Chapter 2

Gateways to the institutions

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Section 1: Introduction

Many routes

In all, there were five bases on which a child or young person[1] could be sent to a certified school. The first three of these, dealt with in this section, were: being 'needy or destitute', (though this was very much an umbrella term embracing further sub-categories), committing a criminal offence; and non-attendance at school. Each of these involved committal by the District Court. The remaining two categories, where no court was involved, are dealt with in later sections. They were: being sent by a local health authority; or, voluntary committal.

At the outset, three general points should be made. First, the statutory provision under which any particular resident might be committed could be quite random. For instance, in the case of a child, from a broken home, the most likely route would be by way of the court making a committal order on the basis of one of the many sub-heads of the 'needy' category. Thus, for example, if the child was breaking windows throughout the neighbourhood, one judge might say that the child was 'unruly'; whilst another would blame the parents for 'inadequate supervision'.

Another possible route arises from the fact that destitute children would be unlikely to see any advantage in attending school faithfully and, as the Kennedy Report para 11.4 sagely observed, 'Truancy is often the earliest sign of family break-down.' In addition, naturally, the court and the agencies bringing children before it tended to prefer the non-school attendance category to the offences category, in order to avoid stigmatising the child.

In short, in the case of many residents, the formal entry category to which they were assigned in the Department of Education annual reports numerical sections might seem more clear-cut than reality warranted, and this is something which should be taken into account in reading the figures that are set out in the various graphs and tables below. [2]

Secondly, a significant part of the machinery by which children were sent to the schools lay in the agencies by which a child was brought before the court. For this purpose, a miscellany of persons and agencies, often part-time or unpaid and seldom trained, had grown up. These included: the Irish Society for the Prevention of Cruelty to Children (ISPCC), Gardaí, school attendance officers, and also Vincent de Paul Society members, parish priests; or children's officers from the local health authority, possibly with guidance from Department of Health Inspectors. One of the flaws

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[1] Section 31 of the Children Act 1908 (as amended by s 29 of the Children Act) gives these meaning: 'child' (under the age of 15, originally 14); a 'young person' (between the ages of 15 and 17, originally 14 and 16). The umbrella term 'young offenders' comprehends any offenders between the ages of seven and 21 years.

[2] Similarly, after 1970 to avoid the stigma of committal proceedings, the tendency has been to have the child referred to the home wherever possible by the health board, under the provisions of s 55 of the Health Act 1953.

in the system was that the different elements seldom liaised effectively; for instance, health authorities hardly ever exercised their right of audience before the court.[3]

Thirdly, in respect of each ground of entry covered in the next three sections, the available alternatives to sending a child to an Industrial School are considered and consideration will be later given to the extent to which these were taken into account.

Section 2 'Needy' children

Part I: The legislative framework

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), by which a child could be committed to an industrial school if he:

> (1) (a) is found begging or receiving alms...;
>
> (b) is found not having any home, or visible means of subsistence, or is [found] having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
>
> (c) is 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
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> (d) is under the care of a parent or guardian who, by reason of reputed criminal or drunken habits, is unfit to have the care of the child; or
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> (e) is the daughter...of a father who has been convicted of an offence of [sexually abusing his daughters]; or
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> (f) frequents the company of any reputed thief or of any common or reputed prostitute(other than the child's mother); or
>
> (g) is lodging or residing in a house used for prostitution...

By section 58(4) of the 1908 Act:

> Where the parent ... 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 understands the results which will follow, may order him to be sent to a certified industrial school.[4]

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[3] District Justice Sean Forde commented in 1930 that the county councils did not live up to their responsibility in regard to attendance in court: 'This charge [of neglect and cruelty against parents] is a very serious one and I am adjourning it. I hope that the county council will be represented on the next occasion. In only one application of this kind in the past seven years has the county council appeared.' The Department of Health inspector on boarded-out children also accused the county councils of neglecting their responsibility; even when they were present in court, they rarely opposed requests for committal: 'This appears to be an extremely casual manner to treat the question of disposal of whether a child's interests will best be secured by committal to an institution, by boarding-out if the family of which the child is a unit cannot be kept together by means of home assistance.': *Connacht Tribune*, 4th January 1930, quoted in Department of Local Government and Public Health, Annual Report 1935-36, p 390.

On the other hand, a survey of ISPCC records (O'Cinneide and Maguire, 'Findings from the ISPCC Records' Sisters of Mercy Industrial Schools in Context, Report II, p 27) shows the ISPCC: 'Interacting with a variety of individuals and agencies, including parish priests, local branches of the Society of St Vincent de Paul, and local authorities, to secure the resources necessary for parents to keep their children rather than have them committed.'

[4] Section 58(4) also stated that, as an alternative to committal, the out-of-control child might be placed under the supervision of a probation officer. Also omitted from the text, as being seldom used, is sub s (5) by which:

> Where the guardians of a poor law union or the managers of a district poor law school satisfy a petty sessional court that any child maintained in a workhouse or district poor law school is refractory or is the child of parents either of whom has been convicted of an offence punishable with penal servitude or imprisonment, and that it is desirable that the child be sent to an industrial school under this Part of this Act, the court may if satisfied that it is expedient so to deal with the child, order him to be sent to a certified industrial school.

[This was repealed by Child Care Act 1991].

One can summarise this intricate legislation by saying that: some of these grounds focused on diverse forms of poverty and need; some on a parent (or another person) being a bad influence on or abusing or neglecting the child; and some on a mixture of the two. Yet there was inevitably a good deal of overlap: poverty begat parental neglect and the reverse was inevitable too.

Subsequent legislation expanded the 1908 Act in two main respects.[5] First, sub-paragraph (c) ('is found destitute') was in fact rather narrow in that it required the child's parents to be in prison. The Children Act 1929 (later re-enacted in the Children Act 1941, s 10(1)(d)) in effect widened this category by providing that a child could be committed, provided that two further conditions were both satisfied: first the child 'is found destitute and is not an orphan and his parents are or his surviving parent or, in the case of an illegitimate child, his mother is unable to support him'. And secondly, if 'both parents consent or the court is satisfied that a parent's consent may be dispensed with owing to mental incapacity or desertion'.[6]

The need for this change arose from the nineteenth century assumption reflected in the 1908 Act that the Industrial School system was meant primarily to deal with offenders whereas children suffering from parental neglect or poverty cases were to be dealt with under the ordinary Poor Law, which usually meant that the child went to the workhouse. With the development of what was by the standards of those days, a more liberal social outlook, committals on the grounds of poverty alone grew. At first, this change was effected covertly. For example, in the late nineteenth century when it was desired to have a child whose parents were too poor to rear it committed to an Industrial School, it became the practice for a social worker to give the child a penny outside the court and then have it committed for 'receiving alms' (under s 58(1)(a) of the Children Act 1908). Thus the 1929 Act theoretically had the effect of removing the stigma that a child, whose only crime was poverty, had to be found guilty of an offence, before he could be sent to a school. It did this by allowing the committal of a child for 'destitution'.[7] This provision of the 1929 Act was struck down in 1956, in *Re Doyle*.

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[5] However Kennedy, at (paras 10.5-6) suggested a more radical extension which was never implemented:

> There could be numbers of recommended neglected children and young persons never brought before the Court because their cases do not fall within the limited provisions of Section 58...
> This section should be amended to give the courts the widest possible jurisdiction to deal with a child or young person up to the age of 17 years who:
> a) is not receiving such care, protection or guidance as a good parent might reasonably be expected to give, or
> b) who is beyond the control of his parent or guardian and the lack of care, protection or guidance is likely to cause him unnecessary suffering, seriously to affect his health or physical development, or,
> c) if he is falling into bad associations or is exposed to moral danger.
> This would ensure that the complainant would no longer be faced with proving that the parent or guardian is unfit or unable to exercise, or is not exercising proper guardianship, but only with the tasks of showing that the child or young person is in fact not receiving such care.

[6] The full wording of s 10 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 –
> 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
> 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
> 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.

[7] Commenting on the significances of the new legislation, the Department of Education Annual Report for 1929-30, p 105 stated that:

> in 1929-30, there were 377 (out of a total of 996) committals under the 1929 Act. However this represents an increase of only 53 on the previous year's figures under the narrower heads in the 1908 Act (and there was anyway a rising trend'). So 'it is but natural to assume that the majority of committals under that Act would have been made under the Principal Act...even had not the more recent Act been in existence.

The facts of this case may be briefly summarised as follows. Evelyn Doyle was born in 1946. In 1953, whilst her father, Desmond Doyle, was unemployed, his wife left the family. In 1954, her father consented[8] to an order being made under section 10 of the 1941 Act for the committal of Evelyn to a school. His wife's consent was dispensed with by the District Court and Evelyn Doyle was committed until her 16th birthday.

Later in 1954, Desmond Doyle obtained permanent employment as a painter. Accordingly, he applied to the Minister for Education to have his daughter discharged from care. Section 10 also provided that where the parents of a child were able to satisfy the Minister of Education that they were able to support that child, the Minister was obliged to order its discharge. The Minister refused to order the child's release.[9] Mr Doyle brought an application for judicial review in the High Court against the Minister's refusal ([1956] IR 217). This case turned only on the wording of the 1941 Act. The claim failed on the basis that, according to the wording, the Minister's power to discharge depended on the application being made by *both* parents, unreasonable as this might seem in the present case.

Mr Doyle tried again in a second set of proceedings, this time involving the Constitution, and succeeded in both the High and Supreme Court. The case was decided in 1956; though reported only at [1989] ILRM 277. Mr Doyle claimed that the detention of his daughter under section 10 was invalid as being repugnant to Articles 41 (The Family) and 42 (Education) of the Constitution, the distinction between which is not significant. He made this claim because the section seemed to enable a parent to deprive himself of what by Article 42.1 is declared to be his 'inalienable right and duty' namely to provide according to his means for the...education of [his] children'. The court put a good deal of weight on the notion that the parents' right could not be alienated.

However, it is important to emphasise that up to *Re Doyle*, a great number of those committed were committed under the destitution coupled with parental consent ground. Speaking on this point, in the Seanad debate[10] the Minister for Education, T Derrig, emphasised that he, at any rate, saw this consent requirement as an important point of principle and resisted an opposition amendment, which would have infringed it.

A further extension (also made by s 10(1)(d) of the 1941 Act) was that a child could be committed if under the care of a parent or guardian who had been convicted of an offence under Part II of, or mentioned in the First Schedule to, the 1908 Act in relation to any of his children. Cruelty was widely defined so that this head could have been, though in practice, was not, used to commit children whose parents were not positively cruel but were feckless or irresponsible or otherwise not looking after their children properly.

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[8] Perhaps the circumstances in which Mr Doyle consented to the making of the order of detention were significant. He was not at that time professionally represented. He was under the impression that such detention was not for a fixed period, but that he could obtain the child's discharge at any time on making application therefore. This impression was contributed to by a remark made by the District Justice advising Mr Doyle 'not to leave the child in the School too long.': [1956] IR at 218. O'Mahoney, 'Legal Aspects of Residential Child Care' (1971) VI Irish Jurist 217.

[9] Desmond Doyle, who had moved to England after his daughter was committed, soon returned to Ireland found a job and set about having his daughter released from St Joseph's Industrial School in Whitehall in Dublin. The Minister refused the application. An internal Departmental memo stated that the sources of information on which the Department based its refusal of the application were as follows:

- Garda Siochana report that recommended the refusal of the application 'in view of the limited accommodation in the house and the absence of a responsible woman on the premises'.
- The NSPCC report which recommended refusal on the grounds that there was a danger that the housekeeper employed by Mr Doyle (who was to look after the little girls) might find better employment and leave her position.
- A parental money collector reported that he failed to make contact with the housekeeper in his efforts to make discreet enquiries as to the nature of the relationship between herself and Mr Doyle.

[10] SD vol 25, col 922, 22nd April 1941.

Yet the precise scope of these legislative categories[11] probably did not make a significant difference in the numbers of children committed. The reason is that on one side there were the circumstances of dire poverty and often few alternatives to the schools and on the other side the schools were willing and sometimes eager to take the children. In this type of situation, the drafting of the legislation could make little difference. Moreover, the legislation had to be couched in broad subjective terms, and was never the subject of High Court, or even Circuit Court interpretation. As a result it was open to being interpreted in many different ways.[12] Finally, as between the different sub-categories, there was no reason to draw nice distinctions when the consequences were the same. Thus it would seem precious to attempt a legalistic exegesis of the legislation.

And so throughout this report, including the later statistical section, a single united category of 'needy' is used which embraces all the sub-heads of section 58, outlined here, including where the child was out of control.

Section 3: Offenders

Part 1: Reformatory or Industrial School?

The second largest category of those committed were children or young persons who had been involved in an offence. The first issue here is on what basis was it decided to send a young offender to an Industrial School or a Reformatory. The main answer is age. The practice in this area can best be explained 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 few children below the age of 12 being committed for offences, even to an Industrial School.

(2) A child of 12 or 13 (or after 1941, 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

[11] These formal shifts in classification were faithfully observed in the Education annual reports. The statutory categories for committal to Industrial Schools were naturally followed by the court and its records and, likewise until 1959-60, the Department annual reports gave the figures for those committed under every head of the statutory catalogue. There were in fact eight categories drawn from s 58(2), (4); plus three categories of 'charged with an offence punishable in the case of an adult with penal servitude' (division into three was made according to whether the child was under 12 and 14 or over 14 and under 15); plus non-school attendance. Thereafter there were some minor reductions in the Education reports but the big change came in 1959-60, when there were only four categories: destitute; uncontrollable; offender; non-school attendance: Barnes, Irish Industrial Schools, 1868-1908 (Irish Academic Press, 1989).

[12] Barnes, *Irish Industrial Schools*, 1868-1908 (Irish Academic Press, 1989), p 62 states:

> This industrial school legislation proved difficult to implement and in the early years of its operation many errors were made in the committal of children, resulting either in dismissals from schools or in the necessity of repeating the committal process. In some cases the error was slight as when, for example, a magistrate failed to complete the necessary order form correctly. Invalid order forms were a nuisance for the administration, and the Inspector of Schools, Lentaigne was driven to complain bitterly' ... these invalid orders are so frequent that I believe a circular to magistrates is necessary – magistrates especially in the West of Ireland are so ignorant of the statute that frequent blunders are committed'. In 1873 a circular to magistrates at petty sessions was drawn up giving a clear summary of the grounds upon which committal could be made and indicating how the order form should be filled in. Each subsequent year copies of this circular were sent to magistrates throughout the country. Despite these efforts illegal committals due to simple errors remained a feature of the industrial schools throughout the Nineteenth Century.' We have discovered no similar errors in post-Independence committals. This may be because District Justices, in contrast to Magistrates were legally qualified.

influence over the other children'. In fact despite these conditions, children under 15 years were usually sent to Industrial Schools.[13]

(3) It was not open to the court, under the Act, to send the offender aged (after 1941) 15 or above to an Industrial School. Thus if a custodial sanction were to be selected, for offenders between the age of 15-17, the only option (apart from very serious crimes) was a Reformatory (1908 Act, s 57(1), as amended by 1941 Act).

Thus the Reformatory School was reserved for the tougher type of boy, who became eligible for committal between the ages of 12 and 17 (or 16, before the Children Act 1941, s 9). After the 1941 Act took effect, the legal period of detention was between two and four years. Before 1941, the equivalent was three to five years. However, the period of actual detention was usually no more than one or two years, provided that the offender's behaviour and home circumstances were satisfactory. By contrast, children committed to Industrial School were invariably sent until they were 16.

As indicated in Table A below, the practice was that offenders were committed to a Reformatory only following a straightforward conviction.[14] By contrast, those sent to an Industrial School were committed when they had been 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' with no conviction being recorded (1908 Act, ss 57 and 58(3)).

The position here is complicated by the fact that several ways of treating the offender were open to the District Court. In practice prosecutions against children or young persons heard by any court other than the District court were negligible, especially in the context of committal to a school. Committal to a Reformatory or Industrial School were just two among several possible sanctions and the range of sanctions was available irrespective of the particular offence committed[15] since, in the case of young offenders, the law is more concerned with the offender than the offence.

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[13] Kennedy, Table 25 shows out of a 1969 population of 105 boys at (Daingean) Reformatory, 6 at 13+ years and 11 at 14+ with the remainder aged 15+. (For girls the equivalent figures were: a total of 38 with three and five girls aged 13+ or 14+, with the remainder aged 15+.) The 1908 Act, s.58(3) as amended by the 1941 Act, s 10(2) states:

> Where a child, apparently of the age of twelve or thirteen [or fourteen] years, who has not previously been convicted, is charged before a petty sessional court 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 but, having regard to the special circumstances of the case, should not be sent to a certified reformatory school, and is also satisfied that the character and antecedents of the child are such that he will not exercise an evil influence over the other children in a certified Industrial School, the court may order the child to be sent to a certified Industrial School, having previously ascertained that the mangers are willing to receive the child: Provided that the [Minister for Education] may, on the application of the managers of the Industrial School, by order, transfer the child to a certified reformatory school.

Before the 1941 Act the unamended 1908 Act referred to children of the age of 'twelve or thirteen' only.

[14] IPA, 2005, Table 5.3 The most numerous offences for which juveniles were sent to Reformatories were larceny; subsequently house-breaking overtook larceny in the share of the committals.

[15] What follows is a paraphrase of s 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 –
> by dismissing the charge; or
> by discharging the offender on his entering into a recongisance; or
> by so discharging the offender and placing him under the supervision of a probation officer; or
> by committing the offender to the care of a relative or other fit person; or
> by sending the offender to an industrial school; or
> by sending the offender to a reformatory school; or
> by ordering the offender to be whipped; or
> by ordering the offender to pay a fine, damages, or costs; or
> by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
> by ordering the parent or guardian of the offender to give security for his good behaviour.

The figures

The issue that is under examination here concerns one criticism which has been made of the schools system, namely that greater use ought to have been made, of the alternatives to the schools. To test this claim, the figures that show the use which actually was made of the various sanctions are presented below, in order to show the committal orders in their numerical context. Unfortunately only figures for a relatively brief period are available.

Table A: Juvenile offenders

Year	Persons proceeded against			Charge proved, and order made but without conviction					Convicted					Not convicted	Misc
	Total	Male	Female	1) Dismissal	2) Recognisances	3) Probation	4) Committal to Industrial Schools		1) Imprisonment	2) Place of detention	4) Fine	5) Reformatory Schools			
							No	% of 'Charges proved without Conviction'				No.	% of persons convicted		
1948	2,630	2,379	251	1,428	239	230	94	4.7	102	66	154	141	30	174	2
1950	2,453	2,293	160	1,490	167	116	68	3.6	108	59	141	114	26.8	187	3
1951	2,702	2,493	209	1,676	136	114	93	4.4	89	66	223	93	19.7	211	1
1952	2,341	2,157	184	1,426	102	60	93	5.5	93	63	251	88	17.6	161	4
1953	2,474	2,281	193	1,417	140	70	88	5.1	96	104	293	105	17.4	158	3
1954	2,057	1,918	139	1,216	101	65	71	4.8	80	79	246	80	15.8	98	21
1955	2,138	1,973	165	1,249	101	51	66	4.4	66	74	302	78	14.4	132	19
1956	2,467	2,294	173	1,283	85	51	75	5	100	174	405	124	14.9	142	28
1957	2,356	2,188	168	1,323	85	34	53	3.5	73	92	394	93	13.4	165	44
Total	21,618	19,976	1642	12,508	1156	791	701	41	807	777	2409	916	170	1428	125
Average	2,402	2,219.50	182.44	1389.7	128.44	87.8	77.8	4.5	89.6	86.3	267.6	101.7	18.8	158.6	12.5

Note: The key information here is in column 4 of 'charge proved ...'. This gives the figures for those committed and the percentages that this constitutes of the total numbers for those against whom the 'charge was proved and the order made but without conviction'. The equivalent for Reformatories is column 5 of 'Convicted'.

Table A was compiled from the Gardaí annual reports. Minor categories have been omitted, for instance figures for those who were committed to custody of a relative; convicted and entered into recognisances, or whipped.

The table shows that for the years it covers, there were more than 21,000 charges against juvenile offenders. The main feature of the table is the division between those convicted and those against whom the 'charge [was] proved and the Order made without conviction', with a small category of 'not convicted'. The division in principle between the first two categories was that in the second no conviction was recorded. In practice, the division between the two categories was very subjective and imprecise. However a reasonable generalisation would be to say that it was thought appropriate to send the more serious offenders, perhaps those who had committed more numerous or more serious offences, to Reformatories and, to achieve this result, the law required the offenders to be 'convicted' though here one should bear in mind the difference between the two types of school being only one of degree. For present purposes, the importance of the table is the indication it gives as to what fraction of those who come before the court were sent to one or other of the Schools.

As can be seen, in the first category of 'Charge proved but no conviction', the largest group was simply 'dismissed'. In the next most numerous class, the offender or more usually their parents entered into recognisances. Thirdly, the child or young person might be put on probation. Committal to an Industrial School came only in fourth place, being imposed on an average of 4.5 percent of those in this category.

Among the other category – those convicted – the most numerous group was fined, with those committed to Reformatories in the second most numerous group, constituting an average of 18.8 percent of those convicted

In reading these figures one should note that the age groups involved for the two types of schools are different. Broadly speaking, Industrial Schools were for the 7-15 age group and Reformatories usually for the 15-17 age group. However, whichever of the groups is considered, only a small fraction was sent to a Reformatory or Industrial School. The conclusion to be drawn is that, in general, District Justices did exercise some judgment and discrimination before they sent an offender to a school: they sent them only in relatively few cases.

In line with this conclusion, Tuairim 15 remarked:

> Though proportionately more boys were detained or remanded in Ireland than in England, fewer (1:25) were committed to residential schools for indictable offences. This could mean that either boys committed fewer offences in Ireland, or that Irish magistrates are much more reluctant than English magistrates to commit boys to residential schools. The general impression we have gained from conversations with people directly concerned with juvenile offenders in Ireland is that the latter is the case.

Alternatives to the schools

The significant point for present purposes, however, is that a substantial minority were committed to the schools and the question remains whether, given the circumstances of a particular case, it would have been practicable to make greater use of the alternative sanctions.

It is worth giving the full list of the alternatives with brief comments (in italics), directed to the question of whether the District Justices could realistically have made greater use of the alternatives so as to commit fewer children or young persons?

(a) Dismissing the charge: *this option was commonly adopted for first, second or third offenders. However as the offences committed by a particular offender built up, this was usually regarded as not practicable*.

(b) Whipping in the case of a male (not a female)[16]: *this punishment was probably never, ordered*.

(c) Committing the offender to custody 'in a place of detention provided under this part of this Act'[17] or an approved Industrial School (the 'place of detention' was Marlborough House). *This course was not satisfactory. Marlborough House was purely a home of detention and was not equipped for training or educating boys. The recreational facilities were so limited as to be practically non-existent. More important, no proper segregation existed, to separate boys of tender years from youths, some of whom had serious criminal records*.

(d) Dismissing the offender on his entering into a recognisance; ordering the offender's parent or guardian to give security for his good behaviour; or ordering the offender or his parent or guardian to pay a fine, damages or costs: *each of these financial penalties usually did not offer viable alternatives simply because the children who went to certified schools came from an impoverished family*.

