opening of a school for them. Moreover, the sole object of a reformatory school is to reform the character of the youthful offender by awakening the intelligence, training the conscience, and teaching some trade or occupation, so that he may not only be able to earn an honest living for himself, but become a useful instead of a harmful member of society. If there were in India as in England independent careers open for women as well as for men, a strong reason could be urged in favour of giving youthful female offenders the same opportunities for reformation as are given to boys. But in this country, the youthful female offender would ordinarily at the end of the period of detention be handed over to the custody of her parents or guardians; and though she would be all the better for such training in domestic affairs as she may have received, she would seldom be in a position to carry on in after-life any industry, such as needlework or lace-making, which she may have learnt while at school. No doubt, girls in a reformatory school who are the children of depraved parents would gain by being separated for a few years from their home surroundings and kept under the strict discipline of a school, where they would receive intellectual and moral training similar to that which is given to boys, but the difficulty of dealing with them on their discharge would be much greater than in the case of boys, and experience has shown that in the case of the latter that difficulty is serious enough. On the whole, while I am opposed to any reformatory school having a female as well as a male department, I cannot see my way to recommend the opening of separate reformatory schools for female offenders.

Notes

it is made to include girls, girls need not be treated according to its provisions until arrangements for receiving them are complete. Meanwhile provision to meet cases brought into the Courts, such as S.C. could also be used in less serious cases & the girl discharged with an admonition or handed over to her parents on their guaranteeing her good behaviour & her absence without legal authorization for such a course it is probable less frequently adopted by the Courts than it might be

This is Educ. Circ. 1326. on the top of the file.

It was ordered to lie over pending receipt of the present draft Bill from India. Mr. Cadrew thought a separate female reformatory in connection with some recognised school or orphanage was the best plan, but said that there w^d be no great difficulty in making a Central Dépôt at Coimbatore fail for female Juveniles other than those admitted into Schools

Go. 815. Ed. 10.10.95

Govt. didn't say that it w^d not more because they were sorry. It was the difficulty about legislation which stopped the scheme. Please see orders in the original of the Go.

D.P.I. says he cannot at present indicate any such school. vide infra para 2. of his letter dated 13th June in reply to Go. 336. Ed. 6.6.96 printed in the file of printed circulars.

38 per annum are sentenced to terms of three months & over. please vide ref. If these each got two or three years in the school instead the institution would be a fairly large one.

Submitted that this is a mis-application of Western ideas to India. Usually the girl will be married & her husband will take care that she behaves herself more or less. I think Nurse should visit; take the Case of the Nurses for instance

Orders

In this case of para 6 I agree with the U.S. that the age should be raised to 16 & that the age of discharge should be raised to 16 with power to the Courts to order detention up to 18 — Sec 14. — I think 16 would be taken as the maximum. Sec 8 will have to be amended. Also Sec 13 of Reformatory Act.

The C.S. proposed 14 as the maximum age of admission — The U.S.'s proposal as to 16 as age of admission — The C.S. accepts & would reduce to the age of discharge — 16 as the case of girls & 13 — the maximum age of admission in the case of girls

JH

I agree

JG

17/9/96

A.St

26.9.96

Section of Bill

Suggestions

Mr Fowler:—

8. Dr. Nailer, the Superintendent of the Chingleput Reformatory, has suggested to me that the new Act should make provision for youthful offenders of the female sex. This would raise very many complicated questions which do not arise in the case of providing reformatory training for boys. I do not propose to discuss the subject unless the Government is prepared to accept the principle of the extension which Dr. Nailer suggests.

The D.P.I.:—

3. As regards age it seems to me highly expedient that a minimum as well as a maximum limit should be prescribed. All youthful offenders are expected to receive some industrial training during their detention in the reformatory school. But boys under ten years of age are not fit to receive such training. Apart from this, I do not think that, as a rule, children of such tender years are fit subjects for jail or reformatory school discipline. I would therefore insert the words "but not under the age of ten years" after the words "sixteen years".

Mr Cardew:—

(b) "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector-*General* of *Prisons*.

6. The other general question which arises in connection with the Bill relates to the definition of Inspector-General in section 4 (*b*). That definition declares that the term "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by the Bill on the Inspector-General of Prisons. But, so far as I have been able to ascertain, the Bill imposes no duties whatever on the Inspector-General of Prisons. The Bill does, indeed, impose certain duties on "the Inspector-General," but none on "the Inspector-General of Prisons," and the definition of "Inspector-General" is thus apparently without definite meaning. It is nevertheless open to the serious objection that it suggests and seems to indicate a connection between the Reformatory School and the Jail Department. In this Presidency this connection has happily been got rid of, and the advantages of separation are very great. Every qualified writer on the subject of reformatories has insisted on the necessity of separating them and differentiating them as thoroughly as possible from jails. I would invite reference to the report of the committee on reformatory schools which is printed in G.O., No. 376, Judicial, dated 12th February 1883, and its enclosures, for instance, Mr. F. A. Nicholson's notes. So long as a reformatory school is attached to the Prison Department, so long its proper position as a school, and not as a jail, will not be recognized. The exercise of patronage by the Inspector-General of Prisons will naturally bring jail officers into the school and jail habits of treatment and points of view follow. Therefore, I submit that the definition of "Inspector-General" in section 4 (*b*) of the Bill, which is already defective, should be struck out and one should be adopted instead which will not imply any connection between the Prison Department and the schools.

+ Section

II.—Reformatory Schools.

Power to establish and discontinue Reformatory Schools.

