

Gateways

- 3.01** Over the period from 1936 to 1970, a total of 170,000 children and young persons (involving about 1.2% of the age cohort) entered the gates of the 50 or so industrial schools.¹ The period for which they stayed varied widely, depending on the ground of entry; but the average was more than seven years.
- 3.02** The result was that, although the population of the schools at any particular time fluctuated widely, it remained above 6,000 from 1936 to 1952, peaking at 6,800 in 1946 partly as a result of the wartime emergency conditions. Thereafter, the improving economic conditions of the 1950s, and even more so in the 1960s, meant that the population in the schools fell steadily to 4,300 in 1960 and 1,740 in 1970. This amounted to an average reduction, over the period from 1950 to 1970, of 250 per year.
- 3.03** Although the balance varied from decade to decade, the great majority of children were committed because they were ‘needy’. The next most frequent grounds of entry were involvement in a criminal offence or school non-attendance. Each of these grounds involved committal by the District Court. The remaining two grounds, which over the entire period from 1936 to 1970 were less frequently used, were being sent by a Health Authority and voluntary entry.
- 3.04** The figures for reformatory residents were much smaller than those for industrial schools. There were only three reformatories, and their populations (most of whom were offenders) fluctuated between 100 and 250. Although the average length of stay was one year, this meant that, in the period from 1936 to 1970, a total of approximately 2,000 to 3,000 children and young persons spent time in a reformatory.

‘Needy’ children

- 3.05** For the entire period under consideration, the governing law was section 58(1) of the Children Act, 1908 (as amended by the Children Acts, 1929 and 1941). A child could be committed to an industrial school if he or she, inter alia:
- (a) was found begging or receiving alms;
 - (b) was found not having any home, or visible means of subsistence, or was [found] having no parent or guardian, or a parent or guardian who did not exercise proper guardianship; or
 - (c) was found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child, his mother, undergoing penal servitude or imprisonment; or
 - (d) was under the care of a parent or guardian who, by reason of reputed criminal or drunken habits, was unfit to have the care of the child; or
 - (e) was the daughter ... of a father who had been convicted of an offence of [sexually abusing his daughters]; or

¹ Section 44 of the Children Act, 1908 (as amended by section 6 of the Children Act, 1941) defines ‘child’ as one under the age of 15 (originally 14); and a ‘young person’ as one between the ages of 15 and 17 (originally 14 and 16). This is pursuant to section 57(1) of the Children Act, 1908 as amended by section 9 of the Children Act, 1941. The umbrella term ‘young offenders’ comprehends any offenders between the ages of seven and 21 years.

- (f) frequented the company of any reputed thief or of any common or reputed prostitute (other than the child's mother); or
- (g) was lodging or residing in a house used for prostitution.

3.06 Section 58(4) of the 1908 Act stated:

Where the parent or guardian of a child proves to a [District Court] that he is unable to control the child, and that he desires the child to be sent to an industrial school ... the court, if satisfied on inquiry that it is expedient so to deal with the child, and that the parent or guardian understands the results which will follow, may order him to be sent to a certified industrial school.

3.07 Subsequent legislation expanded the 1908 Act in two main respects. In order to come within the 'destitute' category, a child's parents had, under the 1908 Act, to be in prison or be deceased. The Children Act, 1929² in effect widened this category by providing that a child could be committed if its parents were unable to support it, in circumstances where both parents consented, or the court was satisfied that a parent's consent could be dispensed with owing to mental incapacity or desertion.³

3.08 Yet, the precise scope of these legislative categories probably did not make a significant difference in the numbers of children committed. Whatever the basis of the committal, these children all came under the category of 'needy', and the majority of them were as a result of poverty, but some were committed because of other social circumstances such as illegitimacy.

Offenders

3.09 The second largest category of those committed were children or young persons who had been involved in an offence. Section 57 of the Children Act, 1908 as amended by section 9 of the Children Act, 1941 governed the law relating to young offenders. The first issue was on what basis it was decided to send a young offender to a reformatory rather than an industrial school. The main ground was age, although the seriousness of the offence was also a factor. The practice can be best explained in this area by considering the cases in three categories, according to age:

- (1) A child under the age of 12 could not be sent to a reformatory school, only to an industrial school; and, indeed, the records show relatively few children below the age of 12 being committed for offences, even to an industrial school.
- (2) A child of (after 1941) 12, 13 or 14 could be sent to an industrial school provided that: the child was a first offender; there were 'special circumstances' as to why the child should not be sent to a reformatory; and the child would not 'exercise an evil influence over the other children'.⁴ In fact, despite these conditions, children under 15 years were usually sent to industrial schools.
- (3) It was not open to the court, under the Act, to send the offender aged (after 1941) 15 years and upwards to an industrial school.⁵ Thus, if a custodial sanction were to be selected, the only option was the reformatory.