(e) The District Court also had a frequently used discretion (under the Probation of Offenders Act 1907, s 1) simply to adjourn the case on the basis that if the accused committed no further offence, nothing further would be said. *As with option A, when the offences of a particular offender built up, this ceased to be practicable*.

(f) Discharging the offender and placing him under the supervision of a probation officer; or committing the offender to the care of a relative or other fit person (1908 Act, ss 58(7), 21(2)).

What emerges from this brief analysis is that the only viable alternatives, which might have been used to reduce the numbers of juvenile offenders sent to the Schools were the two options mentioned at point F. Accordingly, we turn now to consider these two possibilities in more detail.

(1) Probation

The Probation of Offenders Act 1907, sections 1 and 2 (see also 1908 Act, s 60) was directed at a situation in which, although 'the Court thinks a charge is proved, it is of the opinion that, having regard to [a number of specified factors, among them "age"], it is expedient not to inflict any punishment'. No conviction was to be recorded and, the court could either dismiss the charge or discharge the offender 'conditionally'. The first of the two possible 'conditions' would be to dismiss the charge on condition that the child promised to behave himself and agreed to come up for conviction and sentence if called upon to do so. Alternatively, the District Justice could put the

[16] Summary Jurisdiction over Children (Ireland) Act 1884, Children Act 1908, ss 128(1), 133(7) (under 14s); Larceny Act 1916, Offences Against the Person Act, 188? (under 16s).

There are involved arguments (founded on possible inadvertence by the legislature) to the effect that it remained lawful for a court to order the whipping of male children, though not probably young persons. But the fact remains that whipping was not ordered, at any rate after independence, and there were no arrangements for carrying it out.

[17] 1908 Act, s 106 states:

> Where a child or young person is convicted of an offence punishable, in the case of an adult, with penal servitude or imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damages, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may, in lieu of sentencing him to imprisonment or committing him to prison, order that he be committed to custody in a place of detention provided under this Part of this Act and named in the order for such term as may be specified in the order, not exceeding the term for which he might, but this Part of this Act, be sentenced to imprisonment or committed to prison, not in any case exceeding one month.

offender under the care of a probation officer for a specified period, usually not less than a year. Where a District Justice had no probation officer attached to his court, he obviously could not invoke this supervision. This is why, in many country districts, justices used the first alternative, in the form of a six-month adjournment, to see how the offender behaved.

The major problem with a greater use of probation, as an alternative to committal to a school, was simply that there were so few probation officers. Between 1936 and 1945, the number was gradually increased to eight – but during the 1960s until 1969, there were only six, compared with, for instance, 50 in Glasgow. Furthermore, the time of these officers had to be divided among children and adults. Each handled a case-load of, at any particular time, of 40 plus juveniles, which included visits to homes, plus preparing reports in advance of sentence. Another significant limitation is that, up to 1969, all the professional officers were in the Dublin County Borough, although in Limerick City, District Justice Gleeson had secured the appointment as probation officers of some staff from the St Vincent de Paul Society and the Legion of Mary, for boys and girls respectively.[18] In 1969, there was a significant increase in the number of probation officers and, for the first time, probation officers were assigned to provincial centres. By 1974, there was a total nationally of 80 probation officers.

The result of this lack of probation officers was that, for instance in 1957, of 1,444 children given 'the benefit of the Probation Act', only 34 could be put under supervision by a probation officer. By contrast, in England and (to a lesser extent) Northern Ireland, probation even by the inter-war period, was extensively used and proved successful in preventing re-offending.[19]

Given the lack of resources in Ireland at the time, money spent on the salaries of additional probation officers would have been well spent in terms of reducing the number of young offenders who had to be committed to a School.

(2) Fit person order

Where a court was empowered to send a child to an Industrial School, it could if satisfied that it was expedient so to deal with him, instead of sending him to a school, make a 'fit person order': section 58(7) of the 1908 Act. The effect of this would be to commit the child 'to the care of a relative or other fit person named by the court' who would exercise the same powers and responsibility towards the child as a school would have done. However, up to the 1970s, this was effectively never used. The Kennedy Committee wrote:[20]

> From our enquiries this Committee is aware that no "fit person" orders have been made by the Children's Court for many years and the Committee think the failure to make use of the 'fit person' procedure was probably due to the unwillingness of friends or relatives to undertake responsibility especially where there is no financial assistance.

The last phrase seems to suggest that if official funding had been available, persons willing and able to act as fit persons might have been found. However, as is clear from other examples, there was little thought going on in the field of childcare; so that no such experiments were tried. [21]

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[18] In addition there was an Honorary Probation Officer, a Major in the Salvation Army, who had responsibility for 10 Protestant probationers, throughout the State: see The Irish Times, 2nd February 1950 'Child Delinquency – I' Report on the Probation and Welfare Service for 1980.

[19] The Protection and Welfare of the Young and the Treatment of Young Offenders (Cmd 187) (Belfast, HMSO, 1938), paras 95-104; Report on Social Services Committee (Cmd 1601) (HMSO,) para 53.

[20] At para 10.10.

[21] In the mid-1970s, health boards began to take children into care following orders made under this power, though these were of doubtful legality. By this time, there were very few cases of destitution but there remained a relatively large number of cases of lack of guardianship. These were dealt with not by committal but by making a fit person order in which the fit person was a relation, or neighbour following a change brought in by the Health Act 1970?? But it was not until emergency legislation – The Children Act 1989 – that these orders were (retrospectively) legally sanctioned by designating the health board as 'a fit person' for the purposes of such applications. The 1989 Act was enacted because it was held in The State (D and D) v G 1990 IRLM 136 that health boards were not 'a fit person' within the meaning of the 1908 Act.

In the 'needy' or school attendance categories, the agencies by which the children were brought before the court were specialists, in the sense that their primary concern was the problem that had brought the children before the court. By contrast, where committal was on foot of an offence, the equivalent agency was the Gardaí. The Gardaí were generalists who also had to deal with a large number of other problems that were regarded as more important.

This would mean that the focus on what today would be called 'juvenile justice' would vary, depending on what other calls there were on Garda attention. Coupled with this, there was a good deal of discretion, with no consistent thought or policy[22] as to when a juvenile should be prosecuted and when he should be let off with a caution or a cuff. In practice, most of this discretion resided in the investigating or arresting officer, usually at the relatively low level of garda or sergeant who would know most about the child's background. As to prosecution in Dublin, this was mainly done by the arresting officer, usually at garda or sergeant level; in the provinces it was done usually by a superintendent. Thus in Dublin whether a child was brought to court depended a good deal on the 'feel' and possibly ambition of the particular garda who happened to make the arrest or deal with the offence. This may have been one of the reasons why the rate of prosecutions per head of population was so much higher in Dublin than the provinces. Outside Dublin, committal to a school for an offence was by no means common and retired officers could recall, 40 years later, individually, starkly and often regretfully, the few cases, leading to committals, for which they had had responsibility.

Some improvement was effected by the introduction of the Juvenile Liaison Scheme[23] in 1963. The juvenile liaison officer – or 'the caution man' as many young offenders called him – was introduced to Dublin in the Autumn of 1963 and subsequently in Cork, Limerick and Waterford. In essence, 'the caution man' was a young garda who steered the first offender away from prosecution and court appearance and then kept an eye on his behaviour. Put simply, the JLO was a sieve, as a result of which many young offenders did not come before the court at all. Instead, they and their parents were brought before a superintendent and, in effect, 'told off'. Several thousand youths were cautioned under this scheme.[24]

Section 4: Non-attendance at school

[22] For instance, in the case of Seamus Dalton (hearing 23rd June 2005) in March 1962, aged 10, he was committed to Letterfrack for six years, for stealing a purse. The Brothers regarded this as an 'extraordinary' length of time. The cause seems to have been that the Gardai considered that, (possibly because his mother had received a suspended sentence for the same offence), he should be sent away for a long time. And, in 1966, when an application was made to the Minister for his release, the Gardai still recommended against it; whilst Letterfrack advised (in September 1966) that he should be released. He was not released until July 1967, an unusually long time after the school's recommendation.

[23] In 1964, some 2,800 children in the age group between 7 and 17 (including 195 girls) were found guilty of indictable offences. This was the lowest total in six year and undoubtedly reflected the siphoning off of young offenders by the junior liaison officers.

Since they began operating, in 1963 up to 1969, a total of 5,000 juveniles were cautioned and supervised by the Gardai. The comparison between a probation officer and the JLO was that the JLO made an impact at a significantly earlier stage in the 'delinquent machine.': see P Shanley, 'The Formal Cautioning of Juvenile Offenders' (1970) V Irish Jurist, 267.

There were preconditions for entry to the scheme: the offence had to be minor; the parents had to allow the JLO to make visits to their house; the juvenile had to submit to a talking-to from the superintendent for the district. The JLO himself was a comparatively junior officer (with no authority to restrain a fellow garda who had arrested a young offender from bringing him before the court.

[24] 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 and 4.

For the period under review, and in fact up until the Education Welfare Act 2000, the governing statute was the School Attendance Act 1926.[25] This Act[26] made it an offence for a parent to fail to send to school any child, below the age of 14 (from 1972, 15[27]). Moreover – and here is the significant point – 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'.[28] (For reasons explained earlier, the 'fit person order' was not regarded as a practicable alternative.) The thinking seems to have been that this would be a way of ensuring education for such children.

There were two different systems for enforcement. In the four big towns (Dublin (five areas, each with a Committee), Cork and Waterford county boroughs and Dun Laoghaire non-county borough) the enforcing authority was the school attendance committee. The committees had a membership of 10 or 12, some appointed by the Minister and the remainder by the local council; some of the members had to be chosen from among local school managers or teachers. More important, the committee functioned through full-time school attendance officers. Secondly, outside these centres of population, there were no committees or full-time SAOs. Instead the SAO was a local garda (sometimes the same officer who was also JLO; see para 00), who took on this duty, as one among many other tasks.

While the mode of operation was in principle the same, between the area in which there was a the full-time SAO and the area in which the work was carried out by a garda, in practice there

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[25] See Fahey, 'State, Family and Compulsory Schooling in Ireland' Economic and Social Review, Vol 23, No 4, July 1992, p 369; D H Akenson, *The Irish Education Experiment* (London, Routledge and Kegan Paul, 1970), pp 344-9. The Education (Ireland) Act 1892 first made school attendance compulsory; though only in a number of urban boroughs and about 40 rural districts.

[26] Section 17 of the 1926 Act 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 –
requiring him within one week after such service either to cause his child named in the warning to attend school in accordance with this Act or to give to the enforcing authority a reasonable excuse for not so doing, and
informing him that in the event of his failing to comply with the warning, proceedings will be instituted against him under this Act in the District Court, and
informing him that if within three months after such proceedings he again fails to comply with the Act, further proceedings may be instituted against him without previous warning.

(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 and shall be liable in the case of a first offence to a fine not exceeding twenty shillings and in the case of a second or subsequent offence (whether in relation to the same or another child) to a fine not exceeding forty shillings.

(3) Whenever a parent within three months after being convicted of an offence under this section, fails without reasonable excuse to cause his child in respect of whom he was so convicted to attend school in accordance with this Act, such parent shall, unless the child has ceased to be a child to whom this Act applies, be guilty of an offence under this section (which shall for the purposes of this section be deemed to be a second offence under this section) and shall be liable on summary conviction thereof to a fine not exceeding forty shillings.

(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*, in which case the provisions of Part IV of the Children Act 1908 so far as applicable shall apply as if the order had been made under that Part of that Act, or (b) in accordance with the provisions of Part II of the said Children Act 1908 order the committal of the child to the care of a relative or other fit person named by the court, and in such case the provisions of that Part of that Act shall, so far as applicable, apply as if the order were an order made there under.

The court minute books in relation to committals to Industrial Schools always display the dates on which the parent has been convicted of the requisite two offences.

[27] The School Attendance Act 1926 (Extension of Application) Order 1972, SI 105 of 1972 raised the school leaving age from 14 to 15.

[28] There was an alternative possibility: if in the first proceedings 'the parent satisfies the court that he has used all reasonable efforts to cause the child to attend school', then by s 17(4), the child may be sent away, even though there is no second conviction. In fact, our survey of the Dublin Metropolitan Court records show that this possibility occurred very seldom.

were significant differences, since the SAO naturally had more time to spend on the work. Much of the SAO's work consisted of visiting schools on a regular basis, it might be twice a week or once a month, depending on the particular school. The SAO inspected the school register. Where there was absence from school, this led to home visits, possibly over a period of months. This might also have prompted visits to doctors or clinics to check the reason given for the absence.

The school attendance officer was often the first State agent to get a glimpse of a family situation that later could involve the other support agencies. He (and it usually was a male) might find: a working mother who had to leave the children to get themselves off to school; a widow struggling on welfare pittance who was driven to putting a 13-year-old boy out to work; or a large family which was forced to keep the oldest girl at home to help with the babies – or any other of the multiplicity of problems disruptive of family life.

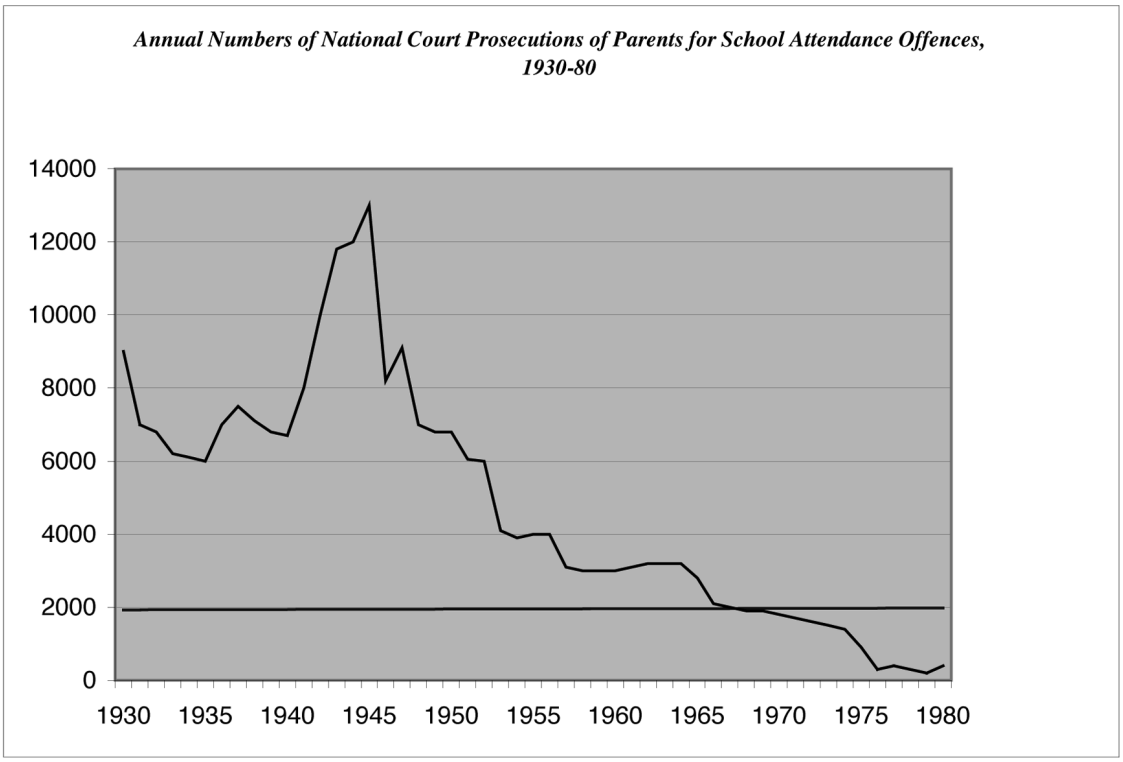
It was the school attendance officer's job to give a warning to the parents (often again and again). If this failed then the parents and the child might be brought before the committee (in the parts of the country where there was a committee) for further warnings. If there was still no improvement, the parents were summoned before the court and usually fined. And if and when this happened twice and still the child had not attended school regularly, the SAO office might make application for the child to be committed to an Industrial School.

While information on how this enforcement process worked in practice is not plentiful, the available data suggests that it was widely applied from 1927 onwards, that this application intensified in the 1940s and continued at a fairly high level until well into the 1950s. It also suggests that the initial stages of the process – visits to parents and the issuing of formal warnings by school attendance officers – reached very large numbers of children and parents. The numbers experiencing the intermediate stages – court summonses and fines, which were typically of 5 or 10 shillings – were much smaller, while the third and final stage – committal to an Industrial School – was applied to an even smaller fraction of those who appeared in court.[29]

The numerical information available is best presented in two parts. First, as to national data relating to court prosecutions of parents, Graph 1 shows the trend in court prosecutions under the School Attendance Act, from 1930-80. The annual number of national prosecutions ranged between 6,000 and 7,000 for most of the 1930s before shooting up in the early 1940s to peak just below 13,000 in 1944. Subsequently, the numbers fell back to the level of the 1930s before beginning a steep drop in early the 1950s.

[29] A lot of the information in the previous three paragraphs is taken from *Fahey, State, Family and Compulsory Schooling in Ireland* at 379-81.

Graph 1



Source: Statistical Abstracts, 1930-80 (Fahey)

Table 1 gives the figures for actual committals, again nationwide. The table shows that, compared to the numbers of convictions of parents in Graph 1, recourse to committal was relatively rare but was still significant and followed the same trend as overall prosecutions. In 1928-29 (not shown in the Table), 68 children were committed to Industrial Schools for non-attendance at school. Such committals tended to be fewer during the 1930s but they surged again by 1938 exceeding 100 and reaching 139 in 1939 and 129 in 1944 before falling back again in the late 1940s and 1950s.

Year	SA
1937	82
1938	105
1939	139
1940	110
1941	122
1942	111
1943	126
1944	129
1945	91
1946	91
1947	53
1948	84
1949	60
1950	59

Year	SA
1951	61
1952	55
1953	47
1954	34
1955	37
1956	61
1957	37
1958	56
1959	62
1960	69
1961	62
1962	44
1963	45
1964	37
1965	34
1966	39
1967	29
1968	2
1969	15
1970	23
1971	17
1972	21
1973	32
1974	31
1975	21
1976	18
1977	32
1978	24
TOTAL	**2407**
AVE	**57**

Source: Annual Department of Education reports

More comprehensive data on this system are available for the Dublin County Borough than for the country as a whole since annual reports of the Dublin city school attendance committees are readily available at Pearse Street Library as part of the Dublin County Borough's archives. This information, which is presented in Table 2, shows that in some years the number of home visits by SAOs actually exceeded the number of 6-14-year-olds on the rolls; so, no doubt many of the visits were repeat calls to the same families.

Table 2: School Attendance Enforcement in Dublin CB, 1927-80

Year	No of school attendance officers	No of children on rolls	No of visits To parents	No of formal warnings issued	No of court convictions of parents	No of children committed
1927	18	52,967	49,429	1,592	na	na
1930	18	53,626	50,083	940	na	na
1935	24	81,120	68,699	669	na	na
1940	26	63,169	73,835	879	na	67
1945	26	66,295	74,298	2,524	1,095	74
1950	27	68,135	63,322	3,059	1,218	46
1956	27	73,277	64,343	4,086	na	75
1960	29	74,956	55,324	3,165	956	47
1965	29	80,637	49,720	1,691	na	25
1971	28	na	38,417	1,754	na	23
1975	28	95,212	32,890	1,029	na	21
1980	29	na	31,221	1,102	na	na

Sources: Fahy (notes omitted). We have added the committal figures in the final column.

It seems reasonable to infer from the tables, for both the nation as a whole and Dublin, that the children committed under the 1926 Act were not arbitrarily chosen. Rather there was a process with some flexibility, from visits to parents to formal warnings, through prosecution and conviction of parents twice, before one reached committal. [30] When it came to actual committal by the court, the number of adjournments was higher than for any of the other grounds of committal.

Yet, while not arbitrary, the system was severe and far-reaching: a striking point of contrast here is that the Tuarim Report shows 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.

A largely Dublin phenomenon?

The overwhelming number of those committed for non-attendance at school came from the Dublin County Borough, out of all proportion to its population. (For the period 1949-68, the total figure was 901 (from Kennedy) of which the CICA survey showed that 781 came from the Dublin CB.) In other words, the Dublin CB, with approximately 24 percent of the national age cohort, yielded 86 percent of the committals under this head. Indeed, in 1941-42, 14 counties committed no children for non-attendance and T Derrig, Minister for Education, stated that non-attendance was almost entirely a Dublin problem.[31]

All this is so despite two striking points. The first is that Dublin County Borough non-attendance rates in primary schools appear from the recorded figures to have been steadily slightly below the national average. Take the period 1940-68, since it is the period for which there are sets of figures for both Dublin CB and the nation as a whole (though not for all years). For this period the average daily attendance rate in primary schools for 6-14 (the years for which school attendance was

[30] The annual reports for Dublin School Attendance Committee record that in 1965-66, 40 children were committed with 10 appeals, 5 of which were allowed; 1966-67: 41, 7 appealed, all allowed; 1967-68: 25 appealed, 8 allowed,1. 1965-66 was the first year for which there was any mention of appeals. It seems reasonable to infer that this was the first year when any appeals were taken to the Circuit Court against committal by the District Court.

[31] DD, 17th February 1942, cols 2533-4.

compulsorily) was 87 percent; whereas the equivalent Dublin CB figure was 88 percent. In almost every individual year too, the Dublin CB figure is higher than for the provinces.[32]

The second striking contrast is that throughout the country the internal Gardaí records for 1942-62 (excluding 1952 and 1956 that were not available)[33] show a relatively large number of prosecutions and convictions of parents, under the School Attendance Act. Up to the 1950s, prosecutions of parents were even more common in the provinces than in Dublin County Borough. Thus in the mid-1940s, for example, when Dublin schools accounted for about one-sixth of 6-14-year-olds on the rolls nationally, court summonses for school attendance offences in Dublin were less than one-tenth of the national total. It remains something of a puzzle why up to the 1950s the Gardaí in rural areas chose to prosecute so many parents. Subsequently, however, the balance became reversed. During the 1950s, the Gardaí began to develop a resistance to school attendance work, leading to a sharp decline in court prosecutions of parents; whereas there was a rise in Dublin. By the 1970s, the great majority of prosecution of parents were brought by the school attendance committees in Dublin (and the other boroughs with such committees), rather than by Gardaí in the rest of the country.

The most significant question then is: why were more children brought before the court for committal, in the Dublin County Borough. The following four reasons are worth considering:

(1) The most obvious and probably the major factor is that in Dublin the school attendance officers were full-time; whereas in the country the SAO was[34] typically one particular garda, in each station, acting on a part-time basis, who may have assigned the function less importance than other more urgent duties. According to a post-Kennedy Dublin County Borough SAO, some of his predecessors took 'a callous attitude and did not hesitate and search for alternatives, sufficiently, before reaching for the drastic option of committal'. One retired District Justice said disapprovingly: 'The SAO would say – "He was a great man for statistics – They've had fifteen warnings."' At the same time it is true that there were full-time SAOs in towns other than Dublin,. For instance in Cork City, in 1970, six SAOs were employed but in a response to the Kennedy Report, Cork County Borough noted that during the entire decade 1960-70 only three children had been sent to Industrial Schools.

