

imprisonment incidentally raised an ingenious, though unsuccessful, point of law before the Court of Criminal Appeal in *Rex v. Cawthron* (ante, p. 187). Under the proviso to sec. 4 of the Criminal Law Amendment Act, 1885, "in the case of an offender, whose age does not exceed sixteen years, the court may, instead of sentencing him to any term of imprisonment, order him to be whipped." Under sec. 123 of the Children Act, 1908, certain provisions are made for ascertaining the age of an alleged youthful offender, and such provisions apparently relate to the date when the charge is preferred. In the case in question the appellant, when under the age of sixteen had committed an offence under sec. 4 of the Criminal Law Amendment Act, 1885, but had passed that age when he was charged. The court was of opinion that there was no power to sentence him to whipping, inasmuch as the proviso quoted above referred to the age of the offender when charged. It was urged that the proviso applied to the age of the prisoner at the date when the offence was committed, and that this view was fortified by the fact that the Children Act, 1908, dealt with the age of the offender when charged. In view of the fact that, although in general, whipping cannot be awarded to offenders over the age of sixteen, the appellant's counsel was driven to admit that his argument involved the proposition that an offender under sixteen years of age at the date of the offence, if not apprehended until he was fifty years of age, might, on conviction, still be sentenced to whipping under the proviso to sec. 4, it is scarcely surprising that the Court of Criminal Appeal did not accede to the appellant's desire for the change of his sentence.—*Law Times*.