5. With the previous sanction of the Governor General in Council, the Local Government may—

(*a*) establish Reformatory Schools at such places as it *may* think fit;

(*b*) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf;

(*c*) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

Mr. Bannerjea:—

5. *Clauses* 5 (*b*), 17 (1) *and* 23, *and* 25.—[illegible] seem that even private schoolmasters and [illegible] who are willing to receive youthful offenders in [illegible] but are also liable to dismissal from their po[illegible] to have their schools used as reformatory schools. No provision is made in the Bill [illegible] either for the event of a private school being discontinued by the owner or for any con[illegible] tribution being made to private schools on account of youthful offenders placed in their [illegible]. It would, in my opinion, be better to limit the term "Reformatory School" to s[illegible] schools established by Government, and to call private schools in which youthful offe[illegible] there are placed "Certified Industrial Schools," as in the Ceylon "Youthful Offenders Ordinance, of which sections 4 to 15 and 30 to 37 may, I think, be followed with a[illegible] advantage.

Mr. Bannerjea:—

7. *Clauses* 5, 6 *and* 7.—These clauses would, in my opinion, be more appropriately placed in Chapter III, which might then be headed "Establishment and Management of Reformatory Schools", the words "and Certified Industrial Schools" being added if the suggestion I have made in paragraph 5 be accepted. Referring at present only to the grouping of the clauses, I would suggest that Chapter II should be headed "Punishment of youthful offenders" and that it should include, not only clauses 8 to 16 inclusive, but also clauses 31 a[illegible] 32.

Requisites of schools.

6. Every school so established or used must provide—

(*a*) sufficient means of separating the inmates at night;

Hon. Mr. [illegible]:—

4. *Section* 6, *Clause* (*a*), provides for the existence of sufficient means of separating the inmates at nights. In the English reformatories, the younger offenders are separated from the older offenders, in order that the former may not be contaminated by a close association with the latter. A similar provision may, with much advantage, be made in the Indian reformatories also. In fact, such a separation is already to some extent carried out in the Reformatory School, Chingleput. If this suggestion be approved, the words "and of separating the younger from the older offenders" may be added to this clause.

Notes

As to this please see Secs. 82. & 83. IPC under which no boy under seven can be convicted of an offence (or, consequently, sent to a reformatory school, & sec. 8. of the Bill), & no boy above seven & under twelve can be convicted unless the Court thinks he has attained sufficient maturity of understanding to judge of the nature & consequence of his conduct in committing the offence. These two sections ought to be enough to prevent too youthful offenders being sent to a reformatory & the D.P.I's suggestion does not seem worth adopting.

I agree Ld

There is so. It seems to be another instance of the bad effects of following the form of the old Act too closely. This may be commended to Indian notice.

suggestion

A the D.P.I may be specifically made to do the duties of the "Inspector General".

Both under Govt the D.Is of [illegible] Prisons & Reformatories. There is no Law as at present the Reformatories. There is no Law as at present
Govt as they are: each Govt can frame such rules as they consider fit. I prefer our system.

#5

all this seems true & just & may be commended to Indian notice. The first part of it points out another piece of bad drafting.

ditto ditto.

I think that this might be left alone. It is a matter of opinion where these sections of this Act should be: I prefer them where they are

Ld

may be commended to Indian notice

This might be done but I regret the wording of the Section as the grounds to exist that the D.P.I wants. Ld

Orders

I agree with the C.S. & H.S.

JG

The Inspector General is defined as an officer appointed to perform duties imposed by this Act on the Inspector General of Prisons. As the Act does not impose any duties on the Inspector General of Prisons, the definition is faulty. It will be necessary to say that the Inspector General appointed as such by Govt for the purpose

Ld with the advisability of JG
Govt dwelling on the advisability of
his not being the D.P. Ld
also be pointed out that all such words as "sentence" in
S. 22(2), which point to imprisonment in a Jail, should be
carefully eliminated Ld

Very well. JG 17/5/96 A.G. 26.9.98

I think a distinction should be made as in this Act between Orders which are to be known Govt Reformatories & Orders which are to be found in Reformatories Ld
Schools. The provisions of Ss 4 - 11 of this Act show the circumstances under which Govt should exercise its powers with regard to Reformatory Schools & such distinction seems advisable Ld JG

I think these provisions & also the Rules which may be made may require to be altered & it is therefore undesirable to make the Rules & Orders an Act of. Cl. of Act requires further consideration before we can

Ld JG

I think that on consideration of Note 5 we can make further Order in connection with Reformatories & that the suggestion is one which should be carried out JG Ld

Section of Bill

(*b*) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein;

(*c*) the means of giving such *youthful* offenders industrial training;

(*d*) an infirmary or proper place for the reception of such *youthful* offenders when sick.

Inspection of Reformatory Schools.

7. (*1*) Every *school intended to be established or used as a* Reformatory School shall, before being used as such, be inspected by the Inspector-General, and if he *finds* that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, *together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such*, and the school shall thereupon be deemed *to be* a Reformatory School.

(*2*) Every such school shall from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

Power of Courts to direct youthful offenders to be sent to Reformatory Schools.

8. (*1*) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be,—

(*a*) *in no case, less than two or more than seven years;*

(*b*) *if the offender is at the date of his conviction under the age of ten years, seven years;*

(*c*) *if he has then attained the age of ten years, not less than five years, unless he would, in the opinion of the Court, sooner attain the age of eighteen years; and,*

(*d*) *in such last mentioned case, until he shall attain the age of eighteen years.*

(*2*) The powers so conferred on the Court *by this section* shall be exercised only by (*a*) the High Court, (*b*) a Court of Session, (*c*) *a District or Sub-divisional Magistrate*, (*d*) a Magistrate of the first class *specially empowered by the Local Government in this behalf*, and (*e*) a Presidency Magistrate in the towns of Calcutta, Madras and Bombay.

Suggestions

Mr. O.P.J. — *Clause* (*b*).—The word "recreation" may be inserted after "food".