(2) It may be that in a rural and (for the era under discussion) largely crime-free society, convicting the parents made a stronger impact than would be the case in Dublin and

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[32] Compiled from City of Dublin School Attendance Committee Annual Reports for 1940-41 to 1967-68, (though with 1943-44, 1945-46, 1948-49, 1952-53, 1961-62 missing) national figures from Department of Education. And from Fahey op cit, which states:

> National school attendance rates remained in the range 83-85 per cent from early 1930 through to the mid-1950s. In the second half of the 1950s it began to edge towards 87-88 per cent and it was only in the mid 1960s that it broke the 90 per cent barrier.

[33] Source: 'Return of Prosecutions under the Education and School Attendance Acts – by Counties', available in National Archives.

[34] CICA received a letter from a retired Gardai superintendent who at the start of his career in the 1950s acted as a SAO in County Dublin and County Clare. He states that over this five-year period, he did not once apply for a committal order. He continues:

> I would deal informally with the parents, usually the mother, of the offender, without resorting to summoning. Where this was not effective I would have a parent and child summons issued directing both defendants to attend at a special sitting of the District Court known as a Children's Court to which members of the general public would not be admitted. Resultant fines would be levied on the parent. In the case of truancy or mitching I always searched out the child no matter if this involved crossing District or Divisional boundaries. When located I either walked the child or conveyed him (usually a male) on my bicycle (my only transport was a bicycle), to his home or back to school. If a District car were available I would request its use. It was not unknown for School Attendance Officers to visit the home of an absentee and alert whatever social service might be available, if conditions were bad. My predecessor, Garda ...had a reputation for strictness but I found that he had arranged for weekly supply of bare essentials like tea, sugar bread and milk where a lone or deserted parent was destitute or simply ineffectual. He later became a Chief Superintendent and is deceased. He had enjoined me not to mention my discovery to anyone during his lifetime.

more often had the desired effect of causing the children to be sent to school. An alternative explanation could be that, in rural areas, both Garda knowledge and social pressure reinforced by the Church in favour of obeying the rules would, in the era under discussion, be significant. Thus the Gardaí would find it easier to encourage attendance without involving the courts. One feature of inner city Dublin emerged when a retired Dublin SAO was asked whether there was any pressure from the schools (meaning Industrial Schools who were looking for residents). To the question, as it was intended to be understood, he replied: 'none whatever'. However, significantly, initially, he had misunderstood the question as referring to the national school, which the youth was failing to attend. On that basis, his answer was to the effect that such a youth might be a potential delinquent, disrupting the school and sometimes the school principal would encourage the SAO to get him sent away.

(3) There was probably some element of the courts making a committal under the guise of the School Attendance Act, although the real or main reason was that the child had committed an offence or offences. The reason for this subterfuge was in order to protect his reputation. There were more young offenders in Dublin so this effect might have inflated the Dublin figures.

(4) Another difference in conditions concerns a pupil's difficulty in travelling to school in a rural area. Take, for instance, the response from a rural Garda station to a circular minute from the Commissioner. The query related to non-school attendance figures for the local national school. The response from the local Garda station put forward fairly strongly mitigating factors such as: pupils residing more than three miles from the school (so putting the pupils outside the scope of the Act); need to attend to farm tasks, like harvesting; the journey having to be made over the fields and marshes; bad weather or wet paths, making clothes damp so that the children contracted colds (in the pre-antibiotic or even in some cases pre-electricity era), at a time when a child might have no protective clothing. The memo concludes:[35]

> Taking all the circumstances into account, I suggest that the average attendance in the Division [figures given at about 85 percent] was satisfactory during the period and that the enforcing authorities are carrying out their duties in a satisfactory manner.

Significantly, the assumption underlying the letter is that the purpose of the Act and the enforcement mechanism was to maintain a satisfactory general school attendance level, rather than being directed at particular individuals.

Concluding comment

In a way, non-attendance was the most extreme of the three major grounds for committal. Need was a ground with a complex of difficult causes and, thus, hard to resolve. As regards offences, it could be argued that there needed to be some sharp sanction to pull up multiple juvenile offenders. Non-attendance, however, was not such an extreme problem that it called out for an extreme sanction.

The enormity of committing a child for several years, simply for failure to attend school, was appreciated even at the time. For instance, the 1931-32 Department of Education Report noted an increase in the numbers committed on this ground and 'again urged that the procedure....should be adopted only after every effort has been made to arouse both in parents and in truants a sense of the importance of complying with the provision of the Act'. One finds at the stage of the exercise of the Minister's power of early discharge, strong advice by Managers,

[35] Commissioners Minute 20.33/S/40R of 18/10/40. The response is Document 2627/40.R.For a brief protest at the harshness of a committal in these circumstances, DD, vol 14, col 8321 (12th February 1926).

against the discharge of residents detained under the truancy ground, even in the conditions of almost total occupancy of school places in 1943. Though by the 1960s an increasing proportion of children committed for minor offences or offences under the School Attendance Act were committed for short periods. This change probably reflects the greater leverage of the Department on the schools, because of falling numbers.

It is striking too that if thought had been given to the problem, it would have been noticed that there was available a possible alternative, namely the 'day industrial school', as was suggested by the Cussen Committee. Yet, so far we can ascertain, it did not figure in any official or Order thinking. It was well-known concept that had been provided for, as a reform to earlier legislation, in the 1908 Act, and had been road-tested successfully in Scotland.

Perhaps the most staggering aspect of all this is the discrepancy between the rates of committals from Dublin County Borough and elsewhere. Four factors have just been considered as reasons for this discrepancy. It seems probable that the most influential single factor was the different attitude of the Dublin school attendance officers, compared with the Gardaí, in deciding whether to seek a committal. This is an arbitrary basis on which to determine the institutionalisation of so many children.

Section 5: A court

The involvement of a court

The question remains whether a court should have been the instrument through which children and young persons were directed to a Reformatory or Industrial School.

The original reason for this procedure goes back to the historical fact that the magistrates courts rather than local authorities were initially chosen as the agency that decided whether to make a committal, in the original (pre-Independence) 1858 Act. At that time it was local authorities that provided such rudiments of the welfare state as there were. For instance, the Poor Law Commissioners, acting through local bodies, administered the workhouses. So it would not have been off the map of official thinking if the function of committing children had been vested in local authorities.

However, there was a strong reason why it would have seemed essential that the children could be sent away only on the basis of a court order: it was an aspect of the rule of law (a later generation would speak of 'human rights') that when such an important issue as individual liberty was hanging in the balance, each case should be decided by a court.[36] More especially was this so, when, in the nineteenth century, Industrial Schools were originally intended for offenders, whilst destitute children were to be dealt with under the ordinary Poor Law and, accordingly, many of the grounds of committal were cast as criminal offences.

The involvement of the courts in this field has been widely criticised[37] and calls for three comments.

(1) In common with similar systems in other jurisdictions, committal may be regarded as the product of two distinct policies: on the one hand, to discover and strengthen the good in the youth's character, on the other, to control an offender or anti-social element for the protection of the rest of society.

[36] This was the view expressed for instance at the time of the (original) Irish Industrial Act, 1868 (modelled on earlier legislation for England). Presbyterian MPs from North Ireland pointed out that it was 'a considerable infringement of personal liberty' to take up children merely for vagrancy and send them to prison for a long time – 'although the prison be called an industrial school': Hansard Debates (3rd series) 191, 1867–68, 221-22.

[37] Eg Cussen Committee, para 49-52; commented unfavourably on the fact that children's cases were heard within the precincts of the ordinary courts.

Whichever policy view was adopted, one result was common: namely that zeal for the civil or human rights of the person, the deprival of whose liberty was at issue, took second place to the priority of improving or controlling the youth.

Thus most of the usual safeguards that 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 controverted so that the issue of whether they had to be proved beyond reasonable doubt scarcely arose. Although there was an appeal, it was seldom used.

(2) Realistically, one must accept that the fine distinctions just mentioned between the District Court's criminal and protective jurisdictions was understood by few people, whereas the entire virtue of law is that it should be clear and accessible to the layperson. Many former school residents have complained about being dragged through what they see as criminal proceedings ('I have a criminal record and cannot be called for jury duty' said one former resident) and condemned to detention for several years, despite the fact they had not been convicted of any offence. The features of the process that struck most people were that it was administered through a court, most of whose other business consisted of minor crime;[38] and resulted in detention for several years in institutions.[39]

Likewise, Dennis O'Sullivan[40] reports:

> The residents regarded themselves as having been convicted of an offence in a court. As might be expected, not one pupil in the Interview Sample could list the official reason for his committal. They repeatedly defined the location of their prosecution and committal as a 'court of law' – the fact that it was held in a special building or a special

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[38] The more radical terms of reference of the abortive Commission of Inquiry of 1929 (Misc/56) included:
Committals:
The method of Committal and the question of substituting civil for criminal procedure;
The grounds of committal;
The number and character of committals; and
The use of probation as an alternative.

[39] Cussen, para 51 and Deputy T O'Connell and Hayes in debate in the Children (Amendment) Bill 1941: DD, vol 76, col 543.

As one of many case-studies on this topic, consider Mary who was committed to an Industrial School on 13th April 1935 by order of the District Court pursuant to the Children Act 1908. The reason given was that she was destitute. The District Court directed that she remain within the Industrial School system until she reached the age of 16. Since her age at the time the order was made was 23 months, she spent 14 years of her life in Industrial Schools. In relation to the manner in which she was placed within the Industrial School system her major complaint is that in so doing the State criminalised her. She is of the view that she was charged, tried and convicted by a criminal court, which sentenced her to 14 years in prison (she was aged 23 months at the time of her committal). The words she uses in her various letters are that she was 'charged,' with being destitute, 'found guilty' and 'sentenced to 14 years in one of Ireland's penal institutions'. She has consulted the court records and they have reinforced her in this view. The Department of Justice, Equality and Law Reform has stated that she was not convicted of any offence and furthermore that she could not have been in view of her age and the fact that she was involved in care proceedings.

At this point, one might comment that the selection by someone in the courts, system, of criminal (rather than say civil forms) suggested that even officials were not clear about the difference between committal orders and criminal proceedings. They did admit however that the court forms used at the time might have contributed to her view that she was involved in to criminal rather than care proceedings. The Department also pointed out that s 35 of the Residential Institutions Redress Act 2002 removes any doubt that a person who was detained in an Industrial School pursuant to the Children Act 1908, other than a person who was so detained as a consequence of a conviction for an offence, shall not be subject to any disqualification or any other restriction that is a consequence of a conviction. Ms Henderson is not persuaded by this provision and wants her criminal record expunged. She is also dissatisfied by the fact that no evidence survives to support the courts' view that she was destitute. She feels that she was 'stigmatised as a criminal as surely as if [she] had been sentenced to a term of imprisonment in Mountjoy Prison,' and points out that as a result she has been deprived of employment opportunities in many spheres.
Finally she points out that the State made no effort to keep her family together in that it deliberately withheld correspondence from her family while in school and also in so far as it did not tell her how many siblings she had.

[40] Dennis O'Sullivan, 'An Irish Industrial School viewed as a socialising agent with particular reference to its social organisation' (UCG PhD, 1976) (study of Letterfrack, based on interviews with 40 of the residents).

room, on a different day or at a different time from the regular court sessions had no significance for them. One pupil summed up this interpretation quite vividly when he suggested to the researcher that when the "book" was finished, it should be called 'Jailbirds'.

> Members of the Letterfrack School staff, also stated that they did not like this method of committal. They said that even very young children remember 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.[41] In England, the Children and Young Persons Act 1933 had established a significant distinction. It confined the courts' involvement with children or juveniles to those who were accused of an offence.

(3) Given the wider range of circumstances, which may underlie the child's behaviour, ranging from their character to the environment of their upbringing – a more leisurely and informal examination of these causes was necessary than could be afforded at a court hearing. Thus it was one of the central recommendations of the Cussen Commission[42] that before a Justice should make any order, the child should be examined by a doctor:

> And if the doctor is unable to form a definite opinion, the Justice should, if the case was one calling for detention in a School, order the child to be sent to an Institution specially certified for such cases which we recommend in our Report should be established, where the opinion of the Chief Medical Officer whose appointment we also recommend, would be available.

In fact, this seldom happened at any rate before the 1970s.[43]

Concluding comment

In summary, this discussion shows that whatever the theoretical objective, in practice the involvement of a court meant that the committed child or young person incurred the inevitable disadvantages of identification with criminals, and having no thorough investigation of his or her circumstances. All this was without the usual advantage of due process.

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[41] Interviewees also stated (Dennis O'Sullivan, PhD, 157):

> The judge tried me and said I wasn't able to read and didn't know anything. So she sent me down here and thought I'd be getting a better education and get more things learned.
> I was sent down here by Justice Kennedy – She said I was giving my mother a lot of trouble and she wasn't well and in hospital with her nerves. She said it would do me good and would teach me a lesson.

[42] At para 53. Yet when this proposal was brought up in the Dail by the opposition deputy, James Dillon, it was rejected at the report Stage of the 1941 Bill (DD, vol 81, col 2219 (19th February 1941)), by the Minister for Education on the basis that such 'psychological disease' did not exist in Dublin:

[43] While their main task is supervision, probation officer are officers of the court and they could also be and, in the Dublin Metropolitian District Court were asked, in advance of sentence, to supply authoritative information on an offender's background. However, there were until the 1970s (para 00) no probation officers outside the Dublin MDC and even there, they were hard pressed with their other duties. Thus the probation officers did not meet the need. In the 1970s, something like the recommendations of the Cussen Committee were adopted: in that where a School Attendance Officer considered that he ought to go to Court to seek a committal order he had first to have the child assessed (psychologically, medically and educationally) over a three week period at St Michael's assessment unit in Finglas. During the final week the assessments would be reviewed at a case conference by agencies – for instance the ISPCC, health board, as well as SAO – who knew the child and his family. It would then be the case conference's decision – which might be not to seek committal but, for instance, to seek a fit person order or to move the child to another external school or to shift the child to a special class, within the same school – which would be implemented.

Section 6: The hearing

Part 1 Children's Court

The 1908 Act,[44] established for the first time, in Britain and Ireland, 'Juvenile Courts' to hear any indictable offence other than homicide against children and young persons (anyone under 17).

Post-independence, this jurisdiction was transferred to the District Court. In Ireland, the Courts of Justice Act 1924, went a step further. It retitled the court as the Children's Court and made provision for the setting up of courts in separate buildings, in Dublin, Cork, Limerick and Waterford. However, only one such court has ever come into being. It was part of the Dublin Metropolitan District Court and was established in 1923 and situated in Dublin Castle, until it moved to Smithfield.

When the schools were in being, the Dublin Children Court sat every day (except Monday) and heard applications for committals to the schools on Wednesday mornings. In general, in the provinces, the Children's Court sat weekly or less frequently. All cases involving applications for committal to Industrial Schools or Reformatories, school attendances (including convictions of parents and crimes committed by children) were heard on the same day though usually a different day or at a different time from the proceedings for adults. Such cases were also held in a private room separate from the ordinary court.

Then, as now, in order to reduce the formal trappings of the law and to try to create a less formal atmosphere, in the Children's Court there was no dock and the Justice sat at a table instead of a dais and wore no robes. The police did not wear uniform. After their appointment (at first in Dublin), probation officers sat with the Justice and advised him on individual cases.

Only those directly involved in the case could attend the hearing. The only two exceptions permitted by the 1908 Act were anyone given specific leave by the court to attend, and the news media. By a generally respected convention, media reports of the Dublin MDC did not identify the child or young person; though this is not true of the provincial courts.[45]

Part 2: Procedure[46]

The hearing

The following impressions are based, in part, on several interviews with people who were District Court Justices or clerks during the 1960s as well as a study of the court records.

A hearing might last 5-15 minutes, though one should recall that for each application, even if ultimately unsuccessful, there would usually be more than one hearing.

The case in favour of committal was presented by the applicant. The applicant would be the ISPCC 'cruelty man' (or less often the Catholic Protection and Rescue Society) or SAO/garda. It

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[44] Section 111, as amended by Children (Amendment) Act 1941, s 26.
The Dublin MDC was held at Dublin Castle from its establishment in the late 1930s to the early 1980's when it moved to the Four Courts (Morgan Place entrance) for approximately one year and then onto Smithfield in 1986. It moved from its original building to the building next door in 1987, where it is at present.

[45] After a survey of the regional and national newspapers M Maguire states that outside Dublin both categories of newspaper did publish names and/or addresses of children who came before courts: 'Briefing paper: Newspaper Research on former residents of Mercy Industrial Schools'; Sisters of Mercy Industrial Schools in context, 1.

[46] Application is generally made by summons specifying the ground on which the order is sought and naming the child and parent or guardians as defendant. However a Justice may hear an application in a case where it is inexpedient or impracticable to take out a summons: James V Woods, District Court Guide (1977) , vol 1, pp 186-90; Summary Jurisdiction Rules 1909, r 16.

depended on which ground was being relied on. The child was also present, but the big factor shaping the procedure was that the child was almost always unrepresented.[47] Even by the late 1960s or early 1970s when larger social changes had reduced both the numbers committed and the period for which they were committed, there was not very much legal representation. What there was of it came more from students or young lawyers accessed through the newly-established (in 1969) Free Legal Advice Centre rather than under the criminal legal aid scheme.[48]

A parent (or guardian) was also required by law to be present and the mother frequently was before the court. The parent was usually uneducated and, in an age of deference, they were unlikely to be able to make the best of any case against committal.

In any case, as regards the facts, there was usually no reason to contest the evidence of the ISPCC Inspector or SAO[49]. Sometimes, the District Justice would ask sharp questions of the applicant. But in most cases, the only evidence was that of the applicant giving sworn testimony who would explain the circumstances of the case including family background to the court. There would seldom be any other evidence: in the nature of things a neighbour, for example, who had provided the initial information about cruelty or abuse, would not want this disclosed and the judge would usually accept the testimony of the applicant.

However, while the Justice would usually have no reason to doubt the basic facts adduced by the applicant, there would often be more to be said. This might be because the Justice considered that the circumstances, appreciation of which would involve a deal of subjectivity, were not as severe as the applicant believed, or because the Justice considered that some recourse other than the desperate remedy of committal, perhaps probation or, in the 1970s, intensive work on the family by a social worker, was possible, but there was a lack of relevant background information available to the court.[50] There were, it is true, probation officers and part of their duty

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[47] The introduction of legal aid in criminal cases in 1964 (by the Criminal Justice (Legal Aid) Act 1962) was slow to catch on perhaps because some people's pride would be wounded if they had to disclose that their means were sufficiently low to qualify for legal aid. Next to no children were represented under the Legal Aid Scheme, at least until 1971. Its impact is shown by the following figures:

	Applications	Granted
1967	14	1
1968	18	4
1969	6	2
1970	9	1
1971(up to 13th May)	40	13

[Figures from M Robinson's speech in debate in Kennedy Report: SD, vol 76, col 109 (15th November 1973); DD, vol 254, cols 1968-69 (17th June 1971)]

[48] Section 98(1) of the 1908 Act provides that:

> The parent or guardian may in any case and shall if he can be found and resides within a reasonable distance, and the person so charged or brought before the court is a child, be required to attend at the court before which the case is heard at all stages of the proceedings unless the court is satisfied that it would be unreasonable to require his attendance.

It is the parent 'having actual control' of the child or young person who is required to attend: s 98 (4). When a child or young person is arrested it was the duty of the garda in charge of the Garda station to which he was brought, to warn the parents to attend the court when the child or young person appears: s 98(2)

[49] The legislation stated 'that no order for the detention of a child in an Industrial School shall be made unless the [health board] for the region in which the child resides has been given an opportunity to be heard': Children Act 1908, s 74, as amended by Children Act 1941, s 40. This was because the health authority had to contribute to the capitation grant. However, the health authority was not usually represented.

[50] J O'Connor BL, 'A paper on Juvenile Delinquency' read to Tuairim, 6th March 1959), p 25:

> There is an almost complete lack of co-operation between Probation Officers, School Attendance Officers and other such persons on the one hand, and youth organisations on the other. In four years from 1950 to 1954, over 1,000 boys regularly attended the Civics Institute Playground at Cabra, and they came into close contact with the playleaders, who developed an intimate knowledge of their background. Some of these boys came before the Children's' Court for a variety of reasons, yet at no time during that period was the co-operation of the playground staff sought by the Probation or School Attendance Officers.

was to advise the court as to the home background of the child or young person before the court. However, for most of the period under examination there was a grave shortage of probation officers in Dublin and none in the provinces.

A recurring theme from many former Justices was that to commit to an Industrial School was a last resort. According to a former District Justice: 'One didn't commit if the home was in any way right.' Few District Justices would make a committal without trying hard to find an alternative.

Frequently, a court would be used, probably knowingly, to put pressure on the parents to reach a satisfactory solution, without a committal order. Particularly common examples of the latter situation occurred in the school attendance category: the child and mother would be presented with a stark choice: the child must go to national school or Industrial School. This often had the desired effect. But also in the case of an offence, if a trivial or first offence were involved, there would be a summons and a lot of adjournments.

Selecting the school

By section 62(1) of the 1908 Act the Manager's permission was necessary before a child could be sent to his or her school. Thus a suitable school, or if necessary, schools would be phoned or written to (in advance of the hearing) to inquire whether, if the child were committed, they had room for, and would accept, the child?[51] Practice seemed to vary as to whether it was the District Court clerk or Gardaí/ISPCC man/SAO who actually made communication.

Equally, we know very little about the extent to which a Justice might favour one school over another. For instance would a Justice prefer a local school? What level of knowledge of the school had they? Were efforts made to keep children of the same family together?

When a school had been found for the child (who in some cases would have had no prior warning that they were to be sent away) they were taken there in a police car or under police escort. In addition the NSPCC (as it then was) stated, in 1941, that a woman would accompany all girls and boys under seven years.[52]

Although the court sent basic particulars of the child to the school – name, age, reason for committal – the school received no information of the child's previous medical, educational or social history.

The Children (Amendment) Act 1957, section 5 provided for an appeal to the Circuit Court against a District Court committal order. The appeals were by way of re-trial (though the special provisions regarding the Children's Court did not apply to the appeal[53]). It has not been possible to find court records indicating how frequently an appeal was taken or succeeded. However anecdotal evidence suggest that there were few if any appeals in the needy category; but there were some appeals, especially in the 1960s, in the case of offences, some of them successful. For school

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[51] For protest against refusal by Managers to accept children, see for example District Justice McCarthy (at p 51):

> On frequent occasions the Managers of these Institutions – particularly in the case of the Girls Reformatory School – have refused admittance to a child on the ground that they did not consider him or her a fit subject for treatment in their Institutions. Within the past 12 months the Sisters in charge of the Reformatory School at Limerick have refused to accept girls for no other reason than that they were likely, as they thought, to prove troublesome – and this, although, they had little or no knowledge of the circumstances surrounding the girls' delinquencies, and had not the advantage, shared by the Court and its advisers, of contact with the girls and their relations, sometimes over a period of weeks...