² Later re-enacted in section 10(1)(d) of the Children Act, 1941.

³ The full wording of section 10(1)(e) of the 1941 Act was as follows:

'Provided also that the Court shall not make an order that a child be sent to a certified industrial school on the grounds stated in paragraph (h) unless—

- (i) the child's parents consent or his surviving parent or, in the case of an illegitimate child, his mother consents to such order being made, or
- (ii) the Court is satisfied that owing to mental incapacity or desertion on the part of the child's parents or his surviving parent or, in the case of an illegitimate child, his mother, the consent of such parents or parent may be dispensed with, or
- (iii) one of the child's parents consents to such order being made and the Court being satisfied that, owing to mental incapacity or desertion on the part of the other parent or to the fact that the other parent is undergoing imprisonment or penal servitude, the consent of that parent may be dispensed with'.

⁴ Section 58(3) of the Children Act, 1908 as amended by section 10(2) of the Children Act, 1941.

⁵ Section 57(2) of the Children Act, 1908 as amended by section 9(2) of the Children Act, 1941.

- 3.10** Into category 2 above came girls who were regarded as having been ‘morally corrupted’. In 1944,⁶ St Anne’s Reformatory School in Kilmacud was established to accommodate girls who were considered a risk to other children because of sexual experiences. As can be seen in the chapter on St Joseph’s Industrial School, Kilkenny,⁷ girls as young as eight who had been raped or abused, or even those children in contact with such girls, were considered unsuitable for an ordinary industrial school and were sent to St Anne’s Reformatory School. Unlike boys, girls who were sent to reformatories were usually sent until their sixteenth birthday.
- 3.11** The reformatory school was reserved for the tougher type of boy, who became eligible for committal between the ages of 12 and 17 years. After the Children Act, 1941 took effect, the legal period of detention was between two and four years.⁸ However, the period of actual detention for boys was often no more than one year, provided that the offender’s behaviour and home circumstances were satisfactory. Before 1941, the equivalent period of detention was between three and five years.⁹
- 3.12** By contrast, boys committed to industrial schools were invariably sent until they were 16 years old.
- 3.13** The practice was that offenders were committed to a reformatory only following a straightforward conviction, whereas those sent to an industrial school were sent when charged ‘with an offence punishable in the case of an adult by penal servitude or a less punishment, and the court is satisfied that the child should be sent to a certified school’,¹⁰ with no conviction being recorded.¹¹
- 3.14** Between 1923 and 1943, the most common offence for which juvenile males were sent to reformatories was larceny; subsequently, house-breaking overtook larceny in the share of the committals.¹²
- 3.15** The position was complicated by the fact that several ways of treating the offender were open to the District Court. Committals to a reformatory or industrial school were just two among several possible sanctions within the range of sanctions that were available, irrespective of the particular offence committed¹³ since, in the case of young offenders, the law was more concerned with the offender than the offence.
- 3.16** A detailed statistical analysis of the use of alternatives to committal shows that, between 1948 and 1957, out of 21,000 charges against juvenile offenders, only 701 or 4.5% of those against whom a ‘charge was proved but no order made’ were committed to an industrial school, whilst 916 or 18% of those convicted were sent to a reformatory school.

⁶ Kennedy Report, p 1.

⁷ See chapter on St Joseph’s, Kilkenny.

⁸ Section 65(a) of the Children Act, 1908 as amended by section 11(1) of the Children Act, 1941.

⁹ Section 65(a) of the Children Act, 1908.

¹⁰ Section 58(3) of the Children Act, 1908.

¹¹ See sections 57 and 58(3) of the Children Act, 1908.

¹² Annual Figures for the JLO for 1968–2003 are given in O’Donnell, O’Sullivan and Healy (eds), *Crime and Punishment in Ireland 1922 to 2003: A statistical Sourcebook* (IPA, 2005), Table 5.3.

¹³ What follows is a paraphrase of section 107 of the 1908 Act where the available sanctions are summarised. Section 107 states:

‘Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or
- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour ...’.