Mr. O.P.J. *Clause* (*c*).—The Reformatory School at Chingleput gives elementary instruction in the ordinary subjects of education. No industrial training is of much value unless it is accompanied by some knowledge of reading, writing and counting at least. This should, therefore, be expressly provided for in the Act. Some of the youthful offenders, being found unfit to receive industrial training proper on admission, are given some manual occupation such as gardening, &c. After the word "offenders", the clause might run thus: "elementary instruction in the three R's and industrial or manual training".

Mr. Brunyate:—

6. *Clause* 6 (*c*).—The phrase "Industrial training" appears to require definition and perhaps the definition in the Ceylon ordinance—"actual employment in agriculture or training in some branch of useful industry"—will suffice.

Mr. Clarke

To avoid all appearance of ambiguity, I would suggest the words "if so empowered" being inserted between the words "the court may" and "direct" in section 8, clause 1.

The O.P.J.:—

5. *Section* 8, *Clause* (*a*).—The minimum period of detention in school is fixed at two years. I beg to say most emphatically that a period of two years is too short for any boy to make sufficient progress in literary education (many or most of them being on admission quite illiterate), too short to receive any industrial training which would be of value to him in after-life, and far too short to effect that change in the moral character which is the main end of a reformatory school. I would therefore suggest that the minimum period of detention be fixed at not less than three years. The maximum limit of age laid down in clause (*a*) of section 4 being, if necessary, altered to fifteen.

Clause (*d*) should be omitted if my suggestion to exclude youthful offenders under ten years of age be approved.

Mr. Horsfall:—

I think the Bill is a good Bill and I have only this objection to make, viz., clause 8 (2) of the Bill. I think all 1st-class magistrates should *ipso facto* have power under that clause. If a magistrate cannot discreetly exercise such powers, he is not fit to be a 1st-class magistrate.

I do not agree with Mr. Horsfall. The Act would extend to the whole of India and it is desirable to restrict the powers given under these sections to 1st Class Magistrates of the superior grades. Local Govts. can always empower any particular 1st Class Magistrate of known discretion.

Notes

"arrangements for recreation" or "means of recreation" b[?] perhaps be a better expression. Perhaps this is of sufficient importance to bring to Judge's notice. J Lowe 1[st]

"The three R's" is hardly the expression for an act of the Legislature; otherwise the suggestion is perhaps good. 2[nd]

This seems unnecessary.
I do not see the need for it. 2[nd]

May be brought to Judge's notice
I see no need for the Addition suggested
as Section 8 is clear enough. 2[nd]

The D.P.S. ought to know about this; this opinion may perhaps be supported & brought to Judge's notice.

[redacted]

Vide, please note at top of previous sheet.

Most first class Masters are also 2nd Divisional Masters so the suggestion seems of little importance. First class Masters don't always receive there services punctually. Please see case in G's 1955 21.11.95
(the two boards a Divisional Master - Mr Macleod).
2[nd]

Orders.

It might be prompt to retain the provision of means of recreation is absolutely necessary for it hardly needs legislation for BH
A.H.H. 26.9.96 I think it and the amendment 17/9/96
Elementary Instruction in Reading Writing & Arithmetic shall be maintained JG
Hardly needful, I think BH
A.H.H. 26.9.96 I think it is important enough to maintain JG 17/9/96
I don't think "Industrial" at the ending needs definition now JG
BH

There is no need for any alteration now
BH JG

I think the D.P.S. is right in Judge's mind to do so
yes. This is a very important point JG.
BH

I think the restriction will be right as it is.
BH JG

Section of Bill

9. (1) *When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender sentenced to imprisonment by him is a proper person to be an inmate of a Reformatory School, he may record such opinion and submit his proceedings and forward the youthful offender to the District or Sub-divisional Magistrate to whom he is subordinate.*

Procedure where Magistrate is not empowered to pass an order under section 8.

(2) *The Magistrate to whom the proceedings are so submitted, may make such further inquiry (if any) as he may think fit and pass such order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have made if such youthful offender had been originally tried and sentenced by him.*

10. (1) Whenever any youthful offender under the age of sixteen years has been, or shall be, sentenced to imprisonment, the officer in charge of the *prison* in which such *youthful* offender is confined, may bring him before the *District or Sub-divisional* Magistrate within whose jurisdiction such prison is situate; and such Magistrate *may*, if *such youthful* offender appears to be a proper person to be an inmate of a Reformatory School, direct him to be sent to a Reformatory School, and to be there detained for a period which shall be *subject to the same limitations as are mentioned in section 8, sub-section (1), with reference to the period of detention thereby authorised.*

Power of Magistrates to direct boys under sixteen sentenced to imprisonment to be sent to Reformatory Schools.

(2) In the towns of Calcutta, Madras and Bombay a Presidency Magistrate *shall be deemed to be a District or Sub-divisional Magistrate within whose jurisdiction the prison is situate for the purposes of this section.*

"Magistrate" defined.

11. (1) *Before directing any youthful offender to be sent to a Reformatory School under section 8, section 9 or section 10, the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon.*

Preliminary enquiry and finding as to age of youthful offender.

(2) *In passing an order under section 8 or section 10, the Court shall in determining the period for which the youthful offender is to be detained, have regard to the finding as to his age recorded under sub-section (1) of this section, and shall frame such order accordingly.*

Suggestions

Mr Clarke:—

As it seems to me that the words "further enquiry" used in section 9, clause 2, are capable of misconstruction, I would suggest some explanation being afforded indicating the nature of the enquiry to be held.