On a Manager's discretion to refuse admission to a child.

[52] When children were committed in the Dublin Children's Court to schools outside Dublin it was sometimes necessary to keep them overnight in a 'safe place', also called a 'place of detention'. The Industrial School at High Park served as a place of detention for girls, whilst boys were held at Summerhill, later Marlborough House.

[53] Kennedy, para 10.14.

attendance committals, the annual reports for the Dublin County Borough area show that there were a few successful appeals in the late 1960s; but otherwise none.

Given the lack of legal representation, it is not surprising that, despite the complexity of the area, there have been no post-independence judicial review High Court cases discovered seeking to have a committal set aside on technical or jurisdictional grounds. There were, however, a significant number in the nineteenth century.[54] (Possibly one reason for the difference is that the District Justices were lawyers and the magistrates were not.)

Part 3: The Justices and the schools

In determining whether to commit a child much depended on the Justice's appreciation of the particular child and his or her circumstances. This was accepted on all sides, as can be seen for instance from the schools' reaction to refusals to commit. Summarised here are some of the flash points between the schools and the District Justices.

The Justices of the Dublin Metropolitan District Court[55] figured largely in these disputes. The schools deplored the reluctance of many District Justices to make committals or alternatively, to do so only after an offender had committed so many crimes that a school would have no rehabilative effect on him.[56] In the 1960s, they complained, too, that committals were for too short a period for any good to be done.[57]

There were fundamentally different understandings of the objectives and potentials of the school. Some District Justices seem to have disapproved of the schools, regarding them as places of

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[54] Lunney, MA 1995, p 87 writes:

> Invalid court committal orders were so frequent by 1871, particularly in the West of Ireland that a circular was issued from the Chief Secretary's Office to the Magistrates of Ireland informing them that such 'blunders' were a great injustice to the managers of the Industrial Schools who were put to much trouble and expense. There was no recompense to the schools for the period of detention served under these invalid committal orders since retrospective payments were not made. Dr John Lentaigne [the earliest Inspector of Schools: para 00] tried in vain to have this matter rectified so that a child would not have to be discharged pending the provision of a correct court order. Secretary Thomas Burke insisted that such children ought to be discharged, and if at a later date they were considered suitable subjects for an Industrial School a new committal order had to be issued, repeating the procedure of bringing them before the justices in Petty Sessions. The sisters in these schools were reluctant to discharge such children for the intervening period, preferring to keep them unofficially at their own expense.

What jumps out of this passage is the absence of any suggestion that if the committal order was invalid, the detention was unlawful and could theoretically have resulted in a habeas corpus order and/or damages for false imprisonment.

At the stage of exit, too, difficulties might arise. For instance, in one nineteenth century case, through a mistake, the order specified committal only until the age of 13. The Chief Secretary refused to allow the manager to retain her any longer. In the converse case, where the committal order set a date later than the 16th birthday, the Chief Secretary directed her release at her 16th birthday. In each case, a longer detention would have been unlawful. Both cases from Lunney TCD MA, 88.

[55] Cussen (1934-37), Little (1937-40), McCarthy (1941-57), O'Riain (1957-62), O'Hagan (1963), Carr (1964-66), Mixed (Carr, O'hUadhaigh, Kennedy) (1967-68); Kennedy (1968-83).

[56] Note of interview given by Minister to Fr Ryan, Superior General of Oblate Order, and Fr Reidy, Headmaster of Daingean (noted by TOR on 16th March 1950: DEDANO – 276-018/1) Fr Ryan stated that the chances of a boy's reform are in inverse ratio to the number of chances given to the boy by the District Justice:

> For the District Justice to give too many chances causes lack of respect for the law and also every new offence contributes to habit. Some boys are now under the impression that they have a right to be let off three times under the First Offenders Act. (sic)

The Department's comment on this is contained in a memo from MO'S to Mr Hackett of 29th April 1950 (DEDA No 276-020/1):

> There is something to be said for Fr Ryan's point of view on the number of chances given to boys by the District Justice but that is a matter about which we will have to be very careful, if any action is taken. A District Justice would probably resent even a suggestion from a Department: he might consider it undue interference in his work.

[57] Memo of Report of Department of Education of August 1971 states:

> In this connection a further point arises for mention from our discussion with Fr. Kennedy of Clonmel. He is altogether opposed to committals to the school for short periods i.e. 3 to 9 months or one year and he has now let it be known to the courts that Clonmel is not available except for children committed, in general, up to 16 years. He said that, in his view, the course of training in the school cannot achieve its purpose unless the boy remains for a sufficiently long period to benefit from it. Furthermore, the departure of boys who have spent shorter periods than the normal in the school has an unsettling effect on the other boys.

'containment' to which children were to be sent only as a last resort. By contrast, the schools themselves 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 Managers 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. The schools' resentment occasionally led to protests to the Department of Education or Justice through their representative organisations. However because of the independence of the courts from the executive organ of government (an arrangement which the schools seem not to have understood or to have overlooked), these protests appear to have been batted away.

As early as 17th April 1936, the Christian Brothers Managers Meeting complained (because there had been a dip in numbers in the mid 1930s):

> The general view of the Managers is that the numbers in the Institutions will decrease, and that as a result of this decrease, one or two of our Schools will have to be closed. While it is probable that the passage into Law of the Widows and Orphans Act is a contributory cause of the decrease in the numbers the belief is that Government Policy is the main cause. The Guards and the Justices have received instructions to be slow in committing children to Industrial Schools, and this policy of the Government is evidently directed by financial considerations.

Again, on 16th March 1950, Fr Ryan, Superior of the Oblate Order, wrote to the Department a letter complaining against the decline of committals. In response, MO'S wrote a private memo headed Scoil Ceartucain, Daingean on 29th April 1950:

> Justices are very slow to commit boys to either Industrial or Reformatory Schools if they think there is any hope of improving them at home. They feel that these Schools do not fulfil the purpose for which they were established. They feel, like ourselves, that there is something wrong, in the system though they cannot suggest a remedy.
>
> A prominent legal man who has considerable experiences of boys committed to these schools said recently (but not in public) that these schools were only 'forming criminals'. If that is the experience it is no wonder that justices are slow to commit the boys.

A Departmental memo of 13th September 1955 referred to a complaint from Fr Reidy that no boys were being committed by Justice McCarthy[58] to the Reformatory until the boy had been before the court for the fourth time. The memo continues:

> As a result of this allegation to the Minister, together with the allegation that the District Justices generally were not carrying out the law sufficiently strictly in this regard, the Department instituted an inquiry into committals during the years 1953 and 1954. This inquiry found that in the Dublin Children's Court during that period, of the total commitments of boys to the Reformatory, 23.33% were made on their first offence, 24% on their second, 29.33% on their third, 13.33% on their fourth, 2.67% on their fifth and 5.34% on the sixth or more than sixth offence.

On 18th May 1965, the Resident Managers Association took the unusual course of writing to the Minister for Justice to express their disquiet at 'the set-up in the Children's Court'. They said that they would 'welcome an investigation into the present system under which the School Attendance Act is being applied 'and asked the Minister to review a deputation to discuss the matters concerning them. The reply dated 25th May1965 from the Minister (Brian Lenihan BL) declined to

[58] District Justice McCarthy presided over the Dublin Children's Court between 1941 and 1957. See also Raftery and O'Sullivan, *Suffer the Little Children*, pp 195-7 for an account of a suggestion by Gerry Boland, Minister for Justice, that a committee be established the real purpose of which would be to establish that DJ McCarthy was too lenient.

meet a deputation because the subject of discussion would have been the exercise of a judge's function. The reply continued:

> On the other hand, it seems to me that it would be open to you to write to the District Justice [Carr] and ask him if he would meet you for a general discussion. But may I suggest that your letter should make it quite clear that what you wish to do, is to bring to his notice certain problems that arise in the Schools and knowledge of which would, you think, be valuable to him in exercising his discretion in the committal of children. And if I might offer (in confidence and with the intention of being helpful to you) a further word of advice, it would be to say nothing whatsoever that might seem to mean that you thought the School Attendance Officers in Dublin are not being treated fairly by the Courts. In the disputes that have arisen between them and the Court, I myself have no doubt that the District Justice has been fully justified and indeed has shown more forbearance than could reasonably have been expected of him.

(Unfortunately we have no information with which to explain the loose threads left hanging in this extract; in particular, we do not know whether there was a meeting with the District Justice.)

At a time of skirmishing around a claimed fee increase, a Department of Education official wrote a memo for the Minister in June 1964, which stated:

> Managers constantly bemoan the fact that there are insufficient committals to make their schools economical, and this they attribute to the abuse, by District Justice, of the Probation Act. Many Managers feel that the Department should use its position to do something about this. But the Minister could hardly be expected to do anything that could be construed as interfering with the Justiciary (sic) and there is no way to compel courts to resort to committal in preference to the Probation Act.
>
> Moreover, the view of the Department is that thinking both here and abroad is against long term detention in institutions which are situated in rural areas and are not equipped for psychiatric treatment, or the training of children from urban areas. In general, with the exception of Artane, they lack any kind of after-care or organisation. It is because the courts feel that the industrial schools do not achieve their object that as a result of pressure from the Department for Justice a new place of detention on modern lines is being set up to deal with youthful offenders committed for short periods. In any event it would be well to bear in mind that the Schools exist for the children and not vice–versa.'

It is significant that District Justices McCarthy (1941-57), and Kennedy (1968-83), who were the Dublin Children Court Justices for most of the period 1943-83, had expressed what might be characterised as somewhat critical views of the schools, while finding it unavoidable to commit many children to them. District Justices O'Riain and Eileen Kennedy were also known for the fact that they paid visits to the schools so that they knew something about conditions in the schools to which they were making committals. In particular, we have been told by her court clerk that District Justice Kennedy spent two or three days each year making personal visits to schools.

Attitude of the schools

At this point, we ought to make explicit a feature that is implicit at several points of this report. It is simply that, in general, the Orders encouraged the sending of children to the schools. It perhaps could be said that this was natural: over more than a century, the Orders and, in particular, Managers had invested a good deal of labour and idealism – as well as capital – in the schools. They wished to keep the schools going, mainly because they considered them a force of good, at any rate compared with the alternative fate to which a child would have been left. The inevitable result was that, irrespective of individual circumstances that might have seemed to tell in the opposite direction, the Orders exercised their influence in favour of sending children to schools

and for a lengthy period. This is evidenced for instance in: private comments of the Department of Education; opposition to children being sent to the schools for a short period; private deliberations of the schools and their representative bodies including the schools' reaction to District Justices' occasional reluctance to commit.

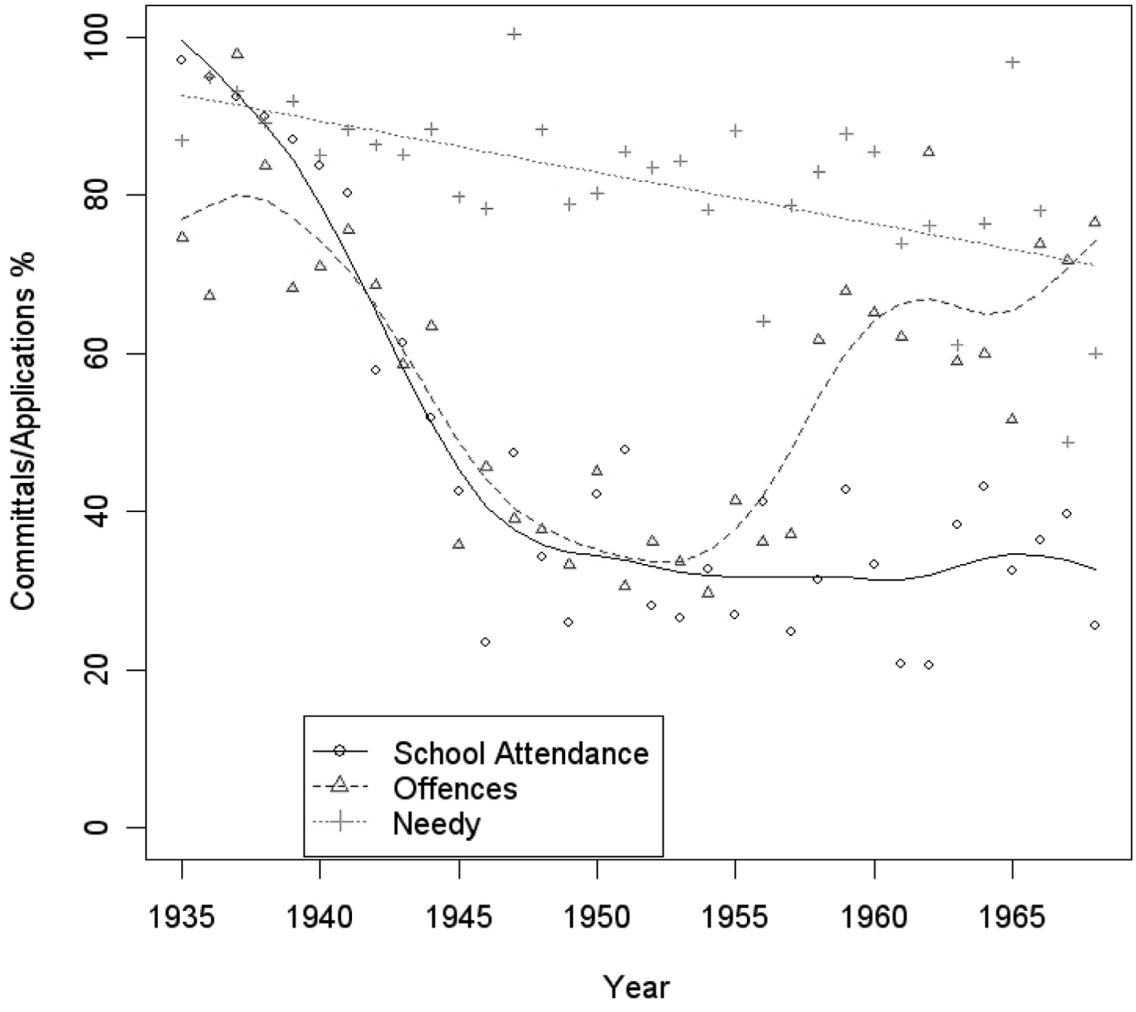
The family backgrounds of many of the complainants to the Investigation Committee are set out in the sections dealing with the individual schools.

Part 4: Committal rates relative to applications

A rather straightforward way of testing the care taken by District Justices in deciding whether to make a committal order is to count the average number of applications compared to the number of children actually committed. One can then calculate the percentage of applications in which, despite the fact that the child was unrepresented, the court decided to refuse the application. These figures were not published in the Department's annual reports but were collected in the survey done for this report. This has been done for each of the three grounds of committal by the court: need; offences; failure to attend school. However because of the fact that some of the court records were not available, figures mainly for the Dublin Metropolitan District Court have been collected.

In addition, interviews with those involved, contemporary District Court Justices and clerks, showed they were unanimous that a committal was by no means automatic. This bears out the impression which emerges from the statistics.

Committal rates in Dublin MDC for all three categories of committal



The rates are shown by reference to the three categories of committal (needy children, offenders and non-School attenders). Although the ratio started out in 1935 as very high for all categories, between 80-100 percent, there was a decline over the years. But there is marked difference in the rate of decline for the three groups. There was a rapid decline in the committal ratio for both the offences and school attendance offences group (down to about 35 percent by 1950). However, within seven or eight years, there was an increase in the committal rate for offences. This may have been a judicial reaction to the increase in the juvenile crime rate in the Dublin of the 1950s. The rate of decline in respect of committals on the ground of need was much slower: by 1950 the rate was still as high as 80 percent for this category and this was only slightly lower by 1970.

Why was there this discrepancy in committal rates between the three categories? One can suggest the following explanations. First, the rate of needy committals were high because, once need and destitution had been established, there was often little the Justice could do except commit and, unfortunately, no amount of procrastination would alter this situation. Secondly, with offenders, there were, as shown already, a large number of alternatives to committal to a school, much more so than with the other two categories.

Moreover there is a further point, namely that in the Dublin Metropolitan District Court, there was a particularly high number of adjournments in school attendance order committals, whether the child was ultimately committed or the case was dismissed. The exact number has not been determined, but it would not have been uncommon for there to be as many as five to eight appearances before a decision either way was finally taken. When one couples this with the fact already discussed of the low rate of committals to applications this means that, in reality, for every committal under this head, there might have been 20 court appearances. Probably, the District Justice, and perhaps the SAO, wished to give the child a fright so as to encourage him or her to go to school, without imposing the draconian sanction of a committal.

Provincial committal rates

The number of committals per head of relevant population was significantly lower in the provincial courts surveyed than in Dublin Metropolitan District Court. However, though with significant variations often from year to year and between different courts, the average rate of committals per application was higher than in the Dublin CB; though admittedly often this was with a mere handful of committals.

Section 7: The period of detention in the school

The basic question in this section is how long did a child who was committed to a school spend there? Part I, therefore, deals with the law and practice as to the period fixed by the court. Part 2 (on which see also Appendix 2) surveys the figures in order to determine the average length of time for which a child was committed. However it is a significant point that the Minister had discretion to release a child before the date fixed by the committal order. This subject – early discharge – is the subject of the following section.

Part I: Fixing the period in the committal order

For Reformatories, the 'period of detention' (the term used in legislation) was laid down as not less than two or more than four years or in any case not beyond the age of 19.[59] In practice, the

[59] 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 limit of committal to a reformatory from 16 to 17 and reduced period of detention after which managers could release on licence from 18 to six months.

period of actual detention was usually between one and two years, provided that the offender's behaviour and home circumstances were satisfactory.[60]

The position in regard to Industrial Schools was more complicated. Those committed by the courts, in practice the great majority of the residents, were committed until the age of 16.[61]

Thus the period for which any child or young person was committed by a court depended on their age at the time of committal. It is significant here that those who were committed for the category of 'need', the great majority, were often committed at very tender years indeed. Consequently, they had to reside for many years in both a junior and a senior Industrial School.

The fixing of the date of release in the committal order under the legislation appeared, clearly enough, to allow the court a discretion ('...not in any case extending beyond...the age of sixteen years') Nevertheless, up to the 1960s in the thousands of cases checked, in both the Dublin Metropolitan District Court and provincial courts, the Justice always did make the order apply right up to the time when the child would be 16 or, in the case of those committed for non-attendance at school, 14: the District Court judges and clerks who operated the legislation indicated that they believed that the order had to specify the period as running to the child's 16th birthday.

It was not until late 1962 (rather suddenly) that, at any rate, the Dublin Metropolitan District Court switched to committing, in school attendance cases, until the child's 14th birthday.[62] About the same time, there were changes in respect of the other two categories. Offenders were committed for one or two years and in poverty cases, where children were young, they might be committed for a shorter period, presumably in the hope that their family circumstances could have changed in the meantime (a hope which earlier courts had not entertained in the apparently perpetual economic gloom).

This sea-change was reported approvingly in this extract from a Departmental memo of 15th November 1964, in anticipation of a meeting with Resident Managers Association:

> District Justices are lately resorting to committals for short terms varying from a month to a year in the case of young offenders. Normally a young offender of say 10 or 11 years of age would be committed to age 16 which does seem a long period of detention whereas an 18 year old, for a similar offence, would be sent to prison for a month or two less remission.

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

[61] The 1908 Act, s 65(b) states:

> The detention order shall specify the time for which the youthful offender or child is to be detained...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 court, attain the age of sixteen years.

One legal argument that has been suggested is that the phrase 'such time as ... may seem proper for the teaching and training of the child' assumes that the child will remain on in school in order to take the leaving certificate examination. To do this, it was necessary to stay in school until at least the 16th birthday. In the result, the order committing the child to the Industrial School would have to acquire to remain there until the 16th birthday. But this reasoning proceeds from a somewhat unlikely assumption, namely that a child who in most cases would have shown no academic aptitude (especially the SAO entrants) was going to be one of the, what until the late 1960s and the coming of free secondary education was a considerable minority, namely students attempting the Leaving Certificate. This unlikely eventuality was made to bear the weight of a considerable deprivation of liberty. For a view that a District Judge could not commit for less than two years, see DD, vol 164 (31st October 1957) (J Lynch). But see also DD, vol 88, col 2535 (10th October 1937): Minister for Education, Tom Derrig, spells it out that the District Justice does have discretion.

[62] Kennedy (1970) at para 10.18 writes:

> The period for which a child may be legally detained in an Industrial School under the School Attendance Act, 1926, appears to be the same as under Section 65(b) of the Children Act 1908, but, in practice, the Courts appear to hold that detention may not extend beyond the date when the child will, in the opinion of the Court, attain the age of 14 years.

> Thinking both here and abroad is against long term detention in institutions which are situated in rural areas and are not properly equipped for psychiatric treatment, or the training of children from urban areas and in general with the exception of Artane lack any kind of after-care organisation. It is because the courts feel that the industrial schools do not achieve their object that as a result of pressure from Department of Justice a new place of detention on modern lines is being set up to deal with youthful offenders committed for short periods. In any event it would be well to bear in mind that the Schools exist for the children and not vice-versa.
>
> By contrast the Schools took the view that a child had to remain in a School for a reasonably long period of time in order to gain from the education and training. The following is from a complainant who was sent to Letterfrack in January 1971 and remained there until January 1973:
>
> *The Justice said 'I will give him three months in an industrial school. The Garda Sergeant said, no, they won't take him for that. He says, I will give him 6 months, and he said they won't take him for that. He said, how long will they take him for? At least two years. Right, he says, I will give him 2 years and that was it'.*

Thus, up until the early 1960s, the net result was striking. In the case of a Reformatory School, an offender was sent away usually for one to two years, 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 and the length of the committal period varied depending upon the random factor of the age of the child at the date of committal. The justification offered for this variation is 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:[63]

> 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.
>
> Deputy Dillon: For the purposes of childhood, that is surely permanently.

There was a possibility of an extension so that a child could remain in the schools up to the age of 17 to complete their education or training.[64] In practice, this was seldom invoked.

Part 2: The length of time for which children were committed

There are three distinct and rather different sources for the actual period for which residents were committed by the courts to Industrial and Reformatory schools. Basically each tells the same story. Accordingly only a summary is presented at this point.

Comparison of the three sources

The comparison between the three sets of figures are these. First those in Table B1 cover only residents sent from the Dublin Metropolitan District; whereas Tables B2 and B3 were compiled from schools throughout the country. Secondly, Table B1 covers all the Dublin MD residents; whereas, as explained, Table B2 was compiled for a sample only of the national population and then only for the 1951-60 period. The position regarding Table B3 is a little more complicated: it is confined to the 1940s and in one case is based on a 19 percent sample.

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[63] DD vol 166, col 779 (25th March 1958).

[64] A child could not be kept in an Industrial School beyond 16 unless the Minister for Education, with the consent of their parents or guardians, directed that he stay on for one further year only for the purpose of completing his education or training. See s 65(b) of the 1908 Act as extended by s 12 of the 1941 Act, and for St Anne's Reformatory see s 6 of the Children (Amendment) Act 1949.