- 3.17** The conclusion that may be drawn is that, in general, many District Justices did exercise some care and discrimination before they sent an offender to a school. The question of whether the two most viable alternatives, probation and a ‘fit person’ order,¹⁴ were under-utilised is discussed below.

Non-attendance at school

- 3.18** For the period under review, the governing statute was the School Attendance Act, 1926. This Act¹⁵ made it an offence for a parent to fail to send to school any child below the age of 14 years, it became 15 years after 1972.¹⁶ More significantly, if the parent was convicted of a second offence within three months of conviction for the first, the court could ‘if it thinks fit’ either send the child to an industrial school or make a ‘fit person’ order. The thinking seems to have been that this would be a way of ensuring an education for such children.
- 3.19** The annual number of prosecutions of parents ranged between 6,000 and 7,000 for most of the 1930s. This figure peaked in the early 1940s, and reached just below 13,000 in 1944. Subsequently, the numbers fell to the level of the 1930s, before beginning a steep decline in the early 1950s.
- 3.20** Dublin, Cork, Waterford and Dun Laoghaire had dedicated full-time School Attendance Officers (SAO). Outside these centres of population, however, the SAO was a local Garda who took on this duty, as one among his many tasks. This was undoubtedly one of the reasons why so many children committed under this heading came from urban centres, as can be seen from the statistical analysis below.
- 3.21** It seems reasonable to infer from the figures, for both the nation as a whole and Dublin, that the children committed under the 1926 Act were not the victims of a policy of pouncing on a few arbitrarily chosen children. Rather, there was a process with some flexibility and with intermediate stages before the point of committal was reached. Yet, while not arbitrary, the system was severe and far-reaching: from visits to parents to formal warnings, through prosecution of parents, to eventual committal. A striking point of contrast appeared from Table IV of the Tuairim Report, showing that those admitted to approved schools (equivalent of industrial schools or reformatories) in England in 1964 for ‘truancy’ numbered 45, compared with 66 in the same year in Ireland, although England had 16 times the relevant age cohort.
- 3.22** Committal to an industrial school was most extreme in the case of non-attendance at school. Neediness could have complicated causes that were hard to resolve. It could be argued that there needed to be some sanction for juveniles who offended. However, non-attendance at school was not so heinous that it called for sanction of such severity. The enormity of committing a child for several years, simply for failure to attend school, began to be appreciated more as time went on.
- 3.23** A major issue was the fact that it was a court which was selected as the agency through which children and young persons were directed to a reformatory or an industrial school. Historically,

¹⁴ Section 17(4)(a) and (b) of the School Attendance Act, 1926.

¹⁵ Section 17 of the School Attendance Act, 1926 states:

‘(1) Whenever a parent fails or neglects to cause his child to whom this Act applies to attend school in accordance with this Act and, so far as is known to the enforcing authority of the school attendance area in which the child resides, there is no reasonable excuse for such failure or neglect, such enforcing authority shall serve on such parent a warning in the prescribed form ...

(2) If a parent does not comply with a warning duly served on him under this section, he shall, unless he satisfies the Court that he has used all reasonable efforts to cause the child to attend school in accordance with the Act, be guilty of an offence under this section ...

(4) If in any proceedings against a parent under this section the parent satisfies the court that he has used all reasonable efforts to cause the child to whom the proceedings relate to attend school in accordance with this Act or the parent is convicted of a second or subsequent offence under this section in respect of the same child, the court if it thinks fit may—

(a) order the child to be sent to a certified industrial school ...’.

¹⁶ SI 105/1972: School Attendance Act, 1926 (Extension of Application) Order, 1972 raised the school leaving age from 14 to 15.

the reason for this seems to have been the simple, human rights point that, given the significant deprivation of liberty involved, it would have been inappropriate if this important decision had been vested in, for example, a local health authority. However, the court was known to the residents themselves, and everyone else, principally as a place in which minor criminal offences were tried. The inevitable result was that those committed were unfairly stigmatised as criminals whereas, in fact, their only 'crime' was poverty. The fundamental unfairness of this was raised consistently by witnesses before the Commission.