Mr Fowler:—

2. As sections 8 and 9 stand, proceedings can be taken by a magistrate only after a definite sentence of imprisonment has been actually passed on the youthful offender. The detention in the reformatory is also (section 8, clause 1) in substitution of the imprisonment, the period of which is running until the order of detention is made (*cf.* section 14, clause 2). Further, section 11 requires, before such order can be made, that a preliminary inquiry shall be instituted into the question of the youthful offender's age—an inquiry which may for one reason or another occupy some time. A difficulty may thus arise should it happen that the original sentence has expired before the order is made. Apparently there is no clear authority in the Bill for detaining in such an event the offender beyond the period of the original sentence; and if so, the proceedings might be held to lapse.

This difficulty is also liable to occur where the proceedings have to be submitted under section 9 to a superior magistrate, as the chances of delay are enhanced; and the risk is greater the shorter the sentence. In the somewhat analogous case in the Criminal Procedure Code where an inferior magistrate under section 349 submits his proceedings to a superior magistrate in view of a more severe punishment being awarded than the former can inflict, the present difficulty does not arise, as no *sentence* has been passed and the prisoner remains "under trial."

There is no good reason why proceedings under the Reformatory Act should be stayed because some short term of imprisonment—very probably made short in the prospect of such proceedings—has expired, and rendered the magistrate or court "*functus officio*." Probably there is no such intention; but to make matters clear a clause may be inserted declaring that until the magistrate to whom the proceedings are submitted under section 9 shall have passed an order under the second clause of that section, or, more generally, that until the inquiry under section 11 is completed and a finding recorded by the court or magistrate, the youthful offender shall be detained in custody in the same manner as an under-trial prisoner, such confinement being, in the event of no order of detention being ultimately made, reckoned towards the term of imprisonment originally passed.

Mr Fowler:—

3. It is a question whether the District Magistrate or Session Judge should not have the power, where a youthful offender has been sentenced by a subordinate court to imprisonment without proceedings being taken under the Act, to intervene if he considers the case a proper one for such action. Ordinarily, the youthful offender would be already in jail undergoing his sentence before the District Magistrate or Session Judge became cognizant of the case. Accordingly, if it is deemed expedient to confer such authority, it might perhaps be best accomplished by adding words to section 10 so as to require the officer in charge of the prison to obey the direction of a District Magistrate or Session Judge instructing him to bring up, in the manner prescribed in the section, a youthful offender sentenced by any of the inferior courts of his district. Not infrequently cases come to notice in which the reformatory discipline is plainly the most beneficial mode of dealing with a criminal lad; and it seems a pity that the course should be barred because a subordinate court has failed to appreciate the circumstances. As section 10 stands there is nothing to prevent a jailor acting on the suggestion of a District Magistrate or any other person, but it would be more satisfactory that where a District Magistrate or Session Judge indicates his opinion the jailor's discretion should be legally determined thereby.

Mr Ellis:—

6. With a view to save inconvenience and unnecessary expenditure, the Superintendent recommends that the following new section be embodied in the Act:—

"No action should be taken under section 8 or 10 if a youthful offender intends appealing against his judicial sentence and until the appeal time has expired." (G.O. No. 21, Educational, dated 15th January 1898.)

I endorse the above suggestion.

is however needless for sec 15 of the Bill provides for the difficulty which arises when a sentence of imprisonment is set aside the detention in a school being ordered, set aside if the conviction is upheld No

Notes

The chances of misconstruction do not seem imminent: it will be alone matter to indicate the nature of all the possible kinds of enquiries which might be necessary. The suggestion does not seem to be worth notice.
Is certainly in order. JD

6

May be commended to Judge's notice. He officially seems dead.

This also seems a good suggestion. As to it vesting the Supt of the Jail might decline to be bound by the gentleman offender chosen called upon to do so. [illegible] agree with him.
* This would very likely be the case.
Yes. No

This is now the established rule, - please see the Qo referred to & the earlier Qo. of 1889 therein mentioned. This good in that it saves confusion when an appeal a sentence reversed but it is the hardship in that it may involve the principal detention in jail among bad influences for some little time. The

Orders

This Section is clear enough
JD

Yes, this difficulty is a real one. I suppose under this C.S. Code it comes the most convenient thing for Sec 9 of the Bill as 349 JD Section also proposes to Sec 344 C.C.P.
JD JD

So do I.
JD JD

No change and be noted
JD JD

Section of Bill

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may appoint for the reception of youthful offenders so dealt with by such Court or Magistrate;

Government to determine Reformatory School to which such offenders shall be sent.

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be confined in the juvenile ward or such other suitable part of a prison as the Local Government may direct pending his removal to a Reformatory School, and the period of imprisonment so undergone shall be treated as detention in a Reformatory School.

13. Nothing contained in section 8, *section* 10 or *section* 12 shall be deemed to authorize the detention in a Reformatory School *of any person after he is found to be above the age of eighteen years.*

Persons other than youthful offenders not to be detained in Reformatory Schools.

14. The Local Government may at any time order any youthful offender—

Discharge or removal by order of Government.

(*a*) to be discharged from a Reformatory School;

(*b*) if so discharged before the expiration of *his original sentence, to be confined in such place as the Local Government may appoint until such sentence would have expired by effluxion of time, or for such shorter period as the Local Government may direct*; or

(*c*) to be removed from one Reformatory School to another such school situate within the territories subject to such Government: *Provided* that the whole period of his detention in a Reformatory School shall not be increased by such removal.

15. *Nothing contained in the ode of Criminal Procedure, 1882, shall be construed to authorize any Court or Magistrate to alter or reverse any order passed under section 8, section 9 or section 10 for the detention of a youthful offender in a Reformatory School: Provided that, if the sentence of imprisonment in substitution for which detention in a Reformatory School was directed by any such order, is set aside on appeal or revision, such order for detention shall forthwith become inoperative and cease to have effect.*

Orders under sections 8, 9 or 10 not subject to appeal or revision.