The figures in Table B1 are for a different period from those in Table B2. Accordingly, in order to compare them properly, the average period of committal according to the Table B1 figures for the 1951-60 period has been calculated, since this is the only period covered by the Table B2 figures. The average figures are:

1951-60		Needy	SA	Offences
Table B1	Dublin MD	6.5	4.8	3.5
Table B2	National	8.8	4.2	4.1

Similarly, in comparing the figures from Tables B1 and B3, only the B1 figures for the 1942-51 period have been used, which is approximately the period covered by B3. The average figures are:

1942-51		Needy	SA	Offences
Table B1	Dublin MD	8.7	4.4	3.8
Table B3	National	8.4	4.43	3.6

In fact, for each time period, the national and Dublin County Borough figures are very similar to each other. The only exception is that during 1951-60 the figures for the needy category in Dublin MD are shorter than the national figures. But, generally, the figures from the three sources are a consistent story: committal for the needy category of about 8 years; school attendance of 4-5 years; and offences 3-4 years.

Section 8: Early discharge

Part I: Early discharge by exercise of the minister's power

Removal of children without consent

Children occasionally left their school without the consent of the Minister or the school: strictly speaking, this was illegal. Examples from the files include failure to return from holidays; removal of the children from the jurisdiction; and absconding. Examples of this kind of exit from the schools are dealt with in the individual sections on the schools.

The main subject of this section is early discharge by virtue of the Minister's statutory power. A resident's need to remain in a school depended very much on circumstances. For instance in the case of the needy category, the prosperity of the resident's family might change over the relatively long periods involved, most obviously by the father obtaining employment or securing better accommodation.

In such circumstances 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. The relevant legislation

was, in the first place, section 69(1) of the 1908 Act[65], which gave the Minister discretion to release any child or young person committed. Secondly, in contrast to the 1908 Act, the Children (Amendment) Act 1957, section 5 was mandatory, though it applied only in the case of those committed under section 58 of the 1908 Act, in other words, not offenders or those committed for non-attendance at school. It provided that where the Minister was satisfied that the circumstances that led to the making of the committal order had ceased and were not likely to recur, and further that the parents are able to support the child, the Minister was obliged to order the child's discharge.

The 1957 Act was enacted by virtue of the Department's understanding of the *Doyle* decision. A second consequence of *Doyle* was that the Minister was bound to discharge the child where a child who had been committed to an Industrial School under the provisions of the School Attendance Act 1926, had attained the age of 14 years of age, and the parents applied for the discharge of the child.[66]

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[65] 1908 Act, s 69(1) as amended by s 29 of 1941 Act 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....' The Children (Amendment) Act 1957, s 5, which superseded the 1908 Act, in the case of children committed under s 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 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.

We came across no instance of recourse to a court, under sub-ss (2)-(7) and so this possibly is not mentioned in the text.

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

[66] The general obligation on parents in accordance with the SA Act 1926 was to arrange for the elementary education of their children, between the ages of 6 and 14 years. Outside this range, the Department believed (as a result of *Doyle*) that the parents rights under Art 42 of the Constitution, which makes the family the primary educator of the child meant that their preference to send the child to school or not must be supreme and the State could not interfere. Accordingly s 17(4) of the SA Act, 1926 in so far as it empowered the courts to commit a child to an Industrial School for a period extending beyond the child's 14th birthday was repugnant to the Constitution.

The Department's view was challenged by Dublin CB District Justice O'Riain (Children's Court Justice during 1957-62) who made vigorous representations to the Department (note of 9th September 1960) to the effect that almost all of those committed were over 10 years of age, chronic non or bad school attenders and hence well-nigh illiterate or wholly so and therefore sorely in need of at least a few years education. He felt strongly therefore that the Minister should exercise the powers he believed him to possess to retain those children committed under SA Act until the expiry of the period fixed by the courts, even if this was 16. He sought to sustain this view legally, by invoking ss 58, 65 and 133(20) of the 1908 Act.

Following these representations, the Department referred the issue to the Attorney General who in effect upheld the Department's view. The gist of his opinion was that:

Throughout both the *Doyle* Judgments, therefore, there is a common thread. Legislation authorising the State to take the place of the parent cannot be regarded as appropriate within the terms of Article 42(5) unless there is provision by which the State's intervention is limited in time to the duration of the parental need or the parental default.

The, second stage in the reasoning was that once the child passed their 14th birthday, a parent could not be in default just because, under the 1926 Act, the general obligation (irrespective of anything to do with the Industrial Schools) was to ensure only that the child attended school up to the age of 14. The conclusion was that the State cannot interfere further, after that age has been reached, with the natural, primary and fundamental unit group of the family or with the unalienable and imprescriptible rights of the parents.

Rather significantly, though, the Department took the view that if no request was made by the parents, the young person did not have to be released: Memorandum from Mr Justice O'Riain, 13th September 1960; Attorney General's Opinion of 23rd September 1960, 2780/60.

Procedure for exercise of minister's discretion

One might have expected that if where there was a change in family circumstances there would have been an official, self-activating system to bring up and determine the question of whether a child should have been released from a school. In fact, there was no such mechanism and the statutory arrangements that did exist, had to be triggered usually by the parents.

Typically the process would go through the following stages:

(1) Parent sends letter either directly to Minister or to local deputy[67] who relays it to the Department.

(2) Department completes form and sends it on with child's details to Resident Manager and (as appropriate) SAO / ISPCC / Gardaí,[68] for their observations and recommendation.

(3) Department receives report and makes judgement on whether the family situation is favourable for the child's release.

(4) Release or continued detention.

Up to the *Doyle* case in 1956, it was usual for the head of the RISB (Reformatory and Industrial School Branch of the Department) to take what was, in effect, the final decision on applications for release. From 1956 on, however, the matter was submitted to the Minister personally. The head of the RISB made a complete resumé for the information of the Minister including the information on file, expanded by means of reports from the Gardaí, Managers and the ISPCC. However the parents were not shown any of the comments for their response to them, something which, by today's standards, would certainly be required by fair procedure.

Attitudes of Department and of Minister

As regards the attitude to the question of discharge, put simply the Department leaned in favour;[69] the School Manager was, more often, against. To amplify, especially after 1956, the Department strengthened this position, taking the view that it had to be very careful about the matter, since the constitutional rights of parents were in question. Thus, the Minister for Education, Jack Lynch remarked that any Minister would be inclined 'in favour of the application, since the home is in the strongest force for good in a young person's life'.[70]

This trend was intensified following the Kennedy Report after 1970, which stated:

> The whole aim of the Child Care System should be geared towards the prevention of family breakdown and the problems consequent on it. The committal or admission of

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[67] As public representatives, TDs often contacted the Department or the Minister of the day, supporting the parent applications or requesting that a particular case be investigated. However, as will be seen from the various examples to be cited, there is no particular evidence to suggest that such representations had any real influence on the decision or that cases supported by TDs were treated more favourably than others. Two individual applications by parents to have their children released from St Patrick's Industrial School for Boys in Kilkenny illustrates the point. An application by the parents of David Purcell supported by Sean Tracey TD was refused. The ISPCC was against the release of the boy on the grounds that the financial position of his parents was insufficient. In contrast, the politically unsupported application of the parents of Gerard Myles Conlan was granted due to the favourable reports received from both the ISPCC and the school.

[68] Sometimes it was also necessary to write to British children's social workers for a view as to the condition of parents residing in Britain who wished to recover children.

[69] Departmental memo of 15th and 21st June 1944 stated:

> It is a legal obligation imposed on the Minister to release such children when their parents are able to support them and apply for their release; moreover; even when such an application, is not received, the Minister consider that maintenance at the public expense of children whose parents are able to support them, is an abuse of the industrial schools system.

In anticipation of a meeting with the Association of Managers Department, memo of 18th November 1964 stated that 'three sore points will certainly come up: (i) Lack of committals; (ii) Short term committal; (iii) Discharges.'

[70] At DD, vol 164 (31st October1957).

children to Residential Care should be considered only when there is no satisfactory alternative.

One of the persons whom the Department consulted 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 discovered). Leaving aside any financial disincentive, the Resident Manager would probably have considered that the best was being done for a child in the school and would have been inherently unlikely to draw back and determine dispassionately that any particular child would be better off outside. Generally speaking, the reasons advanced by the schools against early release were as follows:

(1) Too short a stay in the school would mean that the resident would not be able to acquire self-control or to benefit from any course of study or training.

(2) Early release would have an unsettling effect on discipline among the other residents in the school.

(3) The children might well be returning to a home in which the neglect or deprivation from which they had been rescued would be resumed. The consequence could be that they would deteriorate and would be sent to a reformatory or eventually prison.

These factors are elaborated in the following quote from the minutes of a General Meeting of the Resident Managers' Association of 30th June 1944:[71]

> Specified cases were mentioned where parents of discharged children came begging for monetary assistance from the school a few months after the children's discharge... Many of the children whose friends are most persistent in seeking their release have been taken from homes in which their parents either neglected them or showed themselves unable to exercise proper control over them. To send these children back to the same conditions from which they had to be removed, before they have acquired any sense of self-discipline or self-control, is to expose them to temptations and dangers which they cannot be expected to overcome or avoid. Many examples could be given of children, released in this manner, who very soon got into trouble with the law. At the present time a not inconsiderable number of these children are under detention in the Reformatory Schools.

Part 2: Grounds for early discharge and case studies

Grounds

No list of criteria for or against early discharge was stipulated in legislation or any circular or other official document. Nor were reasons given to the applicant for a refusal; nor was there any system of informal precedent used in taking the decision. However, a survey of some of the applications on file in the Department shows that the following factors were taken into account.

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[71] See to same effect a letter from Artane Residential Manager to (Inspector) J McLoughlin of 29th March 1943. One telling case concerned Carriglea Park School in County Dublin. In 1943, when both of the senior boys schools in County Dublin were consistently full to capacity, the Minister wrote to the Manager. He proposed that, where the boys had been committed under the School Attendance Act, they should be released at the age of 14 years on the ground that they would, if they had not been committed to a school, in all probability have ceased education at that age. The Carriglea Park Manager's response was:

> To give a précis of the record of each boy committed under the 1926 Act whose period of detention was due to end in 1943, 1944 and 1945 setting out the reasons why these boys were either suitable (1 case) or not suitable (6 cases) for discharge. The reason given was generally backwardness or the unsuitability of family circumstances. The Departmental record continues: 'Those boys whose periods of detention were drawing to a close because they were due to leave in 1943, fare better. 10 out of the 22 boys in this group were deemed suitable for early release.'

In 1955, Fr Reidy of Daingean, and therefore chairman of the Association of Resident Manager's received large headlines in the Evening Herald for his statement to Justice McCarthy's Children's Court in Dublin that boys were being released from the Reformatory through political influence (from File G:001E 13th September 1955).

Reasons for early discharge

- Formerly unemployed parent securing a job.
- Child needed to support family and being offered a job. This seems to be a highly significant factor. There are numerous documents from businesses (eg Waterford Glass) supporting the release of a child, to whom they had offered employment.
- Improvement of housing.
- Garda good character reference.
- Time of release coming closer.

Reasons for continued detention

- 'Get into trouble if returned to family'. This might be because there other family member were a bad influence or even 'circumstances favouring her seduction'.
- Unsatisfactory behaviour at the Industrial School or making progress in the school and unlikely to do so if returned to his home environment.
- Absconding or not returning after the holidays.
- Poor financial circumstances, character or home condition of the parents.
- 'Parents not having proper control over children'.
- Requirement of six months good behaviour, set by some schools before the resident was being let out.

Part 3: Figures on early release

The figures to be given in Appendix 3 show both a fairly small number of applications, an average of 16 percent in relation to the schools' population, and a reasonable success rate, with an average of 72 percent. The average reduction, varying from one category to another, was about five years. Moreover, broadly speaking, these increased through the 1950s, despite the fact that, at the same time, the populations of the schools was decreasing. It can be deduced from this that the system seems to have responded faithfully to improvements in the circumstances of the residents' families.

However, what is inevitably missing is any reference to residents whose parents or guardians never applied for early discharge in the first place. It is a significant feature of the machinery that it had to be initiated by the parents who would often have been uninformed: there was, for instance, 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 their family circumstances. Thus, one can never know how many of what would have been successful applications for discharge were never brought to the Department's attention. The most that one can do is to point to the perhaps small numbers who did apply (6.1 percent of the average population). This may mean that the system of early discharge was not very well-known. No doubt, too, some applications failed that should have succeeded. Some of the case studies show that the parents had to be prepared to repeat their applications and it seems likely that there would have been some (not shown here) who perhaps out of deference or ignorance would not have been prepared to try again. Among other flaws in the system, the parents were not given the opportunity of commenting on unfavourable recommendations from the authorities; and even when a parent was given the right to a 'reference' to the District Court, from a refusal by the Minster in the Children (Amendment) Act 1957, section 5, it seems to have been seldom, if ever, used.

Section 9: Residents placed voluntarily or sent by health authorities:

Residents placed voluntarily

As mentioned, there were five paths of entry to the schools, of which the first three that involved committal via the District Court were by far the most numerous. The other categories were those who entered voluntarily or who entered at the behest and expense of the health authorities.

Children entering voluntarily

The smallest group were those children entering voluntarily because their parents or guardians were – whether temporarily or permanently – not in a position to look after them, yet were prepared to pay the cost of their maintenance. At the time of the Kennedy Report[72] there were 97 percent (or 4 percent) of the Industrial Schools' population in this category with 80 percent and 16 percent 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 1949-50 to 1968-69, the average 'voluntary' population figure was 101, or 2.2 percent, of the entire schools' population. The full figures are given below.

O'Cinneide and Maguire[73] write about this admittedly small group:

> The interviews with some of the Sisters provide stark insights into the conditions under which some children were taken into care. Many of the Sisters of Mercy recalled parents simply appearing on the school's doorstep asking that their children be taken in, and in other cases children were simply abandoned on the convent steps. One of the more poignant recollections was that of Sr Anne Tubridy, who worked in the Cappoquin Industrial School. She recalled one incident in which a father brought his children to the school asked the Sisters to take the children in, which they did. The man then went home and killed his wife and himself. Sr. Goretti, who worked in the industrial school in Newtownforbes, remembered two girls who were brought to the school by their father after their mother died drowned in the bog.
>
> Invariably some of the parents who voluntarily placed their children in industrial schools defaulted on their payments. This was also true in the case of children committed by the courts, whose parents were ordered by the courts to contribute to their children's maintenance. However, when the parents defaulted on court-ordered payments, the local authorities had the authority to prosecute them. There is no evidence that religious orders had the same access to court proceedings to force defaulting parents to pay. Their only option, when the parents of voluntarily-placed children failed to make scheduled payments, was to take the children to court and have them formally committed to the school. This seems to have been a rarity.

Residents sent by health authorities

The remaining major category was children placed in certified schools by the health authorities. As with children placed voluntarily and directly in the schools, by parents, such children entered without the involvement of a court and could be withdrawn without legal formality;[74] if and when family circumstances permitted. As regards the number of residents in this category, these figures rose steadily from 212 in 1946 to 500 in 1970, while those sent by the courts fell and the total

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[72] Appendix E, Table 8.

[73] O'Cinneide and Maguire, 'Childcare in Ireland: State Policy and Administration 1920s to 1960s; The Sisters of Mercy 'Industrial Schools in context', pp 53-54.

[74] Section 56(2) of the 1953 Act states that

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

May at any time, with the consent of the Minister, remove the child from the school, and

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.

was reducing from 6,800 to 1,740. In other words they represented a much higher proportion in 1970 than 1946 (30 percent compared to 3 percent).

Until it was repealed in 1991 the law that authorised a health authority or board to place a child in an Industrial School was section 55 of the Health Act 1953[75] (or its precursors), by which a health authority was empowered to provide for the assistance of a child by: boarding the child out; 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.

These powers applied only if two conditions were satisfied. The first was a means test. The second was that the child had to be an orphan or illegitimate and deserted by the mother or, alternatively, that the parent/guardian had to consent. The result was that cases occasionally arose that should reasonably have been sent to a school, yet which did not come within the scope of the law, for instance children whose mothers had gone into hospital or who had left home. Mary E Murray of the Department of Health wrote on 12th November 1968:

> Section 55 is still reminiscent of the Poor Law. At present children are being dealt with under this section who are not legally entitled to the services but who nevertheless are greatly in need of assistance, and the regulations have to be 'stretched' to allow this assistance to be provided.

Prior to the establishment of health boards (Health Act 1970), social services dealing with children in care were provided through boards of public assistance which, though with a locally defined jurisdiction, were usually distinct from local authorities.[76]

In the early 1950s, the number of children sent to the schools by boards of health increased, probably because of the need to find somewhere to house children who would earlier have lived in county homes. Whatever the causes, a pattern developed in late 1940s by which health authorities wanted to put children in Industrial Schools despite the preference of the Department of Health for boarding out. Accordingly, they got the schools to apply to Department of Health for 'approval'. Following a visit to the country home in Cashel, the Department of Health's inspector noted resignedly on 7th April 1948:

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[75] Section 55 (1) stated:

> A health authority may provide, in accordance with regulations, for the assistance of a child to whom this subsection applies in any of the following ways (whether in or outside their functional area), that is to say, by boarding the child out, or by sending him to a school approved of by the Minister, under Sect 55 (8) of the Health Act 1953, or, where the child is not less than fourteen years of age, by arranging for his employment or by placing him in any suitable trade, calling, or business.
>
> (2) Subsection (1) of this section applies to any child who is eligible for institutional assistance under section 54 of this Act and who is –(a) a legitimate child whose father and mother are dead or who is deserted by his father and mother or (where one of them s dead) by the survivor, or an illegitimate child whose mother is dead or who is deserted by his mother.
>
> (3) A health authority may, with the approval of the Minister, assist any person eligible for general assistance within the meaning of the Public Assistance Act, 1939, by doing, with the consent of such person and in accordance with regulations, any of the following things in respect of any child whom such person is liable under the Public Assistance Act, 1939 to maintain, that is to say, boarding the child out, or sending him to a school approved of by the Minister or, where the child is not less than fourteen years of age, placing him in any suitable trade, calling, or business.

Section 55 was repealed by the Child Care Act 1991. Section 4(4) of the Children Act 1989, which provided that where a child or young person was dealt with under s 55 (1)(a) (ie placed in foster care) he should be deemed to be boarded out under s 55. The Act of 1989 seems to have been a response to a decision of the Supreme Court in The State (D and D) v Groarke [1990] 1 IR 305, which held that a health board has no statutory authority to act as a 'fit person' under the Act of 1908.

[76] These had various relationships with general local authorities. For instance, in County Cork, there existed the South Cork Board of Public Assistance, the North Cork and West Cork Boards; whereas Cork Corporation administered services within its own area. In 1961 the Cork Health Authority was established and took over the health and social services functions from the local authorities for both Cork City and County. In Kerry, the country council administered each function until 1970. Then throughout the State eight health boards were established taking responsibility for both health and social services for children.

> Some 20 boys and girls appear to have been sent to Industrial Schools from the County Home during the past few months. It is now the considered policy of the County Manager to have children committed to Industrial Schools. There is therefore no point in asking that any of the children mentioned in this report should be boarded-out with suitable foster-parents.[77]

On the other hand, because of the falling numbers of residents, some schools notified local authorities that they were looking for residents. Thus, the Sisters of the Poor Clares in 1959 requested the Department of Health that St Joseph's Industrial School, Cavan should be approved for the purposes of the reception of children under the Health Acts. They stated that their request had been prompted by the fact that their numbers had now fallen to about 45 children in the Cavan School while the accommodation was for 100. Following approval, the Mother Abbess wrote to various county councils explaining their new status:

> You will I trust forgive my trespassing on your valuable time, but I feel you would like to be informed of the progress of our orphanage attached to our convent, in which there are a number of children from the county. Recently we have modernised the whole school. On our staff we have now three sisters who are trained nurses. You will be interested to know that we have expanded the scope of our social services. Our children, if they have the ability, may now attend our secondary school as far as leaving certificate. We now have the orphanage registered not only as an Industrial School, but also under the Health Act. As a result we are able to accept children of any age. We can keep little boys from infancy till about seven years and little girls from infancy till 16 or 18 years as the case may be. I feel you will be interested particularly in the fact of our registration under the Health Act. NA A122/75Section 47: Approval of St Clare's Orphanage, Co Cavan.

The judgment of Cussen[78] in 1936, on the health authorities' performance was that:

> 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 indicated that they still display little interest in the work of the schools beyond the payment of a weekly capitation grant.

However, O'Cinneide and Maguire's impression is more favourable (admittedly in respect of particular areas). After examining the board of health and public assistance minutes for Birr and Offaly and Dublin for 1922-43, they write:[79]

> These children were sent to industrial schools, seemingly as a last resort, when accommodation in county homes and mother and baby homes became overcrowded and suitable foster homes could not be found, or if a child was deemed unsuitable for boarding out. These committals were usually effected at the behest of public assistance officers, or at the request of the matrons of county or mother and baby homes. All requests for the committal of children had to be approved by the Board of Health (later the County Council), and often the Board sought the approval of the Minister for Local Government and Public Health, particularly if they were unsure whether the proposed school was in fact an 'approved' school.

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[77] 'There are over 80 children at present in the Children's Home, Tuam. This is an increase of 33 1/3 per cent over last year's figures. The maintenance of this large number of children in the Home is a considerable drain on the resources of the country and steps should be taken to reduce it by boarding out at an earlier age. This will not only cost less but will be better for the children. When the agreement between the Health Board and the Children's Home is due for renewal, the age for boarding out should be fixed at not later than 3 years of age. F23, 506/40 (ab) 28 October, 1940.'

[78] At para 27.

[79] 'Childcare in Ireland: State Policy and Administration 1920s to 1960s' The Sisters of Mercy Industrial Schools in context, p 53.

The procedures that prevailed in Dublin seem to have been unique in that when a relieving officer, foster parent, or matron wished to have a child sent to an industrial school the child was first brought into the workhouse for examination and assessment, and then sent to the approved school. Although on the surface it seems to have been an onerous and unwieldy process, this step was taken to ensure that children were fully inspected before being sent to an approved school, and also that all other options for providing outside of the industrial school had been explored.

Before the establishment of social workers in 1970, the grades of staff employed in placing children in care in a school or to board them out were: children officers, public health nurses or, in some cases superintendent assistance officers. None of these were trained in the specialised and difficult work of trying to bind up the wounds of a fractured family. From 1970, when the health boards were established and they employed social workers to deal with children in care, policy towards these children in care changed, and 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 boarding out was the preferred option. If social workers were driven to placing the children in an Industrial School, sometimes because there were next to no short-term refuges for children in care, then they tried to ensure that it was a local school and visited him or her generally more often than the annual visit paid by Department of Education Inspectors. In some cases, they took a closer interest, for instance encouraging the School to send the child to be educated at an outside national school; or to allow them to go home at weekends, if home conditions permitted.

Section 10: Population and entry figures, including geographical distribution

Part 1: Population

There were three ways by which a child might enter an Industrial School: by far the largest category was committals through the court (this embraced the three sub-categories: needy, offenders; or School Attendance Act). The other two categories were sending by the local health authority or voluntary admission. In the case of Reformatories, effectively all the residents were committed by the courts. The figures presented in Table 1 cover the total population, that is the total number of residents, from all parts of the country in Industrial Schools at a particular time. (The time when schools filled up forms for transmission to the Department was originally 31st July and, after 1959, 30th June).

