

PART C.—REFORMATORY SCHOOLS

1. It should be noted that the only Courts empowered to direct youthful offenders to be sent to the Reformatory Schools are-

- (a) the High Court ;
- (b) the Court of Session ;
- (c) a District Magistrate ;
- and
- (d) any Magistrate specially empowered by the State Government in this behalf.

Courts empowered to direct youthful offenders to the Reformatory School- Procedure for a Magistrate not so empowered.

The State Government has empowered Magistrates of the 1st class only with powers mentioned in section 8 (i) of the Reformatory schools Act (*vide Punjab Government Notification No. 578-Jails, dated the 7th January, 1924*); but any Magistrate who has not been so empowered may, under section 9 of the Act, refer the case of any youthful offender to the District Magistrate to whom he is subordinate, and all Magistrates should do so in suitable cases.

2. A youthful offender is defined as meaning any boy who has been convicted of any offence punishable with imprisonment, and, who at the time of such conviction, was under the age of 15 years, and it is incumbent on all Courts and Magistrates dealing with cases of youthful offenders (whether specially, empowered or not), to make a preliminary inquiry and to record a finding as to the age of the offender before directing the offender to be sent to a Reformatory School or making a reference to the District Magistrate under section 9 for that purpose. In taking the medical evidence mentioned in paragraph 4(a) of this chapter, the opinion of the Medical Officer as to the age of the boy should invariably be recorded.

Court should record a finding as to age, definition of youthful offender.

3. The rules framed by the Punjab Government under the Reformatory Schools Act should be studied. The effect of Punjab Government notification 37, dated the 20th January, 1906, as supplemented by addendum No. 469, dated 6th November, 1914, under which these rules were published, appears to be this.

Rules framed by Government Youthful offender to be sent to Reformatory School when Magistrate awards imprisonment.

Court or Magistrate convicting any youthful offender of any of the offences noted below should act as follows. If the presiding officer considers that the offence committed is one in connection with which the offender should be-

- (a) dealt with under section 562 of the Code of Criminal Procedure, or
- (b) dealt with under section 31 of the Reformatory Schools Act, the provisions of which are very similar to those of section 562 of the Code of Criminal Procedure, or
- (c) fined,

he should pass orders accordingly.

If, however, he considers that the case should not be so dealt with, he must pass an order of imprisonment commensurate with the offence and then send the offender to the Reformatory School.

OFFENCES SPECIFIED

- (1) Any offence except those described in sections 302, 303, 304, 307, 308, 354, 376 and 377 of the Indian Penal Code.
- (2) Any abetment or attempt in connection with any such offence.

Reformatory School intended for casual criminals and first offenders capable of reformation. Disqualifications preventing admission.

4. It should be borne in mind that before recording an order directing the detention of a boy in the Reformatory Schools, Courts and Magistrates should satisfy themselves-

- (a) after taking medical evidence, that he is not totally blind insane, idiot, leprous, tuberculous, epileptic or suffering from any permanent physical incapacity for industrial employment; or
- (b) that he has not been previously convicted under section 377 of the Indian Penal Code.

A youthful offender with any of these disqualifications will not be admitted into the Reformatory School, and Courts or Magistrates must deal with such an offender in the ordinary course under the Indian Penal Code, or under section 562 of the Code of Criminal Procedure.

These rules will, it is hoped, secure as inmates of the Reformatory School casual criminals and first offenders capable of reformation, and will exclude the corrupting influence of incorrigible offenders, and of boys who have already learnt the evil can be learnt in jail.

5. The more extended powers of the State Government under A, Rule II, notification No 37, of 20th January, 1906, and the obligation on the part of the District Magistrate to move the State Government in special cases, should be borne in mind.

Further powers of Government and duty of District Magistrates to more Government.

6. (i) Section 8, sub-section (1), of the Reformatory Schools Act; prescribes the period for which Magistrates must order detention in the Reformatory School. This period cannot be less than three or more than seven years. This section should be read in connection with *Punjab Government notification No. 37, dated the 20th January, 1906* which further limits the Magistrate's discretion as to the period of detention he can order. It should nevertheless be borne in mind that a boy ordered to be detained in the Reformatory School for seven years will not necessarily be kept in the school for so long. He will in any case be discharged when he attains the age of 18 years.

Period for which detention in the school is to be ordered.