Suggestions

Mr. Le Fanu:—

3. *Section* 12.—"Part of a prison as the Local Government may direct" seems likely to involve unnecessary correspondence in each individual case, unless it is made clear that Government may pass a general order defining the place of confinement.

Mr. Clarke:—

It seems to me section 13 might be altered with advantage. A magistrate or court having already recorded its finding as to the age of a youthful offender (under section XI) apparently some further finding is contemplated under certain circumstances by section 13, but there is nothing to show by whom such further finding is to be made or how. It cannot, I presume, be made by a court or magistrate, as their functions cease with sentence and order. As, then, section 13 leaves this point obscure, I would suggest its being altered so as to make it clear by whom the finding alluded to in it is to be made.

Mr. Justice Benson.—I am altogether opposed to the provision of section 15 which enacts that there shall be no appeal against, or revision of, an order for the detention of a youthful offender in a Reformatory School. A Sub-Divisional Magistrate may be an officer of not more than a couple of years standing; and under the Act he may, even for trifling offences, consign a youthful offender to a Reformatory School for seven years. It is a question of judicial discretion whether such a sentence is appropriate or not, and there is nothing in which eccentricity and defective judgment are so frequently shown by Magistrates, and sometimes even by higher Courts, as in apportioning the penalty to the offence. Under the Criminal Procedure Code an appeal is allowed against a sentence of moderate fine by a first-class Magistrate, and under the Civil Procedure Code an appeal is allowed in regard to decrees of quite trifling pecuniary value. Is there any sufficient reason why what is practically a sentence of imprisonment (mild though it be) for seven years should not be open to appeal or revision? I can see none. I think the order for detention should, for the purposes of appeal, be regarded as a sentence of imprisonment, and be subject to appeal and revision as such under the Criminal Procedure Code.

3. *Clause* 15.—This clause is, in my opinion, open to serious objections. In some cases an appellate or revisional court may alter a conviction and reduce a sentence of imprisonment but will nevertheless be powerless to alter the order for detention in a reformatory for a period calculated probably with reference to the original conviction and sentence. Judges and magistrates are liable to err, no distinction is drawn in clause 8 between grave crimes and petty crimes, and the power given to magistrates some of whom on being first appointed to the charge of a sub-division are comparatively inexperienced, is greatly in excess of their ordinary powers, not only in cases of conviction, but also in cases falling under Chapter VIII of the Code of Criminal Procedure. Under section 110 of the Code of Criminal Procedure, no person can be imprisoned in default of security for good behaviour for more than three years, and under section 123, no magistrate can order imprisonment in such cases for more than one year; under section 109, the term of imprisonment is limited to six months; and under section 124, a District Magistrate may release, or recommend the release of, any person imprisoned for failing to give security. But according to clause 16 of the Bill, read with clause 8, a first-class magistrate subordinate to a District Magistrate may order a youth who fails to find security for good behaviour—whether under section 109 or under section 110 of the Code of Criminal Procedure—to be detained in a reformatory for a term which may extend to seven years and must not be less than

Notes

It does not matter much in this Presidency as there is no room in the Reformatory School Magistrates are entitled not to take action in the matter. References & directions by Govt. on minor points in Acts are however, on principle open to objection as adding yet more straws to the Secretariat camel's back.

Govt. may write for all pass an order as to what is a suitable place including Jail for each person & thus would save all references in each & every case.

7 Sec. 13 yet another instance of bad drafting, apparently. It was necessary in the old Act because there was no provision in that by which a definite finding as to a boy's age was required. Sec 11 in this Bill requires a definite finding on the point to be recorded, & Sec. 8 makes this section, or at any rate the word "found" in it unnecessary. If it is wanted at all it might be put in as clause (e) to Sec. 8(i).

Submitted that Mr Benson has overlooked Sec. 15's proviso. The order of detention is not absolutely unappealable as if the conviction is set aside the order of detention is ipso facto void.

10

Orders

I think Sec 13 might be retained. Only add the words that the alleged order of a Reformatory School may decide as to a boy's age if they consider him to be 18 years of age. As it is Reformatory Schools are unduly at the mercy of a provision of this sort.

No change need be advised.

[A.]
1,000—21-3-20.

C. No. 13 DEPARTMENT.

FOR ORDERS.

In this Note I have where making remarks on the tabulated Statement in which the G.A. has written his notes, marked the places with numbers in blue pencil & put corresponding numbers in red the same colour in the Statement C.

1. I do not agree with Mr. Drummond that it is desirable to call the Act "The Youthful Offenders Act". The Govt. of India has evidently drawn on the Ceylon Ordinance for when framing the Bill and has no doubt deliberately retained the name of the existing Act the main thing that that it has always been an object to disassociate as much as possible a Reformatory School as much from any idea of a prison and it remains necessary as much as possible from the term criminals. I do not myself see why calling the enactment "The Youthful Offenders Act" should

X I find that it is apparently the Penal Settlements Ordinance

attention to it any more than
if the title remained which it
now is. I think then the more desirable.
The Ceylon Ordinance is shortly called
the "Youthful Offenders Ordinance"
as it provides mainly for punishment
of detention in a reformatory School.
2. I confess that I do not understand
which Mr Drummond is aiming at.
I do not see why more than what
the Bill repeals (Section 399 C C P)
should be repealed. The Bill does
not make it obligatory on a magistrate
to send a boy to a Reformatory School.
If he does not think fit he may
deal with him under the provisions
of the I.P.C. & C.C.P. as they stand.
Section 15 merely bars orders under
Sections 8, 9 & 10 outside the Rules
of the C.C.P. and declares, contrary
to expectation, that the removal of a conviction
on appeal has on an order of
detention in a Reformatory. I
do not see that either the I.P.C. or
C.C.P. are in any way altered
by the Bill (excepting as regards Section
[illegible] Section 399
and 295 C.C.P.); they appear to be
fair, but their provisions would cover

FOR ORDERS.

