[JACKSON, C.J., AND GRIFFITH WILLIAMS, J.]

(Oct. 4, 1945)

ANDREAS GEORGE EVANS AND ANOTHER, *Appellants*,

v.

THE POLICE, *Respondents*.

(*Criminal Appeal No.* 1812.)

Juvenile Offenders—Right of appeal—Detention in reformatory equivalent to imprisonment—Juvenile Offenders Law, 1935, section 13, as amended by Law 7 of 1945—Courts of Justice Laws, 1935 and 1938, section 34 (4).

The appellants pleaded guilty to schoolbreaking and were ordered by a Juvenile Court to be detained in a reformatory under section 13 of the Juvenile Offenders Law, 1935, as amended by Law 7 of 1945. Leave to appeal from conviction and sentence was subsequently granted. At the hearing of the appeal it was contended that the appellants had no right of appeal.

Held, that, for the purposes of appeal only, detention in a reformatory is equivalent to imprisonment and, therefore, there is a right of appeal.

Andreas Xeni v. *Police*, 16 C.L.R. 62, overruled on this point.

Appeal from a conviction and sentence by the District Court of Nicosia, sitting as Juvenile Court (Case No. 6696/45).

J. Clerides for the appellants.

C. Tornaritis, Solicitor-General, for the respondents.

The Court dismissed the appeal on other grounds.

JACKSON, C.J., said on the point referred to in the headnote (on which alone the case is now reported):

The Solicitor-General has very properly drawn our attention by way of preliminary objection to the case cited in Vol. 16, Part 1 of the Cyprus Law Reports, at p. 62, the case of *Andreas Xeni* v. *the Police*. And he has argued that if that case is to be followed by this Court, and it was a decision of this Court, there is no right of appeal in this case. We have taken advantage of a short adjournment to consider that point and we have come to the conclusion that, with great respect to the decision which has been quoted, we ought not to follow it. We think that the distinction between imprisonment and detention in a reformatory which is very clearly made in the Juvenile Offenders Law of 1935 is made for quite special purposes,

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that is to say that it has regard to the treatment which juveniles detained in a reformatory are to undergo as opposed to the treatment which they would be subjected to in prison. We do not think that the distinction could have been made with the right of appeal in mind, and that it could have been intended to take away from juveniles a right of appeal which they would have had if ordered to be detained in the special division of the prison in Athalassa.* Furthermore, we have in the Juveniles Law itself, section 10, which clearly contemplates a right of appeal in some instances. When we asked for an explanation of that section we were told that a child if sentenced to a fine of £10 would have a right of appeal, but that he would have none if ordered to be detained in a reformatory for a period which would extend for four years.

The law is certainly not clear, but we would be very reluctant to accept that conclusion, and we think that we ought, for the purposes of appeal, and for these purposes only, to regard compulsory detention in a reformatory which may extend to a period of four years, as equivalent to imprisonment.

Therefore we feel that we are obliged to differ from the previous decision of this Court which has been quoted to us, and to entertain this appeal to the limited extent to which it could be entertained under section 34 (4) of the Courts of Justice Laws, 1935 and 1938.

* Before the enactment of the Juvenile Offenders Law, 1935.