(ii) It has been noticed that Magistrates while convicting youthful offenders and ordering their being sent to the Reformatory Schools do not follow the provisions of rules 3 and 4 of the rules framed by the State Government under section 8(3) of the Reformatory Schools Act, in respect of the period for which the youthful offender should be detained in the school, with the result that several references have to be made for

the correction of these errors. The said rules are therefore reproduced for facility of reference:

- "(3) Every youthful offender sent to a Reformatory School who is found by the Magistrate to be thirteen years of age or more at the time of his conviction shall be sent to the School for a period that will expire on his attaining the age of eighteen; and
- (4) Subject to the provisions of Rule 5, every youthful offender sent to a Reformatory School who is found by the Magistrate to be under thirteen years of age at the time of his conviction shall be sent to the School for five years".

District Magistrate should recommend to Government when he thinks that youthful offender though not admissible under the rules is a proper person for admission.

7. Besides the case of youthful offenders convicted by a Court or Magistrate of one of the offences specified (vide paragraph 3 of this Chapter), section 10 of the Reformatory Schools Act contemplates another case in which detention in the Reformatory School may be directed. This section gives the Superintendent of a Jail power to produce before the District Magistrate any boy who is under the age of 15 years. In deciding whether any youthful offender brought to his notice in this manner should be sent to the Reformatory School, the District Magistrate will, of course, be guided by the rules made by the State Government under section 8, sub-section (3), clause (a), of the Reformatory Schools Act published as Punjab *Government notification No. 37, dated the 20th January, 1906*. Should the District Magistrate consider that the youthful offender, though not admissible to the Reformatory under those rules, is a proper person to be an inmate of the school, he must refer the case to the State Government.

Classification of boys School. Magistrate should recommend the class.

8. Under the rules made by the State Government for the classification separation and daily employment of youth offenders, boys detained in a Reformatory School will be classed in two divisions, a senior and a junior, and each division will be sub-divided into two sub-division, A and B. The senior division will consist of boys above 14, and the junior division of boys

under 14 years of age. Sub-division A will contain boys not in sub-division B and sub-division B will contain (1) boys who by reason of previous offences, whether the subject of criminal prosecution or not, or of the character of their offence, or the circumstances under which it was committed (offences against morals and serious or organized offences, whether against property or against the person) appear to have marked criminal propensities; (2) boys who have been in jail except those sent to jail under the proviso to section 12 of the Reformatory Schools Act temporarily, i.e., detained in jail for want of accommodation in the Reformatory Schools; (3) boys whose parents are habitual criminals, and boys who have been subjected to family influences and surroundings which are likely to prejudice to a life of crime. In directing the detention of a boy in the Reformatory School Magistrates should, with reference to this rule, record their opinion as to the sub-division in which the boys should be placed while under detention,

9. When a Magistrate orders a boy to be detained in the Reformatory School, he should by telegram ascertain from the Superintendent thereof whether accommodation is available. If there is accommodation, the boy should be sent at once to the school, otherwise, he should be sent to the jail prescribed by the State Government in notification No 426, dated 2nd October, 1903, and 'the' Superintendent of the Reformatory School should be informed of the Jail to which he is sent or to which he may thereafter be transferred.

10. It has been noticed that as Magistrate seldom or never visit the Reformatory School they cannot see for themselves the benefits that are likely to accrue to juvenile offenders for a period of detention in this establishment. They thus acquire a tendency to send too many children to prison. In order to minimise this tendency the Judges consider it desirable for as many first class Magistrates as possible to pay a visit, inspection to the Reformatory School.

11. Under travelling allowance rules Nos. 2.48 and 4.3 (serial 7), read with paragraph 22.4, item (3), Chapter 22—Delegation Orders of Financial Handbook No. 2, volume 1I, Commissioners are authorised in the case

Duty of Magistrate to enquire about accommodation in School and to make arrangement if there is no accommodation.

Magistrates advised to visit the School.

Sanction Authority for travelling allowance for the visit.

of all first class Magistrates within their division to declare absence from headquarters for the period necessary to visit the Reformatory to be absence on duty, and thus to sanction the travelling allowance for such journeys.

Second and third class Magistrates not required to visit.

12. Magistrate should be encouraged to take advantage of these orders, and such visits should be facilitated, provided always that they do not interfere seriously with the routine of magisterial work. It is not proposed to grant this concession to Magistrates of the 2nd and 3rd class.

Sessions Judges may permit sub-judges exercising criminal powers to visit the school.

13. The power granted above in Commissioners has been delegated to District and Sessions Judges, who may permit Sub-Judges, who are also Magistrates of the 1st class, to visit the Reformatory School but one visit only not exceeding two days, may be allowed in each case.