H. E. THE GOVERNOR.

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE, C.I.E.

I accept Section 13.
HW

[25 A.]
1,000—21-8-90.

15

DEPARTMENT.

C. No.

FOR ORDERS.

as they stand be applied to Youthful Offenders,
and the Bill be merely given option to
follow another course if deemed fit.
I cannot see where need for any appeal
comes in.

3. I think it very desirable that the
"fine" should be included in the
definition of Youthful Offender &
do not say to allow of magistrate acting
under Section 31 of the Bill which I
consider a very desirable provision. The
suggestion of the G.S. on the other hand
margin of the Statement is one deserving
of consideration but I think that
the maximum age of a child to come
under within the term "Youthful Offender"
should not exceed fourteen; even then,
considering that fact may at that age
be in this country less than seven other
boy might.

There is undoubted difficulty in drawing

[G]
25 A.
1,000—21-8-96.

C. No. 17

DEPARTMENT. 3

FOR ORDERS.

H. E. THE GOVERNOR.
THE HON'BLE MR. H. W. BLISS, C.I.E.
THE HON'BLE MR. J. GROSE, C.I.E.

a reformatory for girls here owing to the small number that could be sent to ~~them~~. The reply given by the D^t of W^s G^t No. 336 E dated 8th June 1896 under ref to his letter No 213 dated 13th idem was what might have been anticipated. and as any things to be done as regards attempts the reform of female youthful Offenders it must be done by Govt. and in the shape of a Reformatory School. However this is a matter which may well stand over for further consideration until it is known whether Govt's bill includes girls under the new Act. A reference might then be made to Calcutta to know what things are wanted there.

4. Please see my note opposite Sub Sec 6 of the D^t of W^s Order inserted in the Memorandum.

5. Mr. Dunlop seems to have overlooked the case connected with. I do not read the bill as doing more than giving power to Govt. to make rules for the appointment of or removal from the Office of managers of a Reformatory School. Into the School given which

Why can we not add "Juvenile Reformatory Schools" But they might be made by rule clear [illegible]

FOR ORDERS.

the law not touched does not seem to me to contemplate interference. The provisions of the Cantonments Act are very good and much more likely to work well than those which is proposed in the Bill but I do not see how Sections 12 & 15 inclusive of that Enactment can be held to apply to the case of juvenile inebriates in Reformatories I read them with Mr. Le Mesurier and do so.

6. Mr. Forbes puts forward here what seems to be a real difficulty. I remember a case of much the same kind as that to which Mr. Forbes refers having occurred but I cannot say that I would recall the particulars and it is necessary to look them up in order to look it up. I do not think however the remedy proposed by Mr. Forbes will meet the difficulty. Take the case for instance. A youthful Offender is

convicted of an offence and sentenced to fifteen days imprisonment. The adjudicating magistrate is a magt of the 2nd class, he makes a reference to the Sub Divl Magistrate who considers further inquiry necessary. (& finally determines that the boy should not be sent to a Reformatory) By the time that the orders reaches the 2nd Class magistrate twenty one days have elapsed. The boy must either have been discharged at the end of the fifteen days or have been illegally detained for six days. Say that in the latter case an action is brought for illegal imprisonment - where is the damages? There then is another objection to the Police's proposal - Say that the sentence is one of rigorous imprisonment (during which theoretically convicts are liable and put to labour) and that the order of the Sub Divisional Magistrate ordering the boy to a Reformatory arrives on the 15th day - the boy having been treated as an under trial prisoner will he have been put to labour and in accordance with the Police plan the period occupied in making the reference is to count towards the sentence passed upon him he would on the receipt of that

18

FOR ORDERS.

H. E. THE GOVERNOR.

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE, C.I.E.

[G. / 25 A.]
1,000—21-3-90.

19

DEPARTMENT.

C. No.

FOR ORDERS.

order passed he released, having undergone, with the sentence passed upon him, that one of simple imprisonment.

I quite agree with him in the view that the passing of a sentence during the time that an enquiry under Section 9 (2) is going on should not constitute or preclude an order under the Reformatory Act - but the difficulty is to provide adequately for this.

It seems to me - I speak with some diffidence that the best way of dealing with the matter would be to substitute for Section 9 one analogous to Section 34 of C.C.P. that is that the proceedings in a police court should pass sentence but before proceeding after convicting to the magistrate having jurisdiction who should then deal with the case as he would with one under Section 34 of C.C.P. This I think would put everything right and a boy not

and by a Reformatory who deserved rigorous imprisonment would get it. Further there would be no opening for a suit for illegal imprisonment.

7. Nothing is said about this in the Statements of Objects and Reasons but the Object of it appears to me to be to provide for the case mentioned in the 3rd and 4th paragraphs — where a Magistrate finds a boy of one age and the Visitors or the Managing Committee of a Reformatory find him to be older. I think that the Section should stand but that the words "by the Visitors or Managing Committee of a Reformatory School" should be inserted between "found" and "to". I doubt whether however the authority to decide as to age should rest with these authority E.g. the Inspector General or Government.

8 The wording of Section 15 is no doubt as pointed out by the Central Board in using the terms "set aside". I take for granted that as but I think that the word "reversed" would be the better to substitute for "set aside". That would then be no room for doubt.

20

[illegible] 25 A. 1,000—21-8-96.

FOR ORDERS.

H. E. THE GOVERNOR.

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE, C.I.E.

21

DEPARTMENT.

C. No.

FOR ORDERS.

