

PART D.—BORSTAL JAIL

Attention is drawn to the Punjab Government Circular No. 362-J. L. 39/4621 (H.—Jails) dated the 4th February 1939 on the subject of Borstal Jail extracts from which are given below:—

1. Cases have come to the notice of Government which indicate that misunderstanding still exists in the minds of some magistrates and officials in regard to the nature of Borstal training and the type of offender to be sent to the Borstal Institution. Some official appear to believe that the Institution is no more than a jail in which conditions are easier than in the ordinary prison: that Borstal is merely an up-to-date term for a juvenile jail. In some quarters indeed it seems to be imagined that unless there is an order for Borstal treatment a juvenile convict will be made to serve his sentence in association with adult prisoners. The Punjab Borstal Act, 1926, the main lines of which follow those of the corresponding statute in the United Kingdom, provides a special kind of treatment for a particular class of offender, namely, the adolescent convict of habitual type or (to use the English prison phraseology) the young recidivist.

Intended for the adolescent convicts of habitual type.

2. Speaking broadly the types of course overlap there are three categories of young offenders for whom provision has to be made :-

Sentences suitable for different kinds of youthful offenders.

(a) Casual offenders, other than those convicted of heinous crime.

(b) Juveniles sentenced for offences of a comparatively minor character, but who are former convicts or are otherwise known to be tending towards a life of crime.

(c) Juveniles sentenced for murder and other flagrant offences.

Juvenile offenders of type (a) should normally be released on probation of good conduct or after admonition. In more serious cases where such treatment appears unsuitable there will perhaps be a sentence of

fine. As has been repeatedly emphasized, short sentences of imprisonment are always to be avoided, and the juvenile offender should never be sent to jail, even for a second offence, if his case can be adequately dealt with in some other way. Offenders of type (c) present a special problem, to which reference will be made later in this chapter. There remains type (b). It is for this class of convict that the Borstal Institution is intended—the young hooligan or waster whom perhaps a previous warning has had no effect and who appears likely unless reformatory treatment is quickly applied, to develop into a professional criminal. It is not essential, before an order is passed for detention in a Borstal Institution; that a previous conviction should be established but, in the language of section 6 of the Punjab Act there must be "criminal habits or tendencies or association with persons of bad character". In view of this wording it would be permissible to order Borstal detention, for instance, in the case of a lad of sixteen or seventeen who had been associated with older men in a burglary or dacoity, provided that he had not been personally concerned in murder or some similar offence. But it would not be proper to use the Act in a rape case, unless there was reason to believe that the offender had been responsible for similar outrages before, or had been misled by bad companionship.

3. The characteristics which distinguish Borstal treatment from ordinary imprisonment are two : —

- (i) An order of Borstal detention must always be for an extended period—a period longer than for which the offender would have been sent to jail if he had been sentenced in the ordinary way. In the Punjab Act a minimum of two years is prescribed. The period must be sufficient to enable the good influences which it is hoped to bring to bear on the convict to have their effect.
- (ii) After a certain period in the Borstal Institution the offender will normally be released to serve the balance of his term on probation outside. Other classes of prisoners can

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Relevance.

of course be released on probation by order of the State Government under the Good Conduct Prisoners Probation Release Act, 1926, or under section 401 of the Code of Criminal Procedure. In the case of the Borstal detainee, however, release on probation can be ordered by the Visiting Committee, subject to the sanction of the Director of Borstal Institutions;* without reference to Government.

Release on licence is thus an integral feature of Borstal treatment. The young criminal is to be subjected for an extended period to reformatory influences: first within the walls of the institution, where he will be in contact with a housemaster, taking a close personal interest in his character and development, and afterwards on licence outside, where a probation officer will fulfil a similar function.

4. Such an automatic system of probational release would clearly be unsuitable for prisoners of type (c) mentioned above—juveniles sentenced for homicide or other flagrant offences. For the most part the offenders in this class have brought themselves within the reach of the law by a single violent act. They have no tendency towards crime in general, and if it were possible to concentrate exclusively on the reformation of the individual, disregarding all other considerations, the most suitable treatment in many cases would be immediate release. The primary object in keeping them in confinement is, in the words of an ex-Lord Justice of Appeal in a recent letter to *The Times*, "to satisfy the public indignation with regard to the serious character of the crime which calls for punishment." The need for bringing good influences to bear should always be kept in mind, but with offenders of this type the reformatory aspect of imprisonment must be secondary. In some cases it may be possible to release the prisoner on probation after a certain period in jail, but this is permitted only under the

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*The Inspector-General of Prisons has been appointed Director of Borstal Institutions, ex-officio.

orders of the State Government. Adolescent prisoners of this type are thus radically different from those for whom the Borstal system has been devised. They must of course be kept separate from adult convicts, but their sentences are to be served in jail, not in a Borstal Institution.

When offenders should be sent to the Borstal Institution and when to the Reformatory Schools.

5. To complete this chapter a reference should perhaps be made to the Reformatory Schools. Magistrates may at times feel a doubt whether a particular offender should be sent to the Borstal Institution or to the Reformatory School. Such doubts can generally be resolved by considering the age of the offender. The Schools established under the Reformatory Schools Act, 1897; are intended for younger type of offender than that for which the Borstal Institutions cater. To be sent to the Reformatory School the offender must at the times of conviction be under fifteen: the corresponding age in the case of the Borstal Institution is twenty-one. Cases sometimes occur in which it is necessary to sentence boys of only ten or twelve years of age to imprisonment. In such cases the Reformatory School is always to be preferred: children of this age would be quite out of place in the Borstal Institution. The School also differs from the Borstal in the character of the training given to the inmates. The Borstal Institution has of course its school, as well as the factories in which the lads are given vocational training, but the educational arrangements at a Reformatory School are generally much more elaborate. The boys there are of ordinary school age, and an education is provided for them which would hardly be suitable for the older adolescents in the Borstal. It may be mentioned here that in the case of admission to the Reformatory School there is no such distinction between casual and habitual offenders as there is in the case of the Borstal Institution. Where as there is an absolute bar against the use of the Borstal Act in the case of juveniles convicted of offences punishable with death, a Reformatory School will receive even this type of juvenile offender, with the special permission of the State Government.