- 3.24** In addition, most of the usual safeguards which are the hallmark of the adult criminal justice system were denied to those whom a court was considering sending to an industrial school. There was next to no legal representation, and the facts relied on by the Garda/ISPCC Inspector/SAO were seldom contested, so that the issue of whether they had to be proved beyond reasonable doubt scarcely arose. Although there was an appeal process, it was seldom used.
- 3.25** Although some ex-staff members stated that they did not like this method of committal, there is considerable evidence, both from documents and oral testimony, that children committed to these schools were seen as being criminals by staff, and that a lot of the mistreatment experienced by the children emanated from this perception. Staff recalled that even very young children remembered appearing in court and talked about it among themselves. The general view was that committal through the courts was logical only if the schools were regarded as places of detention. In England, the Children and Young Persons Act, 1933 had established a radical distinction. It confined the courts' involvement with children or juveniles to those who were accused of an offence.
- 3.26** The Courts of Justice Act, 1924 made provision for the setting-up of Children's Courts in separate buildings, in Dublin, Cork, Limerick and Waterford. However, only one such court came into being, in Dublin:¹⁷ the Dublin Metropolitan Children's Court, which was established in 1923.
- 3.27** The case for committal of a child was presented to the court by an Inspector of the ISPCC, who was also colloquially known as the 'cruelty man', or less often by the Catholic Protection and Rescue Society, or by an SAO or a Garda (depending on which ground was being relied upon).
- 3.28** The main factor shaping the procedure was that the child was almost always unrepresented. A parent (or guardian) was required by law to be present, and the mother frequently appeared before the court. The parent was usually uneducated and, in an age of deference, dominated by the circumstances of the proceedings. They were unlikely to be able to make the best of any case against committal. As regards facts, the evidence of the ISPCC Inspector or the SAO was seldom contested.
- 3.29** The schools deplored the reluctance of District Justices to make committals or, alternatively, to do so before an offender had committed so many crimes that a school would have no rehabilitative effect on him. In the 1960s, they complained, too, that committals were for too short a period for any good to be done. There were fundamentally different understandings of the objectives and potentials of the school. Some District Justices seem to have disapproved of the schools as places of 'containment', to which children were to be sent only as a last resort. By contrast, the schools themselves, or at least the managers speaking in public, would claim that the schools were primarily educational not penal institutions, which could be successful in educating a child and saving him or her from a life of crime or misery. The Managers¹⁸ claimed, too, that the District Justices' view had the potential to be a self-fulfilling prophecy, since it meant that only 'incorrigibles' would be sent to the schools.
- 3.30** The number of adjournments which were granted before the committal was actually made suggested a judicial reluctance to commit.

¹⁷ Section 80 of the Courts of Justice Act, 1924.

¹⁸ 'Managers' was the term used under the 1908 Act. This later became more commonly referred to as 'resident manager'.

- 3.31** Of equal importance with the numbers involved was the length of time for which each child was committed.
- 3.32** For reformatories, the ‘period of detention’ was laid down as not less than two, or more than four, years,¹⁹ or in any case not beyond the age of 19.²⁰ In practice, the period of actual detention was usually about one year, provided that the offender’s behaviour and home circumstances were satisfactory.²¹
- 3.33** The position in regard to industrial schools was more complicated. As regards the children committed by the courts, the almost invariable practice was to commit until the age of 16. The legislation²² appeared to allow the court some discretion in committing children. Nevertheless, up to the 1960s in the thousands of cases which have been checked, in both the Dublin County Borough and provincial courts, the District Justice always made the order apply right up to the time when the child would be 16 years.
- 3.34** Given that committal was until 16 years, the length of time for which any child or young person was committed by a court depended on their age at the time of committal. It is significant that those children who were committed for being ‘needy’ were often committed at very tender years. Thus, they had to reside for many years in both a junior industrial school and senior industrial school.
- 3.35** The net result was striking. In the case of a reformatory school, an offender was sent away usually for about one year (which was in line with a normal criminal sanction). By contrast, for committal to an industrial school, the age of release was fixed at 16 years, and the length of the committal period varied depending on the age of the child at the date of committal. The justification offered for this anomaly was that committal was seen not as a punishment but as a period for which the child or young person needed protection (or education), until they were old enough to fend for themselves. In any case, the reality comes through in the following Dáil exchange:
- Deputy Dillon: “May I bespeak the good offices of the Minister with special reference to this category of children so that they will not be left permanently in industrial schools ...?”.
- J Lynch: “... the word ‘permanently’ might create a wrong impression. They would all be entitled to be released at 14 years of age. For the purposes of childhood, that is surely permanently”. (DD: vol 166, col 779)
- 3.36** These figures varied slightly from decade to decade; however, the average committal period for the period from 1951 to 1960 was:
- ‘needy’: 8.8 years
 - school non-attendance: 4.2 years
 - offences: 4.1 years.
- 3.37** Children were occasionally removed from school by their parents without the consent of the Minister for Education or the school. For example, some just failed to return from holidays; some parents removed their children from the jurisdiction; and some absconded.