9. Please see the Statements of Objects & Reasons. We are not told what the difficulty of the Chief Commr. Burmah was but there no doubt arose from the conviction of a boy detained in a Reformatory of some Officer has power for treatment departmentally and the difficulty as the boy was not then "undergoing a Sentence of imprisonment" as fixing the date from which the Sentence passed was to run.

To my mind the remedy proposed by the Commr. & the adoption of Section 40 of the Ceylon Ordinance is as bad as the disease which he wishes to cure. It may allow the expense of risk of examination and does not prevent it. Cases such as the Section under consideration would apply to are likely to be of very rare occurrence I do not remember the occurrence

of a simple one since our Reformatories 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 taken away from a Reformatory the better for the other boys. It is wise 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 would occur. The Govt. under the existing Act has power (vide (a) & (b) Section 11) to discharge a boy from a Reformatory and direct that of his previous sentence has not then expired he shall undergo the residue of such sentence at such place as the Govt. may fix. The proposed law (vide (a) & (b) Section 13 of the Bill) is substantially the same. In (a), as regards (b) makes the law more definite. Govt. could thus in a case such as that which Section 32 of the Bill contemplates, easily deal with matters either by discharging the boy without referring to any previous sentence

FOR ORDERS.

H. E. THE GOVERNOR.

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE, C.I.E.

H.W. Should "section" was dropped with s. 2(15) of I of '65 & s. 3(3) of I of '97. The use of the word "clause" by the S. of S. seems to me to be correct. HW

[G. / 25 A.] 1,000—21-3-98.

DEPARTMENT.

C. No.

FOR ORDERS.

which may not have expired, when the warrant of the Court would have immediate effect under the concluding portion of Section 32 of the Bill or (which under (2) Section 13 of the Bill order his discharge and consignment to such place as he might deem fit until the term when the original sentence would have expired and the warrant of the Court which convicted him by which he was ordered to a Reformatory would have begun to run.

The actual procedure to be followed could easily be provided for by executive orders.

I should point out a wording over which I have taken exception to the Bill incorrectly used the word "section" for "clause". Other Acts including a Judge of the High Court

emarking on the Bill Lane however done
the same

W

LO
22/8/96

Bill to amend the Reformatory Schools Act

C. 16/9
R 16/9
C 17/9
22/9/9

Bill to amend the
Reformatory Schools
Act.

25

FOR ORDERS.

H. E. THE GOVERNOR. (3)

THE HON'BLE MR. H. W. BLISS, C.I.E. (2)

THE HON'BLE MR. J. GROSE, C.I.E. (1)

Recirculated to H.M. with reference to Hon. W. Bliss' remarks marked with crosses in red chalk.

WF 14-9-96

LO 15/9/96

seen in Co
17/9/96

Recirculated to H.E. the Governor as H.M.'s differ in certain instances, - marked with crosses in red chalk.

LO 19/9/96

WF 19.9.96

C. 16/9

Bill amending Reform: schools Ref— C3019
Education Bill

[G. 24.] 1,0004-15-11-98.

(from orders)

Jud. DEPARTMENT.

Papers to be read in proceedings:—

file as printed

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. of 189 , dated , from

on W. Bkrs " " 189 , " , "

(as dissident members on one or two points) " 189 , " , "

ORDER. No. 609, dated 2nd October 1896.

PS. Messrs. Forbes, Domergue, Carden & the Hon. Dr. Duncan will be thanked for the care with which they have examined the Bill dealt with in the above papers.

2. The following letter will be despatched to the Govt. of India.

(P.O.)

Letter Despd 21/10 No. 610, dated 2nd October 1896

to the Sec. to the Govt of India. Home Dept.

Sir,

I am directed to refer you to Mr. Cundliffe's letter No. 902 dated 27th March 1896 forwarding for the opinion of this Govt a bill to amend the law relating to Reformatory schools with a statement of Objects & Reasons & to say that the Legislative provisions for the despatch of prisoners for

To the Hon'ble C.J. with C.L.D.
" Govt Solr.
" I.G. of Police
" Chief Presy Magte
" Commr of Police
" G. S. Forbes Esq.
" T.W.A. Domergue Esq.
" H.E. Carden Esq.
" Hon. Dr. Duncan.
" W.J.H. LeRoux Esq.
" T.H.A. Tremenheere Esq.
" T.M. Honsfall Esq.
" [illegible] Esq.

Note for CS.
This being nearly two months overdue already & not particularly important it is proposed to issue it without sending to HE. as usual with letters from India.

27

FROM ORDERS.

C. S.

and also to your letter No. 6 - Jails - 269 dated 25th May 1896 requesting that the Govt. of India may be informed in what manner in the event of girl-criminals being brought within the scope of the Bill, it is proposed to provide for their reception training, whether there are industrial schools or other private institutions in this Presidency in which they can be kept.

2. The former of these letters was referred to the Hon. the Judges of the High Court, the Advocate-Genl, the D.P.I, the Inspector Genl of Police & Prisons & certain selected officers for remarks & opinion, & the latter to the I.G. of Prisons & the D.P.I, and I am to enclose a copy of the replies which have been received.

3. With reference to the latter letter & the question whether girl-criminals should be included among "youthful offenders", I am to say that the Hon. the C. in C. after full consideration of the question is entirely in favour of girls being brought within the scope of the present Bill. It will be seen that the D.P.I. refers

by an amendment of

See 4 (a).