Table 1: Population of Reformatories and Industrial Schools

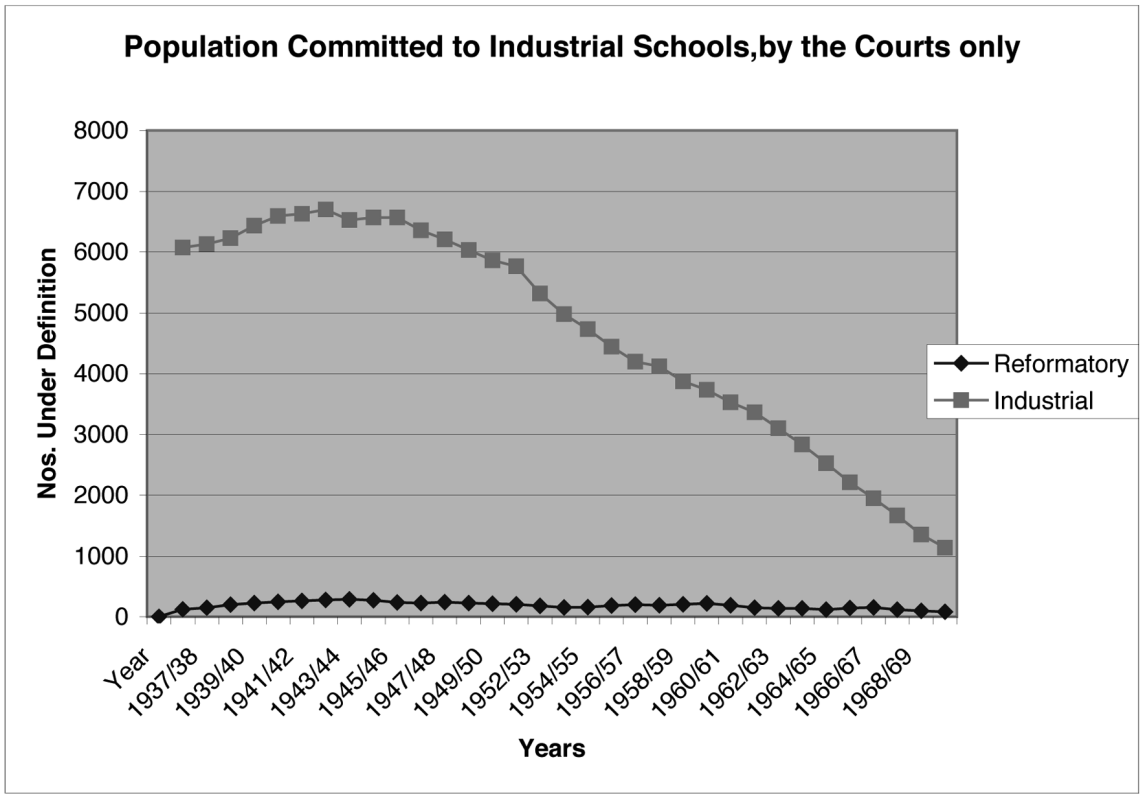
Year	Industrial Schools				Reformatory	Total (Industrial and Ref Schools)
	Courts committals	Health authority	Voluntary	Total Industrial School		
1937	6074	Not available	Not available	[6074]	122	6196
1938	6131			[6131]	150	6281
1939	6226			[6226]	201	6427
1940	6434			[6434]	226	6660
1941	6593			[6593]	248	6841
1942	6627			[6627]	262	6889
1943	6699			[6699]	280	6979
1944	6525			[6525]	288	6813
1945	6565			[6565]	273	6838
1946	6510	212	77	6799	237	7036
1947	6357	289	66	6712	232	6944
1948	6208	338	78	6624	251	6875
1949	6069	334	70	6473	233	6706
1950	5859	324	76	6259	222	6481
1951	5764	342	89	6195	218	6413
1952	5572	386	86	6044	206	6250
1953	5316	390	103	5809	192	6001
1954	4975	428	110	5513	167	5680
1955	4728	469	92	5289	179	5468
1956	4443	474	111	5028	209	5237
1957	4193	470	118	4781	222	5003
1958	4118	510	106	4734	216	4950
1959	3869	484	99	4452	221	4673
1960	3734	493	114	4341	234	4575
1961	3686	388	99	4173	218	4391
1962	3361	465	100	3926	162	4088
1963	3100	410	108	3618	157	3775
1964	2832	394	113	3339	149	3488
1965	2522	369	124	3015	131	3146
1966	2209	402	101	2712	158	2870
1967	1948	412	88	2448	160	2608
1968	1667	498	73	2238	128	2366
1969	1351	462	81	1894	110	2004
1970	1137	500	103	1740	86	1826

Sources: 1936-45: Figures were sourced from Department of Education annual reports. They do not give the numbers of those sent in by health authorities or the voluntary cases because these figures are not available from the Department of Health or anywhere else, for the 1937-45 period. Thus for these years the total figures given in the table have been put in square brackets. It should be noted that the numbers for the missing categories were always small compared to those committed by the courts, even after the sharp increase in the early 1950s. Thus it seems likely, so far as one can say, that, for the years in question, the total figures given only underestimate the correct figure by around 50.

For the post-1945 period, figures were sourced from Department of Education files.

Most of the same information may be presented in the form of a graph, as follows.

Graph 1



For Industrial Schools, there was an increase to a peak of 6,800 in 1946 and then fairly steady decline in population from 6,000 to 1,500 during 1950-70, an average reduction of approximately 250 per year.

In case of Reformatories, with much lower figures, there is a reduction in the mid 1950s and then an increase during 1955-60 even above the original figures. Thereafter there was a steady decline.

Part 2: Inflow through the courts

The sets of figures just given show the 'total population' in the Industrial Schools. By contrast, the remainder of this section treats figures that are different in two respects. First, they deal only with those committed by the courts (since the figures for the other two categories, which are small anyway). Secondly, this measures not population, but the annual inflow of those committed to the Industrial Schools by the courts. The comparison between the population and inflow is as follows. The population of the schools for any particular year is the product of two distinct elements.

(1) The inflow figures over the preceding years.

(2) The length of time each child spent in a school.

In the remainder of this section, we concentrate on the inflow figures.

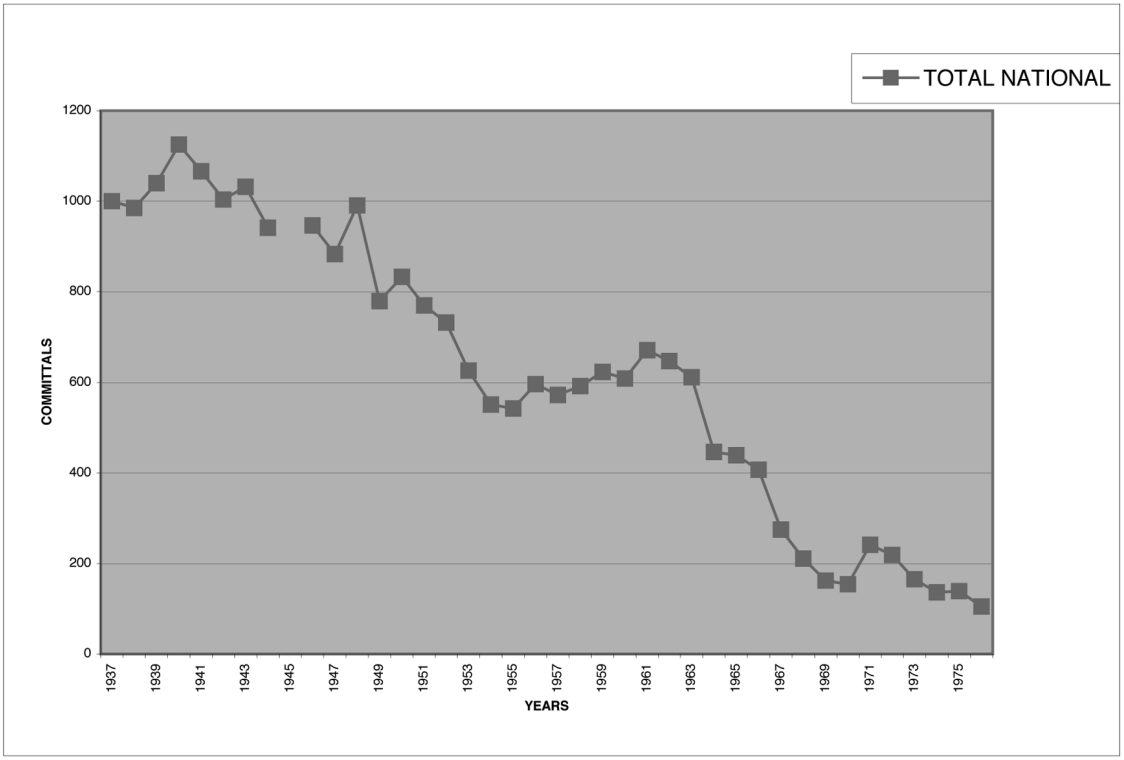
Table 2: Inflow into Industrial Schools and Reformatories

Year	Industrial School	Reformatories
1937	1000	45
1938	985	71
1939	1040	126
1940	1125	125
1941	1066	99
1942	1004	105
1943	1032	154
1944	941	121
1945		
1946	946	108
1947	883	98
1948	991	144
1949	779	92
1950	833	97
1951	770	104
1952	732	82
1953	626	82
1954	551	89
1955	542	66
1956	596	93
1957	572	110
1958	592	105
1959	623	125
1960	608	128
1961	671	131
1962	647	103
1963	611	84
1964	446	110
1965	439	85
1966	407	89
1967	275	104
1968	211	120
1969	162	103
1970	154	136
1971	241	63
1972	219	52
1973	165	29
1974	136	25
1975	139	
1976	105	

Sources: Annual reports, Table N[80]

[80] Note: after the post-Kennedy reorganisation of 1970 Letterfrack, Clonmel and St Laurence's, Finglas were included, with Daingean, St Joseph's and Kilmacud, as 'special schools'; and distinguished from other former Industrial Schools (which were shifted from the aegis of the Department of Education to Health. This was because these 'Special Schools' received all offenders. However despite this shift, in order to be consistent we have, throughout, treated all the residents in Letterfrack, Clonmel and St Laurence's as Industrial School residents.

Graph 2: Inflow into Industrial Schools



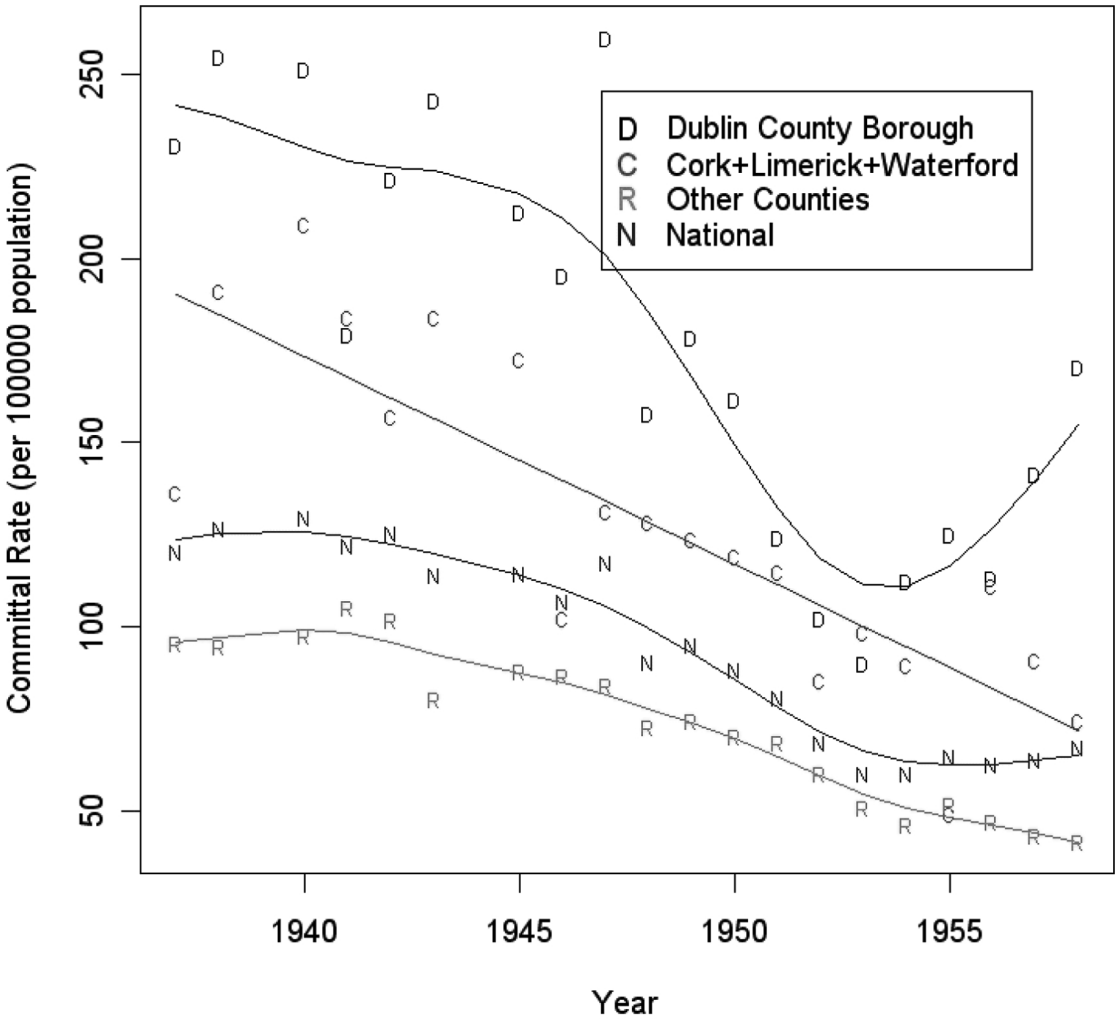
Source: Annual reports, Table N

The total number of committals peaked during the 1937-43 period. During that period there were over 1,000 committals each year, except for 1938 when there were only 985. A fairly steep decline started in 1950 with an average committal of 644 per annum in the 1950s. Thereafter there was a rise until 1963 when they again started a steep decline reaching 191 by 1968 and averaging 160, during the 1968-78 period.

Graph 3: Regional comparisons for inflow to Industrial Schools, 1936-59

Here the data is presented not to show the raw figures, but the number of those committed, for every 100,000 of the 0-15 age cohort. The other feature here is that, the figures are related to the parts of the country from which the residents came.

Graph 3



Source: Annual reports of the Department, Table N.

The annual reports gave regional data according to the location (county or county boroughs) in which a resident had their permanent home.[81] The county boroughs were Cork, Dublin, Limerick and Waterford (since Galway did not become a county borough until 1985). Unfortunately, as part of the 'streamlining' of the annual report, Table N ceased to be published and so our plot ceases in 1959. (The graphs appear to show an upward trend, as of 1959, for Dublin County Borough and the national figures. However we know, from the CICA survey (in the case of Dublin CB) and the annual reports, Table N, that what appears as an upward trend because the graphs end in 1959, in fact was reversed as from 1963 (Dublin) and 1962 (National).

Graph 3 shows a comparison of the annual committal rate (standarised in each county per 100,000 of relevant age population) for: Dublin CB; the three other county boroughs (aggregate); the State

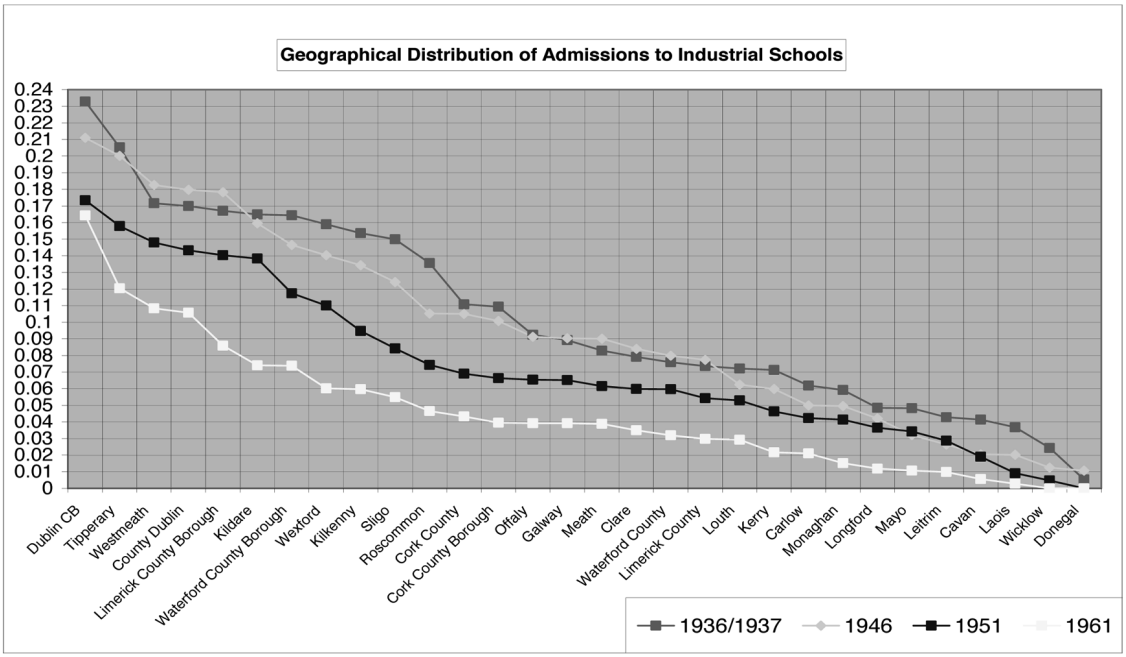
[81] The annual report Table O gives a regional breakdown for population (so too does Table 26 of Kennedy, which even refers to Great Britain).

overall and finally, 'rural areas' (a broad term used, to embrace the State outside Dublin, Cork, Limerick and Waterford County Boroughs).

It can be seen that the committal rate did decline for each of these groups over the period 1936-59. The rate for Dublin was consistently the highest in the country throughout the period. Indeed for the period 1937-78 there was a grand total of 25,000 committals nationally, of which 9,500 or 38 percent came from the Dublin CB. To put this in context, the average census figure shows 24 percent[82] of the national age cohort living in the Dublin CB. The rate for the rural areas was less than half this rate. The national committal rate falls in between these two rates, as one would expect, but closer to that of the rural areas. The committal rate in the three other county boroughs is closer to that of Dublin than the rest of the State. The rates for Dublin and the other county boroughs are more variable than the national (or other counties) rates because the base population is smaller for these two groups.

Graph 4 (below) is more detailed in that it shows the committal rates, for individual counties and county boroughs per head of population. The figures for the children committed are the percentage of the age cohort for each area.

Graph 4: Percentage of age cohort



Graph 4 shows that with a few exceptions, for each county or county borough there was in most cases a steady reduction from 1936 to 1960. This is shown by the fact that the point for (say) County Roscommon for 1936 is above that for County Cork in1936 and so on down to 1961.

One significant feature of the graph is that it shows whether a county or county borough held the same ranking (that is its relative position, in terms of committal per head of population) from one census to the other. The significance of this is that the counties and county boroughs have been ranked in descending order of the number of committals for each member of the age cohort, as one moves from left to right. Thus if, as occurs occasionally, the graphs were to cross, this would indicate that the county that had 'risen' against the next county had increased its ranking; in other words, it was committing more children per head of population, relative to the other county than

[82] This represents an average over the five years in which a census was taken (1936 22%, 1946 24%, 1951 23%, 1961 26%).

had been the case in the earlier census. The main example of this is that the rate for 1946 for a number of counties running from Kildare to Offaly is higher than that for the same counties in 1936-37. Finally, in line with Graph 3, Dublin County Borough has the highest rate and that Limerick, Waterford and (a few places later) Cork County Boroughs also have high rates.

It was harder to see any other pattern in this graph. One may however, regard it as significant that there were no senior boys schools north of the Dublin–Galway line and only 11 out of about 50 in any category. Bearing this in mind, one might expect to find some correlation between the average rank of a county and proximity to a school. The graph does give some support for the view that proximity to a school means that a child is more likely to be sent to a school. For instance Kerry (two girls and one senior boys) come in several positions above Donegal, Sligo (two girls) or Mayo (one girls); though otherwise the counties have a good deal in common, each being rural, impoverished and remote from Dublin.

Part 3: Committals analysed by three sub-categories

As mentioned already, there were three grounds on which the District Court could commit a child to a school: needy, offences, school attendance (truancy); and in this part, we present the annual figures for each of these three grounds.