¹⁹ Section 65(a) of the Children Act, 1908 as amended by section 11(1) of the Children Act, 1941.

²⁰ Originally (under the 1908 Act) this was three to five years. However, the 1941 Act reduced this period from two to four years. It also raised the upper age limit of committal to a reformatory from 16 to 17 years, and reduced the period of detention, after which managers could release on licence, from 18 to six months.

²¹ In *The Irish Press* 27th June 1967, Joseph O’Malley gives the eventual average length of stay in Daingean Reformatory as about 15 months.

²² Section 65(b) of the Children Act, 1908 states:

‘The detention order shall specify the time for which the youthful offender or child is to be detained in the school, being— ... in the case of a child sent to an industrial school, such time as to the court may seem proper for the teaching and training of the child, but not in any case extending beyond the time when the child will, in the opinion of the court, attain the age of sixteen years’.

- 3.38** However, more official removals could be made by the exercise of the Minister's discretion to order early discharge, usually because there had been a change in family circumstances or where a parent made a complaint about abuse.
- 3.39** A parent or guardian of a child detained in an industrial school had the right to apply to the Minister for Education for the release of the child.²³ The relevant legislation was, in the first place, section 69(3) of the 1908 Act, which gave the Minister discretion to release any child or young person committed. Following the constitutional challenge in the *Doyle* case,²⁴ the law was amended by the Children (Amendment) Act, 1957 which made the exercise of this discretion mandatory where the circumstances that had given rise to the committal order had ceased and were not likely to recur; and, further, where the parents were able to support the child. This change did not apply to offenders or those committed for non-attendance at school.
- 3.40** This trend in favour of early discharge was intensified following the Kennedy Report in 1970, which stated:
- The whole aim of the Child Care system should be geared towards the prevention of family break-down and the problems consequent on it. The committal or admission of children to Residential Care should be considered only when there is no satisfactory alternative.²⁵
- 3.41** One of the most influential of the persons consulted, though his authority did not always carry the day, was the Manager of the relevant school. Their counsel was usually against early discharge: no case of the school authorities taking the initiative to secure a release has been found in the documents. Leaving aside any financial disincentive, the Resident Manager would probably have considered that the best option for a child was staying in the School and would have been inherently unlikely to draw back and determine dispassionately that any child would be better off elsewhere.
- 3.42** The average percentage of applications for early discharge, as compared with the average percentage population in the schools, was 6.1%. Of these applications, an average of 72% succeeded. This was a fairly small number of applications, and may suggest that the system of early release was not well known.
- 3.43** Throughout the 1950s, the number of successful applications increased. This trend was in line with the general improvement in economic and social conditions in the country over the course

²³ Section 69(1) of the Children Act, 1908 states:

‘The [Minister] may at any time order a youthful offender or a child to be discharged from a certified school, either absolutely or on such conditions as the [Minister] approves ...’.

Section 5 of the Children (Amendment) Act, 1957, which superseded the 1908 Act provision, in the case of children committed under [section 58 of 1908 Act], stated:

‘(1) Where—

(a) a child has been committed to an industrial school under section 58 of the Principal Act, and
(b) an application is made to the Minister for Education by a parent or guardian for the release of the child, and
(c) the Minister is satisfied that the circumstances which led to the making of the committal order have ceased and are not likely to recur if the child is released, and that the parent or guardian is able to support the child, the Minister shall order the discharge of the child.

(2) The Minister may, if he so thinks proper, refer the application to the court.

(3) If the Minister refuses the application, the parent or guardian may refer it to the court.

(4) The court, if satisfied in regard to the matters referred to in paragraph (c) of subsection (1), shall have jurisdiction to order the discharge of the child.

(5) A reference to the court under this section shall be made to the District Court in the District in which the committal order was made or, if the applicant resides in another District, in that District.

(6) The order for the discharge of the child, whether made by the Minister or the court, shall operate to revoke the detention order.

(7) (a) Where the District Court or, on appeal, the Circuit Court, orders the discharge of a child, the court may award costs and expenses to the successful applicant ...’.

This provision was introduced in response to the *Doyle* case discussed at Appendix, para (iii).