28

that he knows of no industrial school or institution in which they could at present be received, & from returns obtained from the I.G. of Prisons it appears that their numbers are hardly sufficient to warrant the maintenance of a separate reformatory school on their account. But it is by no means impossible that if such industrial schools are recognized by Govt they may be called into existence, & the necessity for confining girl offenders in some place other than a jail may perhaps in the course of a few years become of pressing importance. There would then be occasion for regret that the present opportunity for legislating regarding them had been allowed to pass.

of girl youthful offenders

the provisions of the present Bill as to their detention in a reformatory school are entirely permissive and moreover in many cases might suitably be dealt with under sections 12 & 31 of the Govt of Prisons has reported that he would have no difficulty

in establishing a ~~Central~~ depot at one
of the Central Jails to which all give
Criminals sentenced to periods of over
three months could be sent + confined
apart from older convicts. I am to add that
H.E. in C. is of opinion that female juvenile
offenders should not be detained in
a Reformatory school before they
are 13 years of age nor after they
are 16, that if they are brought
within the purview of the Bill secs 4 (a)
8 and 13. should be amended accordingly.

4. The definition of "Inspector General"
in section 4 (b) appears to the Inspector
Bill imposes no duties upon the Inspector-
General of Prisons. This Govt. is, moreover,
opposed to that officer controlling a Reformatory
School in any way. The effect of such a
step would inevitably, in its opinion,
result in the introduction of the gradual
of jail methods, ideas + feeling that the school
destruction of the ~~School~~ a jail.
was in fact a school + not a ~~school~~
H.E. in C. would prefer that nothing
in the management of the
School or even in the wording of the

29

See. 3. of the Bill appears
to this Govt. to be unnecessarily
comprehensive. As is pointed
out by M. Dumergue (para 3
of his letter) the Bill permits
several courses that are
contrary to the directions
of the I.P.C. + the C.o.P. It
would appear to be
desirable to redraft the
terms of this section.

As is remarked
in para 6. of the
letter of the I.G. of
Prisons, the

88

30

Act, (the expression "sentence" in sec.
22 (2) is an instance of the latter)
should suggest that detention in
the school was equivalent to im-
prisonment in a jail. The
definition in sec 4 (b) might ac-
cordingly, in H.E's opinion, be
limited to a statement that the
"Inspector General" ~~has~~ includes any
officer appointed by the Govt.
to perform the
duties imposed by the Act on
that officer.

This Govt. is also of opinion
that it is desirable that the Bill
should differentiate more clearly
than it does at present between
Govt. Reformatory Schools + private
Certified reformatory schools, +
considers that sections 4—11 of
the Ceylon Youthful Offenders
Ordinance I of 1886 or similar
provisions should be enacted
to meet the case of the latter.

6. I am to comment the
suggestion in para 4. of the D.P.I.'s
letter, that express provision

Enjoining the separation of the elder
offenders from the younger at night, to
the favourable notice of the Govt. of
India. The matter appears to be
one of importance. The same
officer's recommendations that
recreation should be included in
sec 6 (b). + elementary instruction
in reading, writing + arithmetic in
sec 6 (c), ~~also appear to be worthy~~
and
~~of adoption~~ Mr Dumergue's suggestion
that, for the reasons given in para
5. of his letter, the minimum period
of detention should be fixed at three
years by sec 8 (a) also appear to be
worthy of adoption. The latter suggestion
is ~~one of importance~~ important.

6. With regard to sec 9 of
the Bill I am to solicit the attention
of the Govt. of India to ~~the~~ para 2 of
the letter from the Dist. Magte of
Chingleput. The difficulty pointed out
by them appears to be a real one but
the solution he proposes does not
commend itself to the Govt, which
would prefer the enactment of a provision

analogous to sec. 349 C.P.
under which a youth before
could be considered to be
under trial until his case
was finally disposed of. The
same officer's suggestion that words
should be added to sec 10.
requiring the officer in charge
of the prison to obey the direct-
ions of the Magte &c or Judge
of the Magte &c or Judge
instructions him to bring up
the offender on the circum-
stances described, also appears
to merit consideration.

7. I am to solicit the attention
of the H. Mr. in C. to the
remarks of Mr Dumergue upon
sec 15. of the Bill, and to say
that this Govt. agrees with them
in all respects. In the same
section the word "reversed"
should apparently be substituted for
the word "reversed" in which
the succession is set aside which
is not used in the C.P.

8. This Govt. agrees
the opinion in para 9 of Mr

With reference to H.M.'s order regarding
13. it is respectfully submitted that sec 13
stands will permit the authorities of a
local to bring up any case to the notice
this Govt. in which they consider that a
a over 18, that the Govt. of India
be entitled to appeal a section which will
enable them to overrule without control
definite finding of a Magte (vide sec 11).
of a Court (sec 8) regarding the
of a boy. This will be going far
and the old act. It is accordingly sub-
that the sec 13. permit the Courses
stated by H.M. it need not be altered

W.F.

should include cases in which
security is required to be given for keeping the
peace.

9. In sec 18(i) it appears to be
advisable to add after the
word "Government" the words
"or of a Railway Company as defined in sec 3(e)
of Act I of 1894".

In sec 20 it might be provided
that the licence should also determine
if the employer becomes bankrupt or
goes through the Insolvency Court.

sec 21 would be more comprehensive
if it permitted the Supt. to cancel
the licence for good cause shown,
such cause to be recorded.

10. W. Damergis observations on
in para 10 of his letter upon sec 22(2)
of the Bill are entirely concurred with by
the G in C. With regard to the
latter portion of them the G in C would
recommend the adoption of the
provisions in sections 27 – 29 of
the Ceylon Ordinance.

11. With the additions & alterations

33

108

34

which have above been
referred to the Bill would meet
with the approval of the
Govt.

28-7-96 Act 29-9-96.

Statement of O. & R.
The Bill was published
in the F.S.G. Gazette in English
on the 21st Sept. 1896 & in the
Vernaculars on 28th Sept. 5th
Aug., 12th Aug., & 2nd June, 1896.

Edl.

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