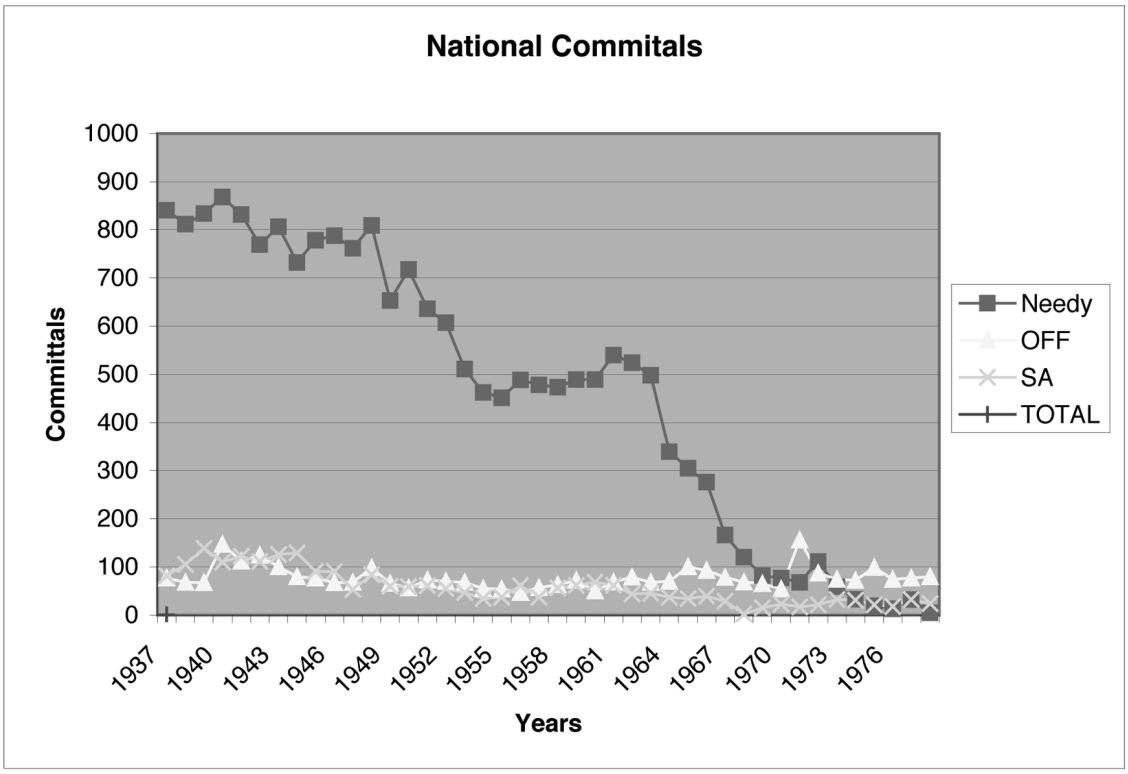
Table 3: National committal figures

Year	Needy	% of total	Off	% of total	School attendance	% of total	Total
1937	841	84%	77	8%	82	8%	1000
1938	812	82%	68	7%	105	11%	985
1939	834	80%	67	6%	139	13%	1040
1940	868	77%	147	13%	110	10%	1125
1941	832	78%	112	11%	122	11%	1066
1942	769	77%	124	12%	111	11%	1004
1943	806	78%	100	10%	126	12%	1032
1944	732	78%	80	9%	129	14%	941
1945	778	82%	77	8%	91	10%	946
1946	788	83%	67	7%	91	10%	946
1947	762	86%	68	8%	53	6%	883
1948	809	82%	98	10%	84	8%	991
1949	653	84%	66	8%	60	8%	779
1950	718	86%	56	7%	59	7%	833
1951	636	83%	73	9%	61	8%	770
1952	607	83%	70	10%	55	8%	732
1953	511	82%	68	11%	47	8%	626
1954	462	84%	55	10%	34	6%	551
1955	451	83%	54	10%	37	7%	542
1956	488	82%	47	8%	61	10%	596
1957	478	84%	57	10%	37	6%	572
1958	473	80%	63	11%	56	9%	592

Year	Needy	% of total	Off	% of total	School attendance	% of total	Total
1959	489	78%	72	12%	62	10%	623
1960	489	80%	50	8%	69	11%	608
1961	540	80%	69	10%	62	9%	671
1962	524	81%	79	12%	44	7%	647
1963	498	82%	68	11%	45	7%	611
1964	339	76%	70	16%	37	8%	446
1965	305	69%	100	23%	34	8%	439
1966	276	68%	93	23%	39	10%	408
1967	166	61%	78	29%	29	11%	273
1968	120	63%	69	36%	2	1%	191
1969	82	51%	65	40%	15	9%	162
1970	77	50%	54	35%	23	15%	154
1971	68	28%	156	65%	17	7%	241
1972	111	51%	87	40%	21	10%	219
1973	59	36%	74	45%	32	19%	165
1974	33	24%	72	53%	31	23%	136
1975	19	14%	99	71%	21	15%	139
1976	13	12%	74	70%	18	17%	105
1977	32	23%	77	55%	32	23%	141
1978	5	5%	80	73%	24	22%	109
Total	**19353**	**77%**	**3280**	**13%**	**2407**	**10%**	**25040**
Ave	**461**	**67%**	**78**	**22%**	**57**	**11%**	**596**

Sources, Annual reports, 1937-40 (Table 35); 1941-59 (Table D); 1960-68 (Table C(ii)); 1969-70 (Table 3(ii)); 1971 (Table 6); 1972-78 (Table 2)

Graph 5: National commitals: three sub-categories



(1) Needy

The great majority of those committed were from the category of needy children: as Cussen noted, in 1934 the figure was as high as 90 percent. Graph 5 and Table 3 illustrate that the needy category continued to account for an overwhelming majority of the total committals. Between 1937-64, the figure averaged 81 percent. Thereafter, during the 1964-78 period, it fell steadily to 5 percent in 1978, with an average throughout this period of 40 percent

Table 4: Needy committals

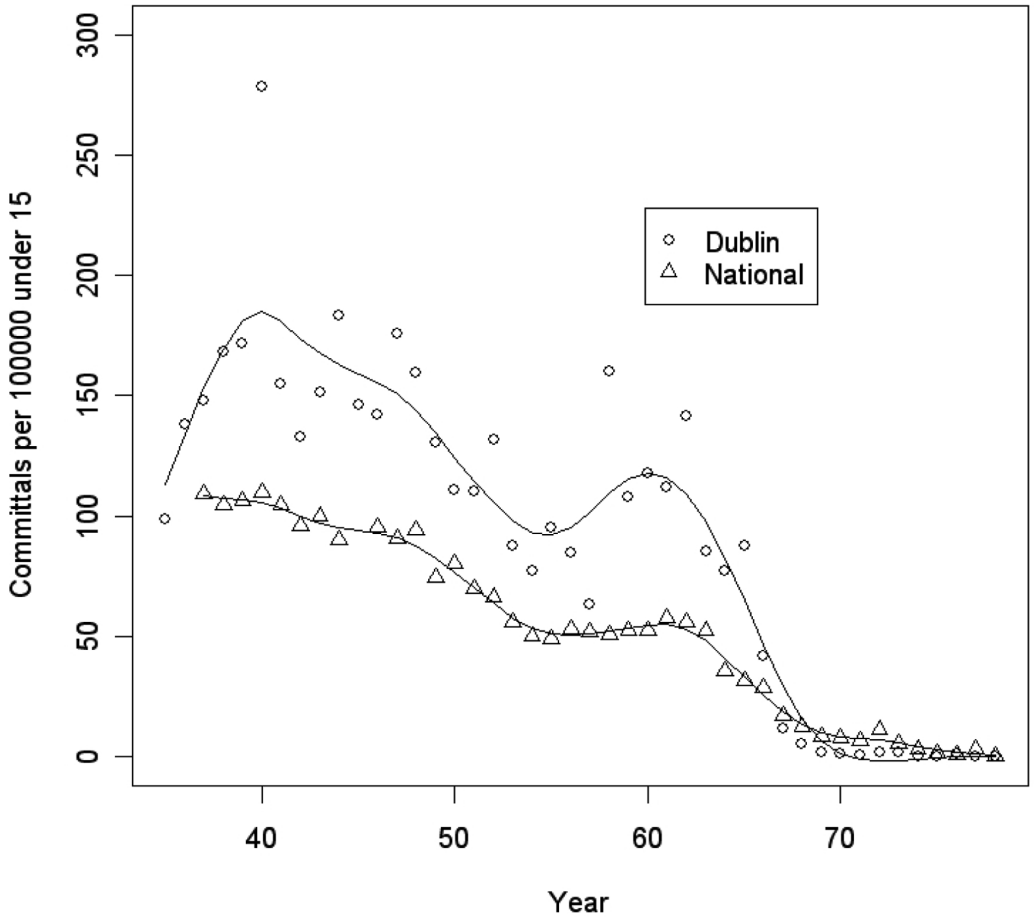
Year	CB	National	CB/NAT%	Ave CB/Nat %
1937	201	841	24%	
1938	231	812	28%	
1939	238	834	29%	
1940	389	868	45%	
1941	218	832	26%	
1942	189	769	25%	
1943	217	806	27%	
1944	265	732	36%	
1945	213	778	27%	
1946	209	788	27%	1937-46: 29%
1947	261	762	34%	
1948	240	809	30%	
1949	198	653	30%	
1950	170	718	24%	
1951	171	655	26%	
1952	207	607	34%	
1953	140	511	27%	
1954	125	462	27%	
1955	156	462	34%	
1956	141	488	29%	1947-56: 30%
1957	107	478	22%	
1958	272	473	58%	
1959	186	489	38%	
1960	206	489	42%	
1961	198	540	37%	
1962	248	524	47%	
1963	149	498	30%	
1964	133	339	39%	
1965	150	305	49%	
1966	71	276	26%	1957-66: 39%
1967	20	168	12%	
1968	9	118	8%	
1969	3	82	4%	
1970	2	77	3%	
1971	1	68	1%	
1972	3	111	3%	

Year	CB	National	CB/NAT%	Ave CB/Nat %
1973	3	59	5%	
1974	0	33	0%	
1975	0	19	0%	
1976	2	13	15%	1967-76: 6%
1977	0	32	0%	
1978	0	5	0%	
Total	**5942**	**19383**	**31%**	
Ave	**141**	**462**	**31%**	

Sources: Annual reports, Table D (National Figures); CICA survey (Dublin County Borough)

Table 4 shows that for the period 1937-56, the average committals, in the needy category, for the Dublin County Borough, were 204 or 29 percent of the national average of 697. Then during 1958-65, there was a significant increase in the number of committals from the Dublin CB, complemented by a levelling off of the national figures. The increase for Dublin CB committals is odd considering that, at this time, the prosperity level was improving. In any case, the result was that the Dublin CB proportion for 1958-65 increased to 42 percent of the national average. But from 1966 on, there was an even steeper reduction in the Dublin than the national figures.

Graph 6: Needy commitals



Graph 6 shows the population-adjusted committal rates for children in the needy category.

How do the provincial figures compare with Dublin County Borough trends? The overall picture (taking the total figures for all three sub-categories) provided by Graph 3 shows that, during 1936-58, those committed per head of relevant population from the rural areas were less than half those from Dublin CB. The Cork, Limerick and Waterford County Boroughs aggregate falls in between the two extremes but closer to Dublin CB. In an attempt to ascertain the position in regard to each of the three sub-categories (information not given in the annual reports), a survey of the following District Court areas: Cork County Borough, Rural Galway, Rural Limerick, Limerick County Borough and County Carlow, was carried out.

However, the records at the National Archives are incomplete[83] and it seemed to us, accordingly that it would not be helpful to publish all the figures we have collected.

The following tentative observation can be made. Within Cork County Borough, approximately 2.5 percent of the age cohort lived. During the period 1940-66 (the only period for which Cork County Borough figures were available) there was an annual average of 19 committals overall and 13 committals on needy grounds compared with a national average for the same period, of 817 and 664, respectively: in other words 2.3 percent and 2 percent, respectively. This is in line with the national trend, and thus rather below that for the county boroughs, though as noted at para 00, Cork County Borough was the lowest of the county boroughs. However, following the usual trend, the Cork figures were significantly reduced from 1958 onwards.

Turning to the rural areas, in County Limerick, which had approximately the same under 15 population as Cork CB from 1933-62, there was an average of seven in the needy category; 0.3 for school attendance and just 0.1 for offences.

There were very few committals in County Carlow. In most of the years, indeed, there were none in any of the three categories, though quite suddenly one finds in 1948 24 committals 'in the needy category', presumably because of a change of District Justice.

In short, in some of the provincial rates there may be an air of unreality because the concrete figures are so low. However, these figures are in line with what one would expect, namely in the rural areas, there seemed to have been relatively fewer in the needy category than in Dublin, and next to none in the other two categories.

(2) Offenders

The national figures for those committed because of an offence, having peaked in 1940 at 147, declined to 47 in 1956: see Table 3. After 1956 there was a slightly increasing trend for those committed because of an offence. During the period 1937-41, the average was 94 or 10 percent of the total committed. Then during the period 1942-55, the figures were 75 or 9 percent. Finally during the period, 1956-78 the figures increased to an average of 76. Because of the decline in total figures mentioned earlier, these increases meant that the numbers of children committed because of offences constituted an average of 33 percent of all committals, for the 1956-78 period.

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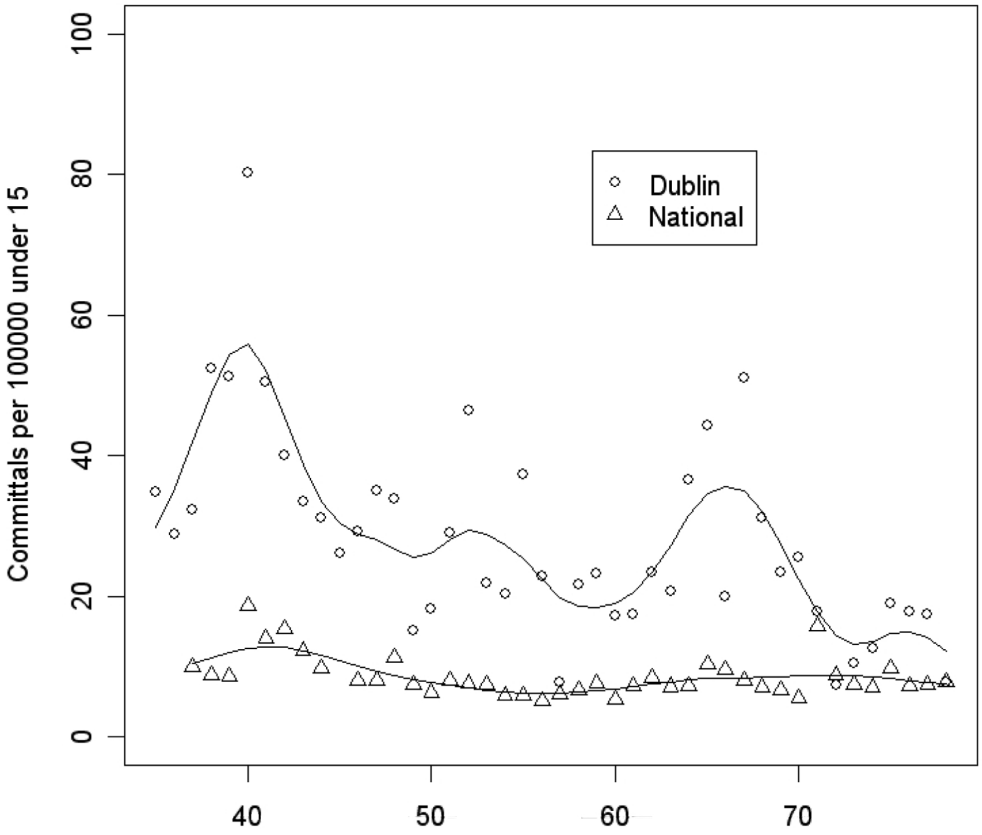
[83] While the extant court records are supposed, by now, to have reached the National Archives we found that quite a few of the annual minute books (for different court areas or districts) were missing from the Archives. Furthermore it was difficult to calculate the varying age cohorts from which those committed would be drawn, in view of the fact that this fluctuated depending on which record books were missing for which year. Again, with frequently sparse populations, the raw figures are so low it would be difficult to see anything in the way of a trend. While the Cork Borough material covered the 1940-66 period, four books were unavailable/missing and as a result we have no figures for the years 1953,1954, 1955 and 1957. The Rural Galway material covers the entire period 1933-69 but only in respect of five Court Areas.

Of the 10 district areas examined from the Rural Limerick area only five of them has books covering the entire period 1933-69 and, as such, the analysis of the Rural Limerick figures should not extend beyond 1960.

The next point is to compare the national committals and Dublin County Borough committals for offences. As can be seen from Graph 7, throughout the 1940s, 1950s and 1960s the Dublin CB accounted for a majority of children committed to Industrial Schools. During 1937-78, 3200 were committed nationally for committing offences. Of this 1835, or 57 percent, came from Dublin CB, despite the fact that only approx 24 percent of the national age cohort lived in Dublin CB. A more precise version of this comparison is given in Graph 7 in which the annual figures are related to the under – 15 age populations of the Dublin CB and, of the nation.

Graph 7

Offences Committals



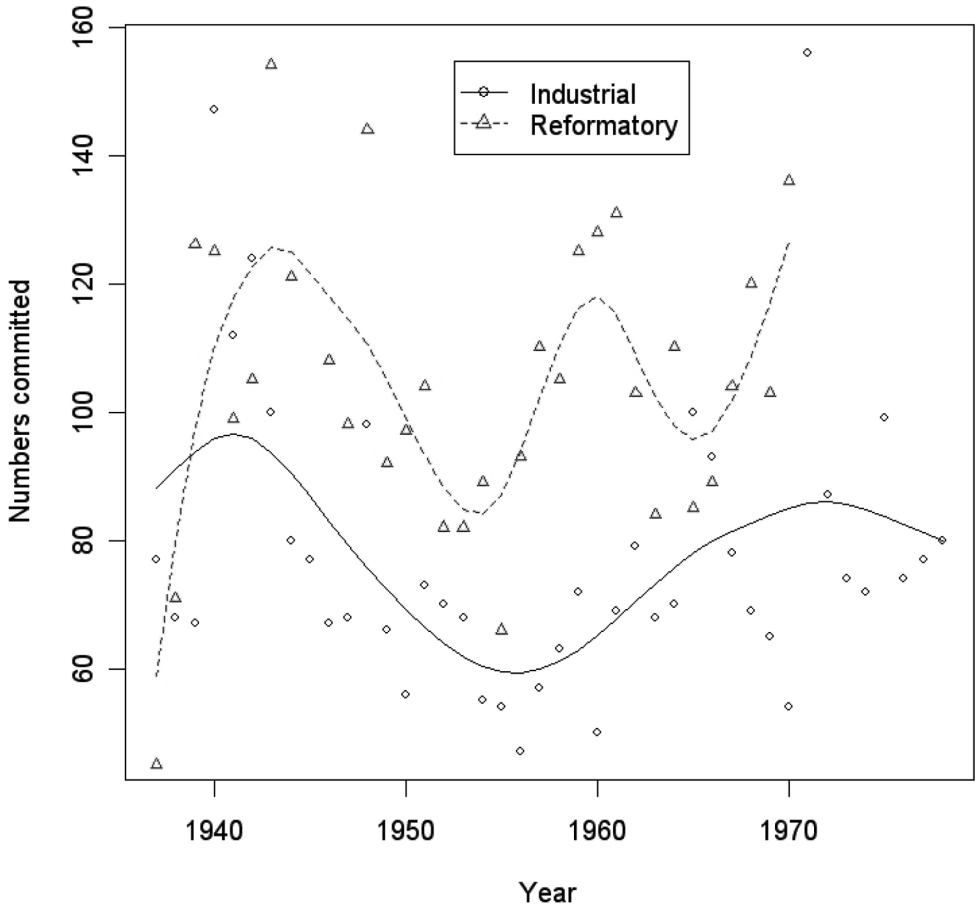
Graph 7 shows that national committal rate in the offences group appears to be broadly constant (between 10 to 15 per 100,000 population per year). On the other hand, the Dublin County Borough rates appear to have a cyclical trend, with peaks around 1940 and the mid 1960's.

Provincial figures

Of the provincial courts that were surveyed, only Cork CB sent or committed on the grounds of offences a number of children that was in any way proportionate to the number to be expected, in the light of the national figures. In Rural Limerick, Rural Galway and County Cavan, for the several of the years we surveyed, there were no committals for offences. In Limerick County Borough (admittedly only for the period 1945-53 and 1959-62), the total was six. For Cork County Borough, on the other hand, the total was 95 for the period 1940-66. These figures, should however, be treated with caution because of the great likelihood that a rural court would prefer to categorise the child as needy rather than an offender. However they do tend to confirm what is anyway not controversial, namely that fewer children per head of population, were committed for offences, in the rural areas.

The figures set out below are for Reformatories together with those for Industrial Schools (offender sub-category only) since those committed to Reformatories were all offenders.

Graph 8: Industrial Schools (offences) and Reformatories: national figures



Source: Annual Department reports

Taking the period 1939–51, an average of 114 young offenders were committed each year to Reformatories. During 1952-56, there was a reduced number of 82. Thereafter the numbers increased to an average, for the 1964-70 period, of 110.

The trajectory of Reformatory committals very approximately tracks that of the figures for those committed to Industrial Schools under the offences sub-category. The plot shows that each is cyclical; though the number of committals to Reformatories is higher. The numbers for Industrial Schools peak at around 1940 and 1970, while committal numbers to Reformatory School appear to peak around 1943 and also around 1960 and 1970. One should not compare the sizes of the groups sent to Reformatories and Industrial Schools (offences category) directly since they are drawn from largely different, though adjacent, elements of the population: roughly speaking the Reformatory residents were usually above 15 at the time of conviction and the Industrial School residents were usually below.[84] However the similarity in trajectory noted earlier is to be expected

[84] In practice there was only slight overlap between the categories of offender who could be committed to a Reformatory or Industrial School, in view of the fact that by law it was not open to courts to send an offender above 14 to an Industrial School. And in practice, save for the most hardened offender, those aged 15 or below were invariably sent to an Industrial School. Moreover at the upper level an offender could be sent to a Reformatory up to the age of 17. Nevertheless, the trends were likely to be similar.

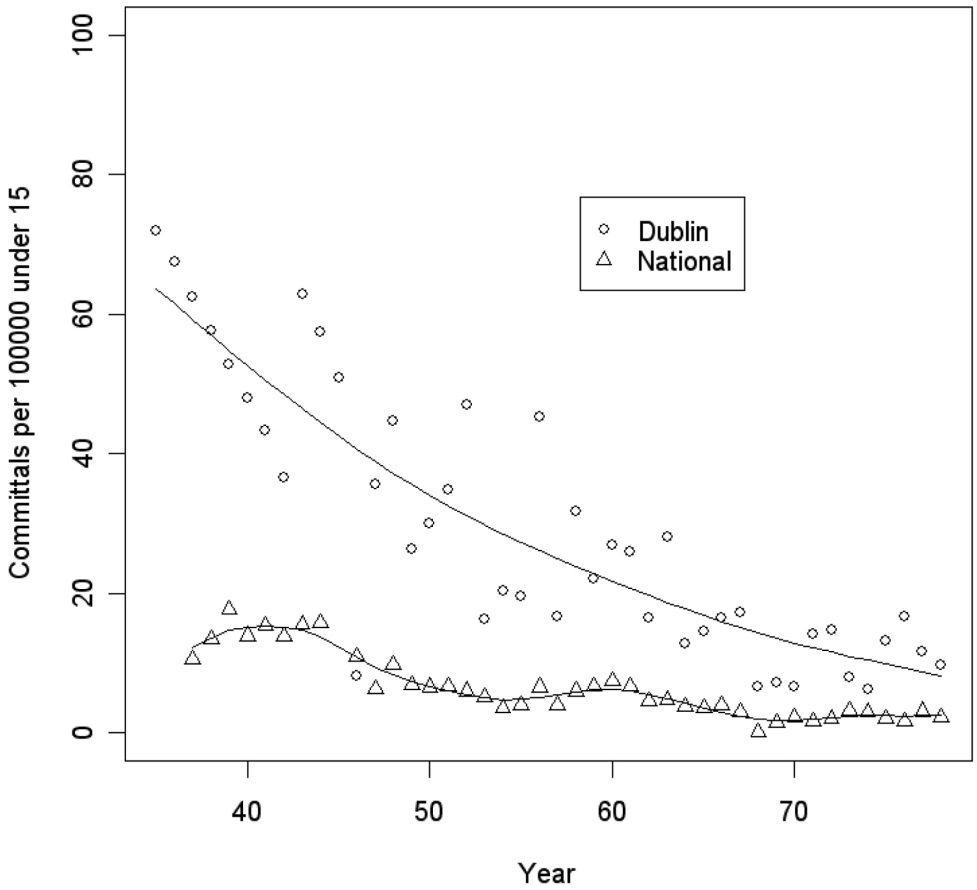
since any increase in juvenile crime would naturally affect those in adjacent or overlapping age groups.[85]

As for geographic origin of residents in Reformatories, only figures for 1968[86] are available. These show that out of a population of boys (in Daingean) of 103, 46 were from Dublin County Corough or County. For girls (at St Josephs in Limerick and St Anne's in Kilmacud) the corresponding figures were 11 out of 38. In other words, 44 percent of the boys and 29 percent of the girls respectively were from Dublin; whereas on the basis of the population the figures should have been 27 percent. A less substantial fraction – 28 percent and 13 percent of the boys and girls, respectively – came from Cork, Limerick or Waterford county boroughs or counties; in comparison, the general under-15 population for these county boroughs and counties was 19 percent.