²⁴ *Doyle v Minister for Education*. The case was decided in 1956 but not reported until 1989 at [1989] ILRM 277. The Supreme Court decided that, because of the wording of Article 42.1 of the Constitution, the right of parents to raise their children was inalienable and could not be transferred to the State, even with the consent of parents.

²⁵ Kennedy Report, p 6.

of the decade. There were, however, notable exceptions: Artane and Letterfrack for boys, and Goldenbridge for girls, stand out in terms of the high percentage of refusals.

- 3.44** The figures for reformatories differ: St Conleth's, Daingean, as the only reformatory school for boys, had, by its remit, different criteria in relation to the release and discharge of the children, not least because young offenders were committed by the courts for a relatively short period, compared to other categories of offender, so the vast majority of applications were turned down. Thus, there were relatively few applications, even compared to the population in the School. Furthermore, the success rate, at an average of 24%, was much lower than for industrial schools.
- 3.45** The process had to be initiated by the parents, who would often have been uninformed as to how to do this. What is missing is any reference to residents whose parents or guardians never applied for early discharge in the first place or who had no parents to apply. This meant that children without parents or guardians to apply had no chance of being released. The documents do not contain any reference to release being considered for such children. There was no official agency charged with the duty of reviewing each case, either periodically or where there were signs of a change in the child or in family circumstances. This was a serious and fundamental flaw in the system.
- 3.46** As mentioned, there were three paths to the schools, of which the first was committal via the District Court, and was by far the most frequently used and has already been covered. At the time of the Kennedy Report, there were 97 (or 4%) of the industrial school population in the voluntary category, with 80% and 16% in the court and health authority categories respectively. However, in an earlier period, when those committed by the court would have been more numerous, children maintained voluntarily were even less significant. For the period 1949 to 1969, the average 'voluntary' population figure was 101 or 2.2% of the entire schools' population.
- 3.47** The remaining major category was children placed in certified industrial schools by the health authorities. As with children placed voluntarily and directly in the schools, by parents or guardians, such children entered without the involvement of a court and could be withdrawn without legal formality;²⁶ if and when family circumstances permitted.
- 3.48** Until it was repealed in 1991, the statutory authority of a health authority or board to place a child in an industrial school was section 55 of the Health Act, 1953 (or its precursors). By this provision, a health authority was empowered to provide for the assistance of a child by boarding the child out, by sending him to an industrial school approved by the Minister for Health or, where the child was not less than 14 years of age, by arranging for his employment.²⁷
- 3.49** These powers applied only to two rather narrow categories of child. In addition to a means test, the child had to be either an orphan or had to have been deserted by his parents or parent; and, in the case of an illegitimate child, whose mother was dead or was deserted by the mother, or the parent/guardian had to consent.²⁸
- 3.50** The Cussen Report in 1936 took the view that local authorities/health authorities:
- as a whole [they] would appear not to have sufficiently appreciated their responsibilities under law in regard either to the schools or the children, and the evidence which we have adduced indicates that they still display little interest in the work of the schools beyond the payment of a weekly capitation grant ...

²⁶ Section 56 (2) of the Health Act, 1953 states that:

'Where a health authority have sent a child to a school approved of by the Minister, the authority—

(a) may at any time, with the consent of the Minister, remove the child from the school, and

(b) shall remove the child from the school if and when required so to do by the Minister or by the managers of the school, or upon the school ceasing to be approved of by the Minister'.

²⁷ Section 55(1) of the Health Act, 1953.

²⁸ Section 55(1) and (2) of the Health Act, 1953.

- 3.51** In the early 1950s, the number of children sent to the schools by boards of health increased for such reasons as the need to find somewhere to house children who would earlier have lived in county homes. Whatever the causes, a pattern developed in the late 1940s by which health authorities sought to put children in industrial schools, despite the preference of the Department of Health for boarding out (this tension between the two authorities is discussed in Eoin O'Sullivan's chapter).
- 3.52** Accordingly, the health authorities encouraged existing industrial schools to apply to the Department of Health for the necessary certification to enable them to receive health authority referrals.
- 3.53** Equally, because of the falling numbers of residents being committed by the courts, schools were actively looking for children, and made the health authorities aware of this.
- 3.54** Little seems to have changed during the quarter of a century up to 1970, when the health boards were established, and they increasingly employed social workers to work with children in care and their families. The social workers saw it as their duty to try to avoid breaking up the family, unless there was no alternative. Where there was no alternative, then fostering was the preferred option.