(3) School attendance

The remaining category is school attendance offences (SAO). The following plot shows that here, too, there was a disproportionate number of committals from Dublin County Borough.

Graph 9: School attendance committals



Sources: Annual reports, Table D (National Figures); CICA survey (Dublin CB)

[85] To take another comparison, one might also expect juvenile crime to be moving in the same direction and at the same pace as adult crime. However the salient feature of adult crime figures for indictable offences show that a crime wave did not really start until the second half of the 1960s, moving from 15,000 to 30,000 between 1960-70. This increase is to some extent reflected in both the Industrial School (offences) and Reformatory committal figures

[86] Kennedy Report, Table 26, which aggregates the county and county borough figures.

The figures for SAO declined from an average annual figure of 66 during 1937-69 to 24, during 1970-78. The proportion for those committed under this head, during 1937-69 averaged 9 percent of total committals. During 1970-78 because the total figures were declining so steeply during this period, the proportion of school attendance committals increased to 17 percent.

The regional feature, which jumps out of Graph 9, is that, as with offences, a disproportionate number of committals came from Dublin County Borough. National committal rates start around 15 per 100,000 per year in 1937 and show a slow decline over the years. By contrast Dublin CB figures start around 75 per 100,000 per year in 1937, which is about five times the national rate. The Dublin CB figures show a steady decline over the years to about 15 per 100000 per year in 1978, by which time, the figure is much closer to the national rate, but still higher. For the entire period, 1937-78, 76 percent of the committals were from the Dublin Metropolitan Court, despite the fact that to take an average over the period, 24 percent of the age cohort lived within its jurisdiction.

This conclusion is confirmed from the opposite direction, by our findings from the limited number of provincial courts whose figures we have surveyed: for instance, for the period 1933–69 there were only 11 SA committals in rural Limerick.

Note on sources and methodology

In the first place, the figures and information in the Department of Education annual reports and also the Kennedy Report have been drawn on. The information available from these sources is limited. Some interviews were conducted with retired District Court Justices or clerks who held office in the 1970s or earlier; but again there are not all that many such interviewees still available.

A comprehensive survey of the minute books of the Dublin Metropolitan Court,[87] which are still to be found in the Court House was made. However, the facts given for each committal are extremely bare; usually only the name and address of the child and the statutory provision under which they were committed.

At some points in the present section, figures taken from the CICA survey on Dublin were compared with the national figures taken from the Department of Education annual reports. This cannot be an exact comparison because the under-mentioned differences between the two sets of figures needs to be taken into account. However, once these possibilities are borne in mind, it is useful to publish these figures since the errors are likely to be small scale; and the figures do illustrate trends over time.

(1) The CICA figures were based on the Dublin Metropolitan Police District; whereas the population figures, taken at each census, were based on the Dublin County Borough. The difficulty is that while there was a very large overlap between the two in terms of the territory and population embraced, some areas of the DMD were outside the corporation borders and (to a much less extent) vice versa. Moreover while there was no change in the physical boundaries of the two, until 1982[88], there was significant population movement. The Central Statistics Office have advised that, for instance in 1946, the net difference was that the general population (the under-15 age cohort reflects this) of the DMD was larger than the CB by about 10 percent: 550,000 in DMD and 506,000 in Dublin CB,. Now Dun Laoghaire would account for 48,000, but there are other smaller areas which would affect the issue.

The suggestion simply to increase by 10 percent the population out of which came the children sent to the schools is too simple, because the socio-economic groups living

[87] Most of this work was done with great care by Ms Kate Earley, solicitor.
[88] Compare map establishing the jurisdiction of the Police District in SI No 279 of 1945 with SI Nos 5 and 6 of 1971 and SI No 300 of 1982.

in the areas outside the County Borough but in the DMD (such as Dun Laoghaire; population = 48,000) would be much higher. Consequently, we assume that disproportionately fewer of the offspring would have been committed to the schools: it was not possible because of resources to check the address of each child sent from the DMD area to an Industrial School. However, the addresses of those committed came overwhelmingly from inner city addresses.

In the light of this, the correct adjustment would be to keep population figure at that of the County Borough, but to make a small adjustment (much less than 10 percent) in the numbers of children committed. Without a way of knowing how much the adjustment would be, the figures were left as they are, at the inevitable loss of making the figures for Dublin MD committals very slightly greater than they ought to be.

(2) The Dublin County Borough figures were measured at a different stage of the cycle from the national figures. Specifically, they were collected from the minute books compiled by District Court clerks immediately after the case. By contrast, the annual report figures were taken from returns made to the Department, by each school at the end of the year, that is every 30th June or, later, 31st July.

During this 'gap', there would be some danger of leakage in the sense that a child could be the subject of a committal order, yet no longer be in school at the time when the annual return was taken. One way in which this might happen would be if there were a successful Circuit Court appeal against committal. The figures used were collected from the District Court record books and the Circuit Courts records were not available. Thus, the figures do not allow for the fact that there may have been a successful appeal to the Circuit Court so that at the end of the day, the juvenile offender against whom a committal order was made did not in fact go to a school. Such an appeal would be more likely in the case of a child or young person committed for an offence or SAO and least likely in the case where a child was committed for being 'needy'. An appeal would probably be less unlikely in Dublin than the provinces and definitely more likely later than earlier in our period. However even during the later (1960s) period this was a time when lawyers and legal knowledge was slight. There is no evidence to suggest that there were sufficient successful appeals to invalidate our broad conclusion.[89]

A second way in which a child, the subject of a committal order, might not be in the school by the time of the annual return would be if the Minister had exercised his power of early discharge. Again, there would be only a small number in this category.

[89] According to a solicitor who started a criminal practice in 1959, there was, starting in the 1960s, a possibility of appeals but only from criminal offences and truancy. Also, in criminal cases there was a culture of being legally represented with, free legal aid, a fee of 3 or 4 guineas; by a very inexperienced lawyer. Even if unrepresented, parents would ask the District Court clerk, and would be informed of the possibility of appeal to Circuit Court. A reasonable number would appeal and perhaps the success rate might be of the order of a half. These appeals were taken seriously by the Circuit Court as a period of two years' committal was regarded as serious. The Circuit Court would often have made numerous adjournments and, then if the circumstances had changed or no further crimes committed, the order might be changed to the Probation Act. But this would only affect the figures for the 1960s.

Appendix 1: Period of committal

(I) Average periods of committal in Dublin Metropolitan District Court, 1934-75

The figures in Table B1 are for the Dublin Metropolitan District only.

Table B1

Year	Needy	Sa	Off
1934	6.8	3.4	3.1
1935	7.8	1.6	3.1
1936	8.3	1.9	3.9
1937	8.4	3.8	4.6
1938	7.1	4.3	4.2
1939	8.3	4.5	4.2
1940	8.2	4.5	4
1941	8.9	3.9	4.3
1942	8	4.3	4.3
1943	8.3	4.4	3.2
1944	8	4.5	4
1945	8.4	4.2	4.2
1946	8.4	4.6	3.7
1947	9.5	4	3.5
1948	9.2	4.5	4.8
1949	9.8	3.9	3.5
1950	9.4	4.8	3.3
1951	8.1	5	3.7
1952	7.7	5.2	4
1953	8	5.3	3.8
1954	8.4	4.5	3.2
1955	6.8	4.2	3
1956	6	6.3	4.3
1957	5.7	4.5	2.4
1958	5.3	4.2	3.7
1959	5.7	4.7	3.5
1960	3.2	3.5	3.3
1961	6.8	3	3
1962	5.5	3.7	3
1963	6.5	2	2.9
1964	4.2	2	1.5
1965	5.5	1.1	1.5
1966	4	1.7	1.5
1967	4.8	2.5	1.8

Year	Needy	Sa	Off
1968	3.6	1.8	1.3
1969	1	2.1	1.4
1970	3.5	1.9	1.7
1971	3	2.5	2
1972	1	1.9	2.5
1973	N/A	1	1
1974	N/A	1	1.5
1975	1	1	1.5
AVE	6	3	3

The table shows that, since the age of those who were committed for the offences category was the highest, the average period for which they were committed was shorter. At the other extreme. In the needy category some of those committed were mere infants and the average age, at the time of committal, was much lower than for offences. The ages of the children committed for non-school attendance fell between those for the other categories. At a certain point, there was a watershed – decline in the period for which the children were committed. The date of this decline varied according to the different categories. The date was 1955 (in the case of the needy category); 1964 (offences); and 1960 (school attendance). In the needy category, there appears to be an increase in sentence in 1970 but the 1970–75 figures are less significant,because the actual number of cases were so very few.

(II) National figures, 1951-60

These figures were compiled by a survey undertaken in December 2005 – January 2006, by Mr Jimmy Maloney a HEO in the Department of Education. The statistical information was drawn primarily from the 4,102 entries contained in the Departmental journal entitled 'Applications for Early Discharge 1951-60 – DJ11'.[90] The primary purpose of the survey was to examine the operation of the Minister's power of early discharge. However this survey also collected the dates of committal for each resident and this data has been used to deduce the period for which these children were committed. Necessarily, many of these particular children were in fact released early by the Minister; but here we focus on the earlier stage of computing the period for which the child was initially committed not that which was actually served. The use of these figures is predicated on the assumption that those who applied for early discharge represented a fair sample of the entire population.

[90] The grounds for committal statistical information and the age profile statistical information is also sourced from the Department's electronic access database of former residents, which provides, where available, details of the grounds by which a child was committed to a school, dates of birth and dates of committal of the 4,102 residents detailed in the journal DJ11.

Table B2: Industrial Schools – average period of committal

Year	Needy	SA	Offences
1951	8.3	4.5	4.1
1952	8.7	4.3	4.5
1953	9.2	4.3	3.9
1954	8.9	4.4	3.6
1955	9.2	4.6	4.3
1956	9.5	3.6	4.3
1957	9.3	4.6	4.3
1958	9.1	4.7	4.4
1959	8.3	3.6	4.2
1960	7.6	4.2	3.8
Total	**88.1**	**42.8**	**41.4**
Average	**8.8**	**4.2**	**4.1**

(The average figures are weighted by reference to the fact that the great majority of the committals was in the needy category)

(III) National figures in 1940s

A similar though not identical survey was carried out by Mr Maloney (of the Department of Education) of the school populations in 1940s. Specifically, he surveyed the figures for 19 percent of the Industrial School residents and 25 percent of Reformatory School residents, as of 31st July 1945 (the date for which the Department's annual report was compiled). This survey then was drawn from the entire population as of this date. In addition the unit carried out an analysis of all residents admitted to Industrial and Reformatory Schools who were committed by a court order made during the period August 1942 – July 1943, August 1946 – July 1947 and August 1950 – July 1951. The average age results for all four of these analyses are detailed in Table B3.

Table B3: Average period of committal

	Overall average period	Needy	SA	Offences
All admissions between 1st Aug 1942 & 31st July 1943	7	7.8	4.3	3.5
19% sample of children in residence on 31st July 1945	7.8	8.3	4.5	3.8
All admissions between 1st Aug 1946 & 31st July 1947	7.8	8.4	4	3.3
All admissions between 1st Aug 1950 & 31st July 1951	8.4	9.1	4.8	3.7
Average	**7.75**	**8.4**	**4.43**	**3.6**

Appendix 3: Figures on early release

Unless the contrary is stated, the figures in this Part are drawn from information compiled for a survey, undertaken for CICA in December 2005 – January 2006, by Mr Jimmy Maloney of the Department of Education. The statistical information was primarily from the 4,102 entries contained in the departmental journal entitled 'Applications for Discharge 1951–60 – DJ11'. (The grounds for committal statistical information and the age profile statistical information is also sourced from the Department's electronic access database of former residents which provides, where available, details of the grounds by which a child was committed to a school, dates of birth and dates of committal of the 4,102 residents detailed in the journal DJ11.) The Department of Education has also supplied figures for those applications which were withdrawn and for which there was no record of decision. But we have thought it best to ignore these relatively small categories and not to count them among the figures for either application or detention.

Table C1: Length of time by which the committal period to Industrial Schools was reduced

Year	Total schools population	Number applying	Number successful	Success rate
1951	6195	259	145	56%
1952	6044	322	170	53%
1953	5809	386	219	57%
1954	5513	366	234	64%
1955	5289	332	233	70%
1956	5028	336	274	82%
1957	4781	338	299	88%
1958	4734	315	236	75%
1959	4452	344	289	84%
1960	4341	180	158	88%
Total	51996	3178	2257	71%
Ave	5200	317.8	225.7	71.7

Note: These figures do not distinguish according to the ground of committal of the residents who applied for early discharge.

(From another source, we know that for the earlier period 1943-50, the number of applications averaged 439 which was an equivalent of 7 percent of the then population.)

Table C1, which gives a single figure for all categories shows that there were a significant number of successful applications (the breakdown by category is given at Table C2) an average of 226. This represented 72 percent of those who applied and was the equivalent of 4.3 percent of the entire population. One should also relate the numbers of applicants to the school population for that year; though when this is done, one can see that the percentage of application increased fairly steadily through the 1950s

Of the total of 3,178 applications 2,257 were approved and 921 refused. Applications were at a peak in 1957. This feature is brought out by the column showing the increasing fraction of successful applications compared to the schools population. The shows the full impact of the *Doyle* judgement in December 1955 (regarding early discharge of residents committed for SAO.

also apparent in terms of the numbers approved, during 1957, when there were 338 applications of which 299 were approved with just 39 refusals).

Throughout the 1950s, the number of applications approved increased despite the fact that the Industrial School population was falling steadily. This was presumably in line with the general improvement in economic and social conditions in the country over the course of the decade. There were, however, notable exceptions. Figures not presented here but as supplied by Mr Maloney show Artane and Letterfrack for boys and Goldenbridge for girls standing out, in terms of the high percentage of refusals. This is perhaps because of the influence of the Resident Manager's recommendation on the Department's decision.

The following tables show the figures for early discharge related to each particular ground for entry to the schools.

Table C2: Early discharge by reference to individual categories

Industrial Schools							
School attendance				**Offences**			
Year	**Approved**	**Detained**	**Ratio approved**	**Year**	**Approved**	**Detained**	**Ratio approved**
1951	11	9	55%	**1951**	11	13	46%
1952	5	15	25%	**1952**	6	25	19%
1953	11	13	46%	**1953**	8	14	36%
1954	13	15	46%	**1954**	15	20	43%
1955	17	9	65%	**1955**	14	15	48%
1956	19	4	83%	**1956**	15	9	63%
1957	26	3	90%	**1957**	19	9	68%
1958	21	8	72%	**1958**	20	17	54%
1959	30	6	83%	**1959**	26	21	55%
1960	11	3	79%	**1960**	9	8	53%
Total	**164**	**85**	**66%**	**Total**	**143**	**151**	**49%**
Needy				**No Grounds stated**			
Year	**Approved**	**Detained**	**Ratio approved**	**Year**	**Approved**	**Detained**	**Ratio approved**
1951	117	79	60%	**1951**	6	13	32%
1952	140	105	57%	**1952**	19	7	73%
1953	177	131	57%	**1953**	23	9	72%
1954	192	87	69%	**1954**	14	10	58%
1955	183	73	71%	**1955**	19	2	90%
1956	230	43	84%	**1956**	10	2	83%
1957	226	25	90%	**1957**	28	2	93%
1958	171	50	77%	**1958**	24	4	86%
1959	207	26	89%	**1959**	26	2	93%
1960	119	11	92%	**1960**	19	0	100%
Total	**1762**	**630**	**74%**	**Total**	**188**	**51**	79%

Sources: Records from DJ11, commencing in July 1951 and ending July 1960

These tables show that, even when related to the population in each category of entry, there were more applications on the needy ground than either of the other two categories. Moreover, the

success rate was also higher on the needy ground. This is to be expected given the fact that a change in family circumstances would be likely to have more impact.

Average reduction in committal period: reduction in length of sentence

For those who were successful, by how much did early discharge reduce their stay in an Industrial School?

	Period by which the committal period was reduced.			
Year	**All categories**	**SA**	**Offences**	**Needy**
1951	5	2.4	1.8	5.6
1952	3.9	1.6	1.3	4.1
1953	4.6	1.7	1	4.9
1954	4.8	1.3	1.5	5.3
1955	5	1.8	1.9	5.5
1956	5	1.6	1.9	5.5
1957	5.5	1.8	1.3	6.1
1958	5.3	1.6	1.4	6.2
1959	4.9	1.6	0.9	5.8
1960	5.3	1.5	1.4	6
Total	**49.3**	**16.9**	**14.4**	**55**
	4.9	1.6	1.4	5.5

The table shows that for those applicants who were successful, the periods by which the committal period was reduced averaged nearly five years (this being an average across the sub-categories SA, offences and needy, which is weighted to reflect the fact that the majority of successful applications were from the needy category[91]).

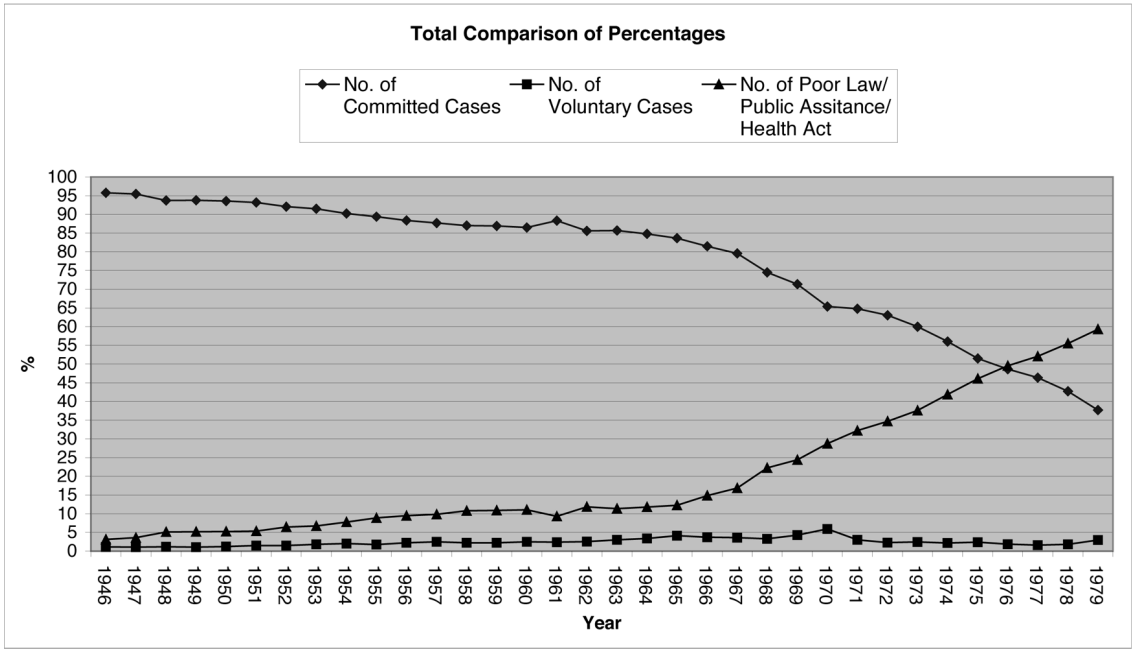
One may see these figures in the perspective of two others. First, the average period for which children were committed during the 1950s was about seven years (depending on the category); secondly, only 4.3 percent of the population was successful in securing this reduction.

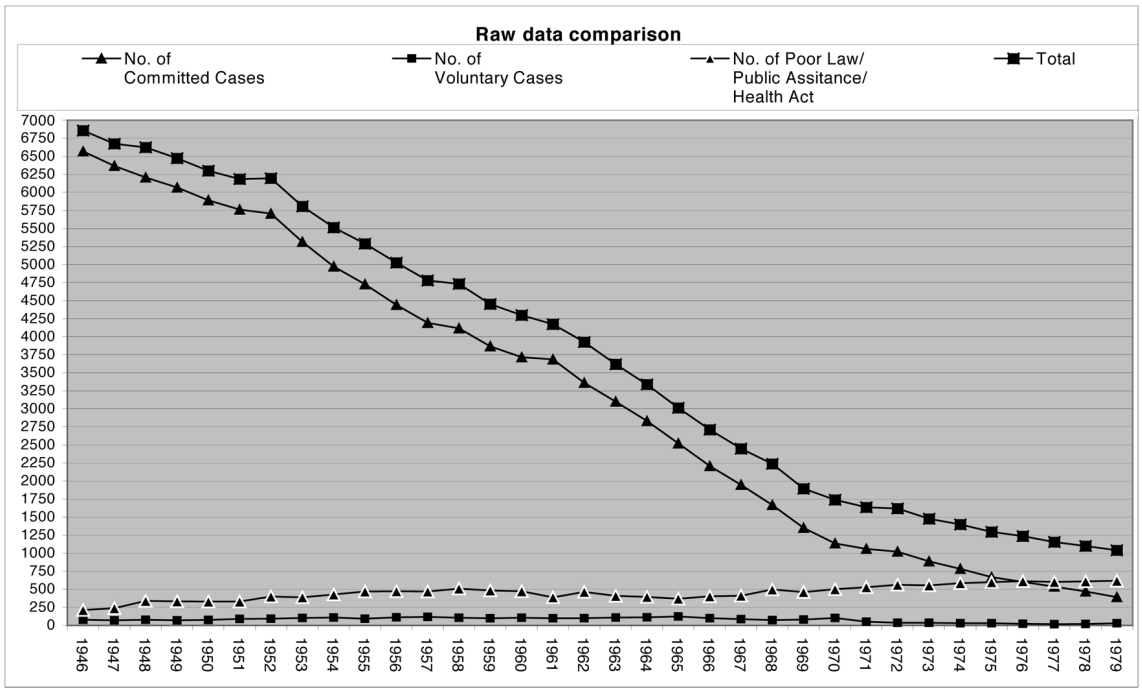
[91] We have also figures for the unsuccessful ones and these show that those residents whose applications for early discharge was approved, had, on average, a few months longer in their committal periods than the unsuccessful applicants. Thus it cannot be contended that the Minister preferred to release applicants who were closer to the end of their committal period.

Reformatories

The above statistics concern Industrial Schools. The position regarding Reformatories was very different. Not only was their population much smaller. In addition, 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. There were relatively few applications, and the success rate, for Reformatories at an average of 24 percent was much lower than for Industrial Schools.

Year	Approved	Detained	Ratio approved
1951	4	19	17%
1952	3	26	10%
1953	7	22	24%
1954	6	33	15%
1955	10	23	30%
1956	6	27	18%
1957	17	32	35%
1958	13	34	28%
1959	13	36	27%
1960	7	23	23%
Total	**86**	**275**	**24%**


Total Comparison of Percentages
No. of Committed Cases
No. of Voluntary Cases
No. of Poor Law/ Public Assitance/ Health Act
%
Year


Raw data comparison
No. of Committed Cases
No. of Voluntary Cases
No. of Poor Law/ Public Assitance/ Health